

Vendor Name
Vendor Number
FY 24/25-26/27

TRANSPORTATION AGREEMENT

This Agreement (hereafter referred to as the “Agreement” or “Contract”) to provide transportation services, dated as of November 1, 2024, is entered into by and between the **Regional Center of the East Bay, Inc.**, a California nonprofit corporation, located at 500 Davis St, Suite 100, San Leandro, CA 94577, (“**RCEB**”) and **VENDOR NAME**, located at 4900 Canada Valley Road, Bldg. A, Apt 202, Antioch, CA 94513 (“**Contractor**”) (individually, the “Party” collectively, the “Parties”), who mutually agree as follows:

Subject to the provisions for termination contained herein, the terms of this Agreement shall be effective November 1, 2024, and shall terminate on June 30, 2027, or the termination date of the Purchase of Service. This contract shall automatically renew if either party does not give a 30 day notice of termination.

I. SERVICES TO BE RENDERED

- A. The Contractor shall transport under this agreement up to (**vendor contract capacity**) consumers. The Contractor agrees not to transport under this Agreement any person(s) for whom Contractor has not received prior written authorization.
- B. The Contractor shall at all times during the term of this Agreement maintain Auto Liability with a combined single limit of \$1,500,000.00 required by the Code of Federal Regulations, Part 387-Minimum Levels of Financial Responsibility for Motor Carriers, § 387.303 (b) (2). This does not preclude RCEB from requesting a higher limit at any time during the term of this Agreement. Proof of insurance shall be presented to RCEB prior to beginning of service and continued transport of consumer(s) pursuant to this Agreement at all times.
- C. All services shall be rendered in accordance with State and Federal regulations and laws. The terms of this Agreement shall not be construed to excuse compliance with existing statutes or regulations.
- D. The Contractor shall review driver and attendant performance at least once each year for the purpose of observing their actual performance with respect to:
 - i. Safety and mechanical operation
 - ii. Conformance with laws
 - iii. Polices and regulations

- iv. Adherence to established routes and schedules
- v. Quality of services to consumers
- vi. Interpersonal and physical management of consumers
- vii. Sensitivity training
- viii. Training in understanding disability types
- ix. Other factors inherent in determining compliance with required operating practices or involved in the provision of transportation service for individuals with developmental disabilities (e.g. communications with consumers, staff of program providers, maintenance of accurate route lists and data, etc.).

II. PAYMENT FOR SERVICES

The rate of payment received by the Contractor for services rendered under this Agreement shall be **RATE** per consumer/per day for round trip services and **RATE** per hour/per transportation aide for a maximum of # hours per month effective November 1, 2024. Contractor shall bill only for services actually provided to the consumer and which have been authorized by RCEB. Contractor shall be paid only for services included within the terms of this Agreement.

III. REQUIREMENTS

- A. The Contractor shall not enter into any subcontract for the service described in this Agreement without prior written approval of RCEB.
- B. Contractor and/or designated drivers shall have, and maintain a valid California driver's license applicable to the vehicle(s) they will be driving. All drivers under this Agreement shall be 18 years of age or older and be able to provide proof of a clean driving record with no convictions of driving under the influence of drugs or alcohol, reckless or negligent driving, or speed contests. Contractor and/or designated drivers shall comply with all vehicular laws, and meet care and safety requirements.
- C. Any changes in the scheduled services and/or consumer(s) served must have prior approval by RCEB.
- D. RCEB shall pay Contractor for services provided hereunder, monthly in arrears, upon receipt of a properly documented invoice. Contractor's invoice shall be received in arrears of provision of service on or before the 5th working day of the month and shall be paid on or before the 15th of the month, for the previous month's service.
- E. It is specifically agreed and understood that the Contractor performing under this Agreement is an independent contractor and is not an employee or agent of RCEB.

Compensation received under this Agreement shall not be construed as wages or salary. Contractor shall make no claim, demand, or application to or for any right or privilege applicable to an officer or employee of RCEB or the State of California.

- F. Contractor shall retain books, documents, data, consumer records, or other records pertaining to the service described in this Agreement. Contractor shall permit right of access to all records for the purposes of review and/or audit by RCEB, Department of Developmental Services, or their representatives.

IV. APPLICABLE LAWS & REGULATIONS

- A. Cap on Service Provider's Administrative Costs. Service Provider agrees that it will not spend more than 15% of the funds it receives from RCEB under this Agreement on the Service Provider's administrative costs. For purposes of this paragraph, the Service Provider's administrative costs shall include all of the items listed under California Welfare and Institutions Code §4629.7(a)(1) through (15), as such provisions may be amended from time to time. Conversely, those costs the Service Provider incurs that are immediately associated with the services the Service Provider offers to RCEB's consumers are considered direct service expenditures, and are not administrative costs. To insure the Service Provider complies with these requirements, the Service Provider shall provide RCEB with access to all books, documents, papers, computerized data, source documents, consumer records, and other records pertaining to the Service Provider's negotiated rates, upon RCEB's request. This paragraph shall remain in effect as long as Welfare and Institutions Code §4629.7(a) and any successor statute thereto remains in effect; upon the repeal of such statute, this paragraph shall be deemed deleted from this Agreement.
- B. Contractor Reviews and Audits:
 - 1. Contractor shall, at the Contractor's cost, cause an independent Certified Public Accountant to (1) annually audit or review Contractor's financial statements and (2) provide a copy of each annual audit results (the "**Audit Report**") or review results (the "**Review Report**") to RCEB. To the extent expressly permitted by Welfare and Institutions Code section 4652.5, the Contractor may conduct a review and provide a Review Report to RCEB rather than an Audit Report; otherwise, the Contractor shall conduct an audit and provide an Audit Report to RCEB.
 - 2. If the Contractor engages an independent Certified Public Accountant to review (but not audit) Contractor's financial statements, (1) the review shall, at minimum, comply with the provisions set forth in Welfare and Institutions Code Section 4652.5(e) and (2) the Review Report shall at minimum comply with the provisions set forth in Welfare and Institutions Code Section 4652.5(f).

3. In accordance with Welfare and Institutions Code Section 4652.5(b), Contractor shall provide copies of the independent Audit Report or Review Report to RCEB within nine months of the end of the fiscal year for the Contractor.
4. If RCEB believes that any issues identified in the Audit Report or Review Report have an impact on services the Contractor provides to RCEB's consumers, RCEB will so notify the Contractor and provide the Contractor with 30 days to resolve such issues. Contractor's failure to resolve such issues to RCEB's reasonable satisfaction within such 30-day period shall constitute a material breach of this Agreement. As a result of such breach, RCEB may, among its other remedies, terminate this Agreement.

V. INDEMNIFICATION

The Contractor shall indemnify, defend and hold harmless RCEB and its representatives, officers, directors, agents, and employees and their respective heirs, executors, administrators, successors, and assigns, including but not limited to the State of California and its agents and employees (collectively referred to as the "Regional Center Indemnified Parties"), from any and all losses, costs, expenses (including but not limited to reasonable attorneys' fees), liabilities, claims, court costs, demands, debts, causes of action, fines, judgments and penalties which arise from or relate to (a) death or injury to people or damage to property in connection with the negligent or willful acts, errors or omissions of the Contractor or its employees, agents, consultants or anyone employed by them to act on their behalf, (b) claims under workers' compensation acts or other employee benefit acts by the Contractor's agents or employees, (c) Contractor's failure to fulfill its obligations under this Agreement in strict accordance with its terms, including Contractor's breach of any representations or covenants given in this Agreement or (d) violation of any local, state or federal law, regulation or code by the Contractor or by any of the Contractor's employees, agents, consultants or subcontractors in connection with the conduct of its activities performed by virtue of this Agreement. The Contractor's liability policy's broad form contractual indemnity endorsement shall protect RCEB against any claim asserted under this indemnity. The Contractor's indemnity obligations in this paragraph shall apply even in the circumstance where the Regional Center Indemnified Parties or any of them are actively negligent; provided, however, the Contractor shall have no indemnity obligation where the damage or injury is caused by the sole negligence or intentional misconduct of the Regional Center Indemnified Parties or any of them.

The indemnity set forth in this section shall apply during the term of this Agreement and shall also survive the expiration or termination of this Agreement, until such time as action against the Regional Center Indemnified Parties on account of any matter covered by such indemnity is barred by the applicable statute of limitations. Moreover, this indemnity provision does not apply to any claim or action between the signatories of this Agreement for any alleged failure to fulfill obligations under this Agreement or for any alleged violation of any law, unless a claim or action for such a failure or violation is brought in the first instance by a person or entity not a signatory to this Agreement.

The Contractor will assume the defense, at its sole expense, and with legal counsel acceptable to RCEB, of any claims or litigation as to which it has an indemnification obligation hereunder; RCEB shall cooperate with the Contractor and its counsel, in the defense of any such claims, provided, however, that any costs or expenses associated with such cooperation shall be promptly reimbursed by the Contractor. If the Contractor fails to assume the defense of any claim or litigation as to which it has or is determined to have had the obligation to indemnify, RCEB will have the right to assume its own defense, and the Contractor will be obligated to reimburse RCEB for any and all reasonable expenses (including but not limited to attorneys' fees) incurred in the defense of such claims or litigation, in addition to Contractor's other indemnity obligations thereunder. The Contractor shall control the defense and settlement of any claim, provided, however, that if the Contractor fails to assume the defense of any claim or litigation as to which it has or is determined to have had the obligation to indemnify, RCEB shall have such control.

VI. TERMINATION

RCEB and/or Contractor may terminate this Agreement at any time by delivery of written notice to RCEB not less than thirty (30) days prior to date of such termination. RCEB may terminate this Agreement at any time upon any substantiated evidence of any gross carelessness, misconduct and neglect that has a direct, substantial and adverse effect on RCEB or any of RCEB's consumers.

VII. REGIONAL CENTER OBLIGATION

Notwithstanding anything in this Agreement to the contrary, the validity of this Agreement (including RCEB's obligation to remit payments to Contractor) is conditioned on RCEB's receipt of adequate funds from the California Department of Developmental Services ("DDS") to pay for the services described in this Agreement (the "Funding Contingency"). The Funding Contingency is a part of this Agreement because RCEB's annual funding agreement with DDS provides that such funding agreement is subject to the appropriation of funds by the Legislature, and that if such funds are not appropriated for any fiscal year into which such funding agreement extends, the funding agreement is of no force and effect. RCEB shall therefore have the right and option to terminate this Agreement without liability, and such termination shall be deemed a failure of the Funding Contingency, if (1) DDS for any reason fails to deliver funds to RCEB for any period covered by this Agreement or (2) RCEB receives funds from DDS for a period covered by this Agreement but RCEB determines that such funds are inadequate to pay for all of the vendor services and other expenses which RCEB expects to incur in such fiscal year, and therefore elects to fund other services rather than the services identified in this Agreement or (3) RCEB receives funds from DDS for a period covered by this Agreement and initially allocates a portion of such funds for the services in this Agreement, but thereafter elects to reallocate some or all of such DDS funds to fund services other than the services in this Agreement.

When insufficient funds exist for RCEB to pay for all potential services, RCEB shall have the right (under clauses (2) and (3) above) in its sole and arbitrary discretion to fund services other than the services identified in this Agreement, based on which services RCEB believes are in its best interests. If there is a failure of the Funding Contingency, then (1) RCEB shall have no liability to pay any funds whatsoever to Contractor or to furnish any other considerations under this Agreement and (2) neither party shall be obligated to further perform any provisions of this Agreement.

In addition to the above, if there are insufficient funds available from DDS to pay for all of the vendor services and other expenses which RCEB expects to incur in any fiscal year, as determined by RCEB in its sole and arbitrary discretion, RCEB shall have the option at any time, on 30 days' notice to Contractor, to reduce or change the scope of services being provided under this contract. In such event, the parties will in good faith negotiate to attempt to agree on Contractor's new amount of compensation under the modified Agreement. If the parties are unable to agree on Contractor's new compensation for its modified services within such 30 day period, RCEB shall then either (1) terminate this Agreement, because of the failure of a Funding Contingency or (2) rescind its modification of Contractor's services, in which event this Agreement shall continue in full force and effect without such modification in services or compensation.

VIII. NON-DISCRIMINATION CLAUSE

Neither the Employer nor the Union shall discriminate against any employee or applicant for employment on account of age, genetic information/characteristics, marital status, medical condition (including cancer or record or history of cancer), or AIDS/HIV status, mental or physical disability, national origin and ancestry (including language use restrictions), pregnancy/perceived pregnancy, sex/gender including: gender identity or gender expression (this includes transgender status and those who are transitioning or have transitioned), race and color, religion, sexual orientation and military and veteran status.

Contractor shall ensure that the evaluation and treatment of employees and applicants for employment are free of such discrimination. Contractor shall comply with the provisions of the Fair Employment and Housing Act (Government Code, Section 12900 et seq.), the regulations promulgated thereunder (California Administrative Code, Title 2, Section 12900 et seq.) the provisions of Article 9.5, Chapter 1 (Government Code, Sections 11135-11139.5).

Contractor or recipient shall permit access by representatives of the Department of Fair Employment and Housing, and the Regional Center of the East Bay upon reasonable notice at any time during normal business hours, but in no case less than 24-hours' notice, to such of its books, records, accounts, other sources of information and its facilities as said Department or regional center shall require to ascertain compliance with this clause.

Recipient, Contractor, and its subcontractors shall give written notice of their obligations under this clause to labor organizations.

IX. HIPAA COMPLIANCE

Under this Agreement, “HIPAA” means the federal Health Insurance Portability and Accountability Act (Pub. L. No. 104-191), the HIPAA regulations as set forth in 45 C.F.R. Parts 160 and 164 (aka the HIPAA Privacy Rule), and regulations on Standards for Privacy of Individually Identifiable Health Information. All parties shall at all times remain in compliance with the mandatory provisions of HIPAA, including but not limited to the HIPAA Privacy Rule. In performing its duties under this Agreement, Contractor may have access to “protected health information,” including but not limited to “individually identifiable health information,” and is therefore a “Business Associate” as those terms are defined in HIPAA. As such, concurrently with its execution of this Agreement, Contractor shall execute the “Business Associate Agreement – Contractor” attached to this Agreement and incorporated herein as Exhibit A.

X. ZERO TOLERANCE REQUIREMENT FOR CONSUMER ABUSE AND NEGLECT

Contractor shall ensure that all of its employees are fully informed upon hire, and annually thereafter, about RCEB’s Zero Tolerance Policy for Consumer Abuse or Neglect pursuant to the Elder Abuse and Dependent Adult Civil Protection Act (California WIC section 15600-15675), and Child Abuse and Neglect Reporting Act (California Penal Code sections 11164-11174.3). Such policy is posted on RCEB’s website at: <http://www.rceb.org/docs/ZeroTolerancePolicy.pdf>. Contractor’s failure to report Consumer abuse or neglect may subject it to penalties defined in law (WIC, section 15630(h)). In addition, upon becoming aware of a reportable incident or allegation of abuse or neglect of a consumer, Contractor shall take immediate action to protect the health and safety of the involved consumer and all other consumers. Contractor shall ensure its staff has knowledge of the signs of consumer abuse and neglect, the process for reporting suspected abuse or neglect, and the consequences of failing to follow the law or adhere to RCEB’s Zero Tolerance Policy. Contractor’s failure to comply with the policy and the abuse/neglect reporting laws is considered a material breach of this Agreement.

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This Agreement may be executed in two or more counterparts, each which shall be deemed an original and all of which shall constitute one and the same instrument. Signed copies of this Agreement delivered by facsimile or electronically in PDF (or similar format) shall be deemed the same as originals.

Name
Title
Vendor Name
Location

Steve Robinson
Director, Community Services
Regional Center of the East Bay
San Leandro, California

Lynn Nguyen
Director, Finance and Administration
Regional Center of the East Bay
San Leandro, California