

**FORSYTH COUNTY
BOARD OF COMMISSIONERS**

DRAFT

19

MEETING DATE: SEPTEMBER 12, 2019 AGENDA ITEM NUMBER: _____

SUBJECT: RESOLUTION RATIFYING AND AUTHORIZING EXECUTION OF AN INTERLOCAL AGREEMENT BETWEEN FORSYTH COUNTY AND WINSTON-SALEM TRANSIT AUTHORITY FOR THE PURCHASE OF BUS PASSES TO ASSIST ELIGIBLE RECIPIENTS OF WORK FIRST, ADULT SERVICES, FAMILY & CHILDREN'S SERVICES AND MEDICAID TRANSPORTATION SERVICES WITH TRANSPORTATION NEEDS (FORSYTH COUNTY DEPARTMENT OF SOCIAL SERVICES)

COUNTY MANAGER'S RECOMMENDATION OR COMMENTS:

SUMMARY OF INFORMATION:

Agreement to purchase an estimated 1,800 monthly bus passes, 650 ten-ride bus passes, 2,000 one-ride passes to be distributed by Department of Social Services to eligible individuals in its Work First, Adult Services, Family & Children's Services and Medicaid Transportation units.

The contract amount is for \$35,500 with \$10,000 allocated to the Work First Program which is 100% reimbursable State funds; \$15,000 allocated to the Family & Children's Services Division which is 50% reimbursable federal funds; \$500 allocated to Adult Services which is 50% reimbursable federal funds; and \$10,000 to Medicaid Transportation Units which is 100% reimbursable federal funds.

CONTRACT PERIOD: July 1, 2019-June 30, 2020

ATTACHMENTS: YES NO

SIGNATURE: _____ DATE: _____
COUNTY MANAGER

**RESOLUTION RATIFYING AND AUTHORIZING EXECUTION OF AN
INTERLOCAL AGREEMENT BETWEEN FORSYTH COUNTY AND WINSTON-
SALEM TRANSIT AUTHORITY FOR THE PURCHASE OF BUS PASSES TO
ASSIST ELIGIBLE RECIPIENTS OF WORK FIRST, ADULT SERVICES,
FAMILY & CHILDREN'S SERVICES AND MEDICAID TRANSPORTATION
SERVICES WITH TRANSPORTATION NEEDS
(FORSYTH COUNTY DEPARTMENT OF SOCIAL SERVICES)**

WHEREAS Forsyth County contracts for the purchase of an estimated 1,800 monthly bus passes, 650 ten-ride bus passes, 2,000 one-ride passes to be distributed by Department of Social Services to eligible individuals in its Work First, Adult Services, Family & Children's Services and Medicaid Transportation Units; and

WHEREAS the contract is for an amount not to exceed \$35,500 with \$10,000 allocated to the Work First Program which are 100% reimbursable State funds; \$15,000 allocated to the Family & Children's Services Division which are 50% reimbursable federal funds; \$500 allocated to Adult Services which are 50% reimbursable federal funds; and \$10,000 to Medicaid Transportation Units which are 100% reimbursable federal funds;

NOW, THEREFORE, BE IT RESOLVED, by the Forsyth County Board of Commissioners that the Chairman or County Manager and Clerk to the Board are hereby authorized to execute, on behalf of Forsyth County, the attached Interlocal Agreement in an amount not to exceed \$35,500 between Forsyth County, on behalf of its Department of Social Services, and Winston-Salem Transit Authority, for the purchase of bus passes to assist eligible recipients of Work First, Adult Services, Family & Children's Services and Medicaid Transportation Services with transportation needs during the period July 1, 2019 through June 30, 2020, subject to a pre-audit certificate thereon by the County Chief Financial Officer, where applicable, and approval as to form and legality by the County Attorney. The original contract is incorporated herein by reference. (Contract Control #2020-0218-00);

BE IT FURTHER RESOLVED, by the Forsyth County Board of Commissioners that the Chairman or County Manager and the Clerk to the Board are hereby authorized to execute, on behalf of Forsyth County, amendments to this Agreement for these services with this Provider within budgeted appropriations in the current fiscal year, subject to a pre-audit certificate thereon by the County Chief Financial Officer, where applicable, and approval as to form and legality by the County Attorney; and

BE IT FURTHER RESOLVED, that this resolution ratifying interlocal cooperation between Forsyth County and Winston-Salem Transit Authority is hereby spread upon the minutes of the Forsyth County Board of Commissioners.

Adopted this the 12th day of September 2019.

NORTH CAROLINA)

FORSYTH COUNTY)

AGREEMENT

THIS AGREEMENT is made and effective into this 1st day of July, 2019, by and between Forsyth County ("the County"), on behalf of its Department of Social Services ("FCDSS"), and Winston Salem Transit Authority, ("Provider").

DUNS# 071807056

WITNESSETH:

I.

For the purposes and subject to, the terms and conditions hereinafter set forth, the County hereby contracts for the purchase of Winston-Salem Transit Authority bus passes for the use by FCDSS to distribute to eligible individuals who require assistance with transportation and the Provider agrees to provide the services to the County in accordance with the terms of this Agreement .

II.

1. **AGREEMENT DOCUMENTS:** This Agreement consists of the following documents:

- a) This underlying Agreement, pages 1-6 (Scope of Work, Section III, page 3, substituted for NC DHHS's recommended "B" Attachment)
- b) *The General Terms and Conditions (Attachment A), pages 1-4
- c) *Federal Certification Regarding Drug-Free Workplace and Certification Regarding Nondiscrimination (Attachment C), pages 1-2
- d) *Conflict of Interest (Attachment D), pages 1-2
- ~~e) *No Overdue Taxes (Attachment E), page 1 N/A (CF)~~
- f) *Federal Certification Regarding Environmental Tobacco Smoke (Attachment F), page 1
- g) *Federal Certification Regarding Lobbying (Attachment G), pages 1-3
- h) *Federal Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transaction (Attachment H), pages 1-2
- i) *HIPAA Business Associate Addendum (Attachment I), pages 1-4
- j) *State Certifications Regarding Transportation (Attachment J), page 1
- ~~k) IRS federal tax exempt letter or 501(c); (Attachment K), <http://www.irs.gov/pub/irs-fill/k1023.pdf>, page 1 N/A (CF)~~
- l) *Agreement With Respect to Language Access Policy for Persons with Limited English Proficiency, (Attachment L), page 1-5
- m) *State Contractor Certifications (Attachment M), pages 1-2
- n) *Non-Discrimination, Clean Air, Clean Water Act, (Attachment N), pages 1-3

This Agreement and the above-cited documents, attached hereto, are incorporated herein, constitute the entire agreement between the Parties and supersedes all prior oral or written statements or agreements.

***Notice: Unless previously signed and currently in effect, Provider agrees (1) to sign individually all Attachments marked above by an asterisk for fiscal year 2019-2020 and (2) that all Attachments are incorporated herein by reference.**

PRECEDENCE AMONG AGREEMENT DOCUMENTS: In the event of a conflict between or among the terms of the Agreement and the Attachments, the terms in the Document with the highest relative precedence shall prevail. The order of precedence shall be the order of documents as listed in Paragraph 1, above, with the first-listed document having the highest precedence and the last-listed document having the lowest precedence. If there are multiple Agreement Amendments, the most recent amendment shall have the highest precedence and the oldest amendment shall have the lowest precedence.

2. **REVERSION OF FUNDS:** Any unexpended grant funds shall revert to the County Department of Social Services upon termination of this Agreement.
3. **REPORTING REQUIREMENTS:** The Provider shall comply with audit requirements as described in Attachment L and
 - N.C.G.S. §143C-6-22 "Use of State funds by non-State entities";
 - N.C.G.S. §143C-6-23 "State grant funds: administration; oversight and reporting requirements;" and

- C.F.R. Title 2 — *Grants and Agreements*, Subtitle A — *Office of Management and Budget Guidance for Grants and Agreements*, Chapter II — *Office of Management and Budget Guidance*, Part 200 — *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards*, and shall disclose all information required by
 - C.F.R. Title 42 -- *Public Health*, Chapter IV -- *Centers For Medicare & Medicaid Services, Department of Health and Human Services*; Subchapter C -- *Medical Assistance Programs*, Part 455 -- *Program Integrity: Medicaid*; Subpart B -- Disclosure of Information by Providers and Fiscal Agents*
 - Section 455.104 -- Disclosure by Providers And Fiscal Agents: Information on Ownership and Control,
 - Section 455.105 -- Disclosure by Providers: Information Related to Business Transactions; and
 - Section 455.106 -- Disclosure by Providers: Information on Persons Convicted of Crimes.(October 1, 2007)
4. **AGREEMENT ADMINISTRATORS:** All notices permitted or required to be given by one Party to this Agreement to the other Party to this Agreement and all questions about the Agreement from one Party to the other shall be addressed and delivered to the other Party's Agreement administrator as set out below. Either Party may change the name, post office address, street address, telephone number, fax number, or email address of its Agreement Administrator by giving timely written notice to the other Party.
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| <p><i>For the County:</i>
 Cindy Fuhrken, Contracts Manager
 Forsyth County Dept. of Social Services
 741 North Highland Avenue
 Winston-Salem, NC 27101
 Telephone: 336-703-3421
 Fax: 336-727-2850
 fuhrkecl@forsyth.cc</p> | <p><i>For Provider:</i>
 Donna Woodson, General Manager
 Winston Salem Transit Authority
 1060 North Trade Street
 Winston Salem, NC 27101
 Telephone: 336-727-2648
 Fax: 336-727-8104
 dwoodson@wstransit.com</p> |
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5. **SUPPLEMENTATION OF EXPENDITURE OF PUBLIC FUNDS:** The Contractor assures that funds received pursuant to this Agreement shall be used only to supplement, not to supplant, the total amount of federal, state and local public funds that the Contractor otherwise expends for contract services and related programs. Funds received under this Agreement shall be used to provide additional public funding for such services; the funds shall not be used to reduce the Contractor's total expenditure of other public funds for such services.
6. **DISBURSEMENTS:** As a condition of this Agreement, the Contractor acknowledges and agrees to make disbursements in accordance with the following requirements:
- (a) Implement adequate internal controls over disbursements;
 - (b) Pre-audit all vouchers presented for payment to determine:
 - Validity and accuracy of payment
 - Payment due date
 - Adequacy of documentation supporting payment
 - Legality of disbursement
 - (c) Assure adequate control of signature stamps/plates;
 - (d) Assure adequate control of negotiable instruments; and
 - (e) Implement procedures to insure that account balance is solvent and reconcile the account monthly.
7. **OUTSOURCING TO OTHER COUNTRIES:** The Contractor certifies that it has identified to the County all jobs related to the Agreement that have been outsourced to other countries, if any. The Contractor further agrees that it will not outsource any such jobs during the term of this Agreement without providing notice to the County.
8. The Provider shall supply, at its sole expense, all equipment, tools, materials, or supplies required to provide contracted services unless otherwise agreed in writing.
9. **FEDERAL CERTIFICATIONS:** The Provider understands and agrees that individuals and organizations receiving federal funds shall comply with certain Certifications required by federal laws and requirements as per Provider's signature on the **Attachments C, F, G, and H**, of this underlying Agreement. The Provider represents that it is in compliance with all Federal Certifications Regarding:
- Drug-Free Workplace and and Certification Regarding Nondiscrimination;
 - Environmental Tobacco Smoke;
 - Lobbying; and

- Debarment, Suspension, Ineligibility, and Voluntary Exclusion-Lower Tier Covered Transactions as per the signature of Provider's authorized representative on the attached Certifications.

III.

SCOPE OF PROVIDER SERVICES (substituted for NCDHHS's recommended "B" Attachment):

Provider understands and agrees that it shall perform services in compliance with this Agreement as follows:

1. **HUMAN RESOURCES.** Recruit, screen, employ, supervise, train and evaluate staff and other appropriate professional personnel to provide services provided under this Agreement. Provider will perform criminal record checks on personnel who work directly with clients covered under this Agreement, and shall ensure that no personnel providing services hereunder, paid or volunteer, shall have been convicted, before or after execution of this agreement, of any sex crime or crimes of violence.
2. **CONFIDENTIALITY:** Keep confidential any information about a client covered under this Agreement. Provider shall not share such information except only among FCDSS and Provider staff on a "need to know" basis in order to coordinate, manage, or deliver services. Provider shall protect client privacy by complying fully with all federal and state privacy protection laws and regulations regarding the security and privacy of client information. Specifically, Provider is required to protect the privacy of any personally identifiable protected health information that is collected, processed or learned because of services provided to FCDSS. The services provided shall comply with security and privacy regulations pursuant to the Health Insurance Portability and Accountability Act (HIPAA) and the North Carolina Identity Protection Act. Compliance includes administrative, physical and technical safeguards as well as policies, procedures and documentation as modified by the American Recovery and Reinvestment Act and as further provided in the Attachment I, "Business Associate Addendum" (signed by Provider which is incorporated herein by reference as if fully set forth herein, concurrently initiated during FY2019-20).
3. Comply with FCDSS Language Access Policy as further provided in the Attachment L "Agreement With Respect to Language Access Policy for Persons with Limited English Proficiency" entered into between the parties hereto, which Agreement is incorporated herein by reference as if fully set forth herein which is concurrently initiated during FY2019-20.
4. Comply, with all applicable federal immigration laws in its hiring and contracting practices relating to the services covered by this Agreement involving County funds, as outlined in the Resolution adopted by the Forsyth County Board of Commissioners at its regular meeting of October 23, 2006.
5. **WORK AUTHORIZATION:** Comply, and ensure that subcontractors comply, with Article 2 of Chapter 64 of the North Carolina General Statutes relating to the required use of the federal E-Verify program to verify the work authorization of newly hired employees as further provided in the Attachment M "State Certification" entered into between the parties hereto, which Agreement is incorporated herein by reference as if fully set forth herein, and which is concurrently initiated during FY 2019-2020. Failure of the Provider to comply with this provision or failure of its subcontractors to comply could render this Agreement void under North Carolina law.
6. Comply with Non-Discrimination, Clean Air, Clean Water Policy as further provided in the Attachment N "Non-Discrimination, Clean Air Act, Clean Water Act" entered into between the parties hereto, which Agreement is incorporated herein by reference as if fully set forth herein which is concurrently initiated during FY 2019-20.
7. Provider hereby certifies that it is not on the North Carolina State Treasurer's lists of persons engaging in business activities in Sudan (Darfur), Iran, or boycotting Israel, prepared pursuant to NCGS §§ 147-86.43, 147-86.58, and 147-86.81, nor will Provider utilize for this Agreement any subcontractor on such lists.

IV.

Provider shall begin services effective July 1, 2019, and, unless sooner terminated by mutual consent or as hereinafter provided, shall provide services up to June 30, 2020. Either party shall have the right to terminate this Agreement for services upon thirty (30) days notice in writing to the other party or upon seven (7) days written notice if Provider breaches the Agreement. FCDSS holds the right to suspend services of the Provider immediately if information is received that Provider's actions or inactions may put FCDSS employees or beneficiaries referred for services in any type of danger or possible harm.

V.

As full compensation for the Provider's services, the County agrees to pay the Provider as follows:

- at a rate not to exceed \$1.00 per one-ride bus pass
- at a rate not to exceed \$10.00 per ten-ride bus pass
- at a rate not to exceed \$15.00 per monthly bus pass,

all payable in monthly installments.

No fees shall be charged to individuals provided services under this Agreement. The County shall make payment within 30 days of receipt of an invoice and supporting documents, provided that all elements of the Agreement are satisfactorily met. Total payments under this contract are not to exceed \$35,500.00 during fiscal year ending June 30, 2020 without executing a written contract amendment.

This contract consists of for Work First Transportation \$0.00 in Federal funds (CFDA# N/A), \$10,000.00 in State funds, and \$0.00 in County funds SIS Code 532; Family and Children's Division \$7,500.00 in Federal funds (CFDA# 93.645), \$0.00 in State funds, and \$7,500.00 in County funds SIS Code 251; Adult Services \$250.00 in Federal funds (CFDA# 93.667), \$0.00 in State funds, and \$250.00 in County funds SIS Code 250; NEMT (CFDA#93.778) \$10,000.00 in Federal Funds, \$0.00 in State Funds, and \$0.00 in County Funds.

There are no matching requirements from the Contractor.

VI.

The Provider shall maintain for the duration of this contract, at its sole expense, the following insurance coverage:

- A. Commercial Liability Insurance: The Provider shall maintain occurrence version commercial general liability insurance or equivalent form with a limit of not less than \$1,000,000 each occurrence. If such insurance contains a general aggregate limit, it shall apply separately to this agreement or be no less than two times the occurrence limit. Such insurance shall name Forsyth County, its officials, officers, and employees as additional insureds with respect to performance of the services of this contract. The coverage shall contain no special limitations on the scope of protection afforded to the above listed insureds and shall be primary with respect to insurance or self-insured retention programs covering Forsyth County, its officials, officers, and employees.
- B. Business Automobile Liability Insurance: The Provider shall maintain business automobile liability insurance or equivalent form with a limit of not less than \$1,500,000 each accident on vehicles with a seating capacity of 15 passengers or less and \$5,000,000 coverage for vehicles designed to transport more than 15 passengers, including the driver. Such insurance shall include coverage for owned, hired, and non-owned automobiles used to provide services under this Agreement.
- C. Workers' Compensation and Employers' Liability Insurance: The Provider must maintain workers' compensation insurance with North Carolina statutory limits and employers' liability insurance with limits of not less than \$100,000 each accident.
- D. Professional Liability Insurance: The Provider shall maintain professional liability insurance with limits of not less than \$1,000,000 per occurrence, if such insurance contains an aggregate limit, it shall apply separately to this Agreement and be no less than two times the occurrence limit. Sexual and Physical Abuse/Molestation limits shall be no less than \$500,000 per occurrence / \$1,000,000 Aggregate and must be listed as a separate line item. Coverage shall be primary with respect to any insurance of self-insured retention programs covering the County, its officials, officers and employees.
- E. Other Insurance Requirements: The Provider shall:
 - Prior to commencement of services, furnish the County with properly executed certificates of insurance which shall clearly evidence all insurance required in this section, and provide that such insurance shall not be cancelled, allowed to expire, or be materially reduced in coverage except on thirty (30) days' prior notice to the County at the following address: Forsyth County Risk Manager, Finance Dept., 201 North Chestnut Street, Winston-Salem, NC 27101.

- Provide certified copies of endorsements and policies, if requested by Forsyth County, in lieu of or in addition to certificates of insurance.
- Replace certificates, policies, and endorsements for any such insurance that expires prior to the completion of services under this Agreement.
- Maintain such insurance with insurers authorized to do business in North Carolina and having A.M. Best Company ratings of not less than A: VII.

Any alternatives to these requirements shall require written approval of the County's Risk Manager. This contract must not be executed without a properly executed certificate of insurance evidencing all required coverage, including evidence of required additional insured.

VII.

1. The Provider shall operate as an independent contractor, and the County shall not be responsible for any of the Provider's or Provider's employees' acts or omissions. The Provider agrees to indemnify, defend, and hold the County harmless from and against any and all claims, expenses (including attorney fees), costs, or liability for acts or omissions of the Provider or Provider's employees relating to this Agreement or services provided pursuant to it.
2. The Provider shall not subcontract or assign any of the obligations or work contemplated under this Agreement without prior written approval from FCDSS which may be withheld at the sole discretion of the County. The County shall not be obligated to pay for any work performed by any unapproved assignee or subcontractor.
3. The Provider, nor Provider's employees, nor its subcontractors shall not be treated as employees of the County with respect to the services performed hereunder for federal or state tax, unemployment or workers' compensation purposes. The Provider understands that neither federal, state, nor payroll tax of any kind shall be withheld or paid by the County on behalf of the Provider, or the employees of the Provider, or its subcontractors. The Provider further understands and agrees that the Provider is fully responsible for the payment of any and all taxes arising from the payment of monies under this Agreement.
4. The Provider or Provider's employees shall not be treated as employees of the County with respect to the services performed hereunder for purposes of eligibility for, or participation in, any employee pension, health, or other fringe benefit plan of the County. Further, the Provider shall comply with the North Carolina Workers' Compensation Act and shall ensure that its subcontractors also comply.
5. The Provider or Provider's employees have no authority to enter into contracts or agreements on behalf of the County.
6. The Provider declares that it has complied with all federal, state and local laws regarding business permits, certificates, and licenses that may be required to carry out the services to be performed under this Agreement. The Provider shall supply, at its sole expense, all equipment, tools, materials, and or supplies required to provide contracted services unless otherwise agreed in writing.
7. The Provider agrees to retain all books, records and other documents relevant to this Agreement for five (5) years after final payment or until all audits continuing beyond this period have been completed. Federal auditors and any persons authorized by the NCDHHS Division of Social Services, the NCDHHS Division of Medical Assistance, or the County shall have the right to examine any of the materials that are public records. In the event the Provider dissolves or otherwise goes out of existence, records produced under this Agreement will be turned over to the County.

This Agreement shall be governed by and construed in accordance with the laws of the State of North Carolina, except the provisions regarding conflicts of laws principles shall not apply. The Provider, by signing this Agreement, agrees and submits, solely for matters concerning this Agreement, to the exclusive jurisdiction of the courts of North Carolina and agrees, solely for such purpose, that the exclusive venue for any legal proceedings shall be Forsyth County, North Carolina. The place of this Agreement and all transactions and agreements relating to it, and their situs and forum, shall be Forsyth County, North Carolina, where all matters, whether sounding in contract or tort, relating to the validity, construction, interpretation, and enforcement shall be determined.

In the event that a court of competent jurisdiction holds that a provision or requirement of this Agreement violates any applicable law, each such provision or requirement shall continue to be enforced to the extent it is not in violation of law or is not otherwise unenforceable and all other provisions and requirements of this Agreement shall remain in full force and effect, except to the extent they rely on the unenforceable provision(s). No action or failure to act by the County shall constitute a waiver of any of the rights or remedies, or as approval or acquiescence in a breach thereunder, except as may be specifically agreed to in writing.

Notwithstanding anything to the contrary herein, in the event that public funds are unavailable and not appropriated for the performance of the County's obligations under this Agreement, then this Agreement shall automatically expire without penalty to the

County thirty (30) days after written notice of the unavailability and non-appropriation of public funds. In the event of a change in the County's statutory authority, mandate, or mandated functions by state or federal legislative or regulatory actions, which adversely affects the County's authority or duty to continue its obligations under this Agreement, then this Agreement shall automatically terminate without penalty to the County thirty (30) days after written notice of such limitation or change in the County's legal authority or duty.

All obligations arising prior to termination of this Agreement and all provisions of this Agreement allocating responsibility or liability between the parties shall survive the completion of services and termination of this Agreement. This Agreement is the entire agreement between the parties as to the subject matter referenced herein, supersedes all prior oral or written statements or agreements, may only be modified in writing and signed by both the Provider and by the County Manager or other authorized County official.

The Provider and the County have executed this Agreement with one original, being retained by the County. A copy of the fully executed agreement will be emailed to Provider.

SIGNATURE WARRANTY: The undersigned represent and warrant that they are authorized to bind their principals to the terms of this Agreement.

IN WITNESS WHEREOF, the County and the Provider have set their hands and seals as of the day and year first above written.

PROVIDER

FORSYTH COUNTY

By: Danna Woodson (Officer Signature)
Name: Danna Woodson
Title: General Manager
Address: 1060 N. Trade St
City, State Zip: Winston-Salem NC 27104
Phone: 376-727-2000

By: [Signature]
Victor Isler
Director, Dept. of Social Services

EIN: 56-6000241
Status: Public
 Private, Not for Profit
 Private, For Profit

By: _____
J. Dudley Watts, Jr.
County Manager

Financial Reporting Year: 2019 to 2020

ATTEST:

By: _____
Ashleigh M. Sloop
Clerk to the Board