

## AMENDMENT

It is agreed by and between the State of Vermont, Department of Vermont Health Access (hereafter called the "State") and Chittenden County Transportation Authority d/b/a Green Mountain Transit Authority (hereafter called the "Contractor") that the contract on the subject of personal services for Non-Emergency Medical Transportation, effective July 1, 2014, is hereby amended effective March 30, 2015, with a payment date retroactive to July 1, 2014, as follows:

- 1. By deleting Section 3 (Maximum Amount) on page 1 of 21 of the base agreement, as amended by Amendment 1 and substituting in lieu thereof the following Section 3:**

- 3. Maximum Amount.** In consideration of the services to be performed by Contract, the State agrees to pay Contractor, in accordance with the payment provisions specified in Attachment B, a sum not to exceed \$1,730,609.00.

- 2. By adding additional language to Section 4 (Contract Term) on page 1 of 21 of the base agreement, as amended by Amendment 1 the following Section 4:**

- 4. Contract Term.** Work performed between July 1, 2014 (retroactive date) and the signing or execution of this agreement that is in conformity with Attachment A may be billed under this agreement. Contractor agrees that in exchange for the consideration of the option to bill for services performed, all terms and conditions described in this agreement shall apply to any and all services performed for or on behalf of the State. Contractor agrees that by submitting invoices, bills, or otherwise seeking compensation for services performed prior to the finalization of this agreement or signing of this agreement, contractor is agreeing to the application of all terms of this contract to that period and to that work. Contractor further agrees to defend, indemnify, and hold the State harmless for any claim, dispute, non-contractual cost or charge, or any liability whatsoever, whether in law, equity, or otherwise, which arises from or is connected to the work performed prior to the execution of this agreement. Contractor further agrees that these terms apply regardless of whether the work is accepted by the State, and regardless of whether payment is issued by the State to the Contractor for the work in question.

- 3. By adding additional language to Section 7 (Cancellation) on page 1 of 21 of the base agreement, as amended by Amendment 1 and substituting in lieu thereof the following Section 7:**

- 7. Cancellation.** This contract may be cancelled by either party by giving written notice at least 60 days in advance.

The parties agree that should the State receive a 60-day Notice of Termination from the Contractor prior to the execution of Amendment 1, the Notice of Termination will be deemed withdrawn upon execution of Amendment 1.

- 4. By replacing the following language to the end of Attachment B on page 5 of 21:**

**ATTACHMENT B  
PAYMENT PROVISIONS**

DVHA will pay the Contractor on a Per Member, Per Month (PMPM) basis. In addition to the PMPM payment, the Contractor will be allowed to bill Medicaid for any complete trip that costs more than \$500 (round trip, including lodging and other expenses). These trips will be billed as claims to Medicaid in accordance with our Provider Manual and billing instructions.

The State developed this PMPM payment model in order to provide an incentive to the Contractor for efficient and cost-effective performance. Our PMPM dollar amount was developed by analyzing utilization and performance data from previous years. Because these prior-year conditions may change, the State agrees to negotiate in good faith to modify this contract whenever:

1. The Contractor can demonstrate that a change in utilization or other conditions will have a financial impact of more than \$3,000 AND one of the following statements (2 through 5 below) is also true.
2. The Contractor experiences a change in the number and/or cost of rides delivered per member, per month.
3. Fuel prices change by more than 15%. Fuel prices will be based on U.S. Energy Information Administration data for New England (Area PADD 1A). At the time of this writing (the week of 5/5/14), the Gasoline-All Grades price is \$3.744/gallon and the Diesel (On-Highway)-All Types price is \$4.15/gallon.
4. There is an increase in the IRS mileage rate for personal vehicles.
5. There is any other increase in costs that are clearly out of the direct control of the Contractor.

Under no circumstances will the State negotiate a higher PMPM due to deficiencies in the Contractor's performance.

In order to help us track utilization, the Contractor will submit claims to Medicaid for all direct transportation services provided to our members. These claims will be "paid" by our claims adjudication system with a zero dollar amount. The data submitted in these claims will be used to generate the weekly payment described below.

In order to make timely payments to the Contractor, the State will make the PMPM payments in weekly installments. These weekly payments will be based on a Per Member, Per Week (PMPW) basis. The following formula will be used to convert the PMPM to a PMPW for the purpose of making weekly payments to the Contractor:  $(PMPM \times 12)/52$

The Contractor's current PMPW rate is: \$21.68.

The weekly payments will be calculated using the following method:

1. Each week, Hewlett-Packard Enterprise Services, hereinafter referred to as "HPES," will generate a report of the total number of unduplicated individuals served by the Contractor over the prior 395 days. The count will ignore the past 30 day period.
2. Using system edits, HPES will remove from that total number the individuals who have either lost their insurance or have passed away during that time period.
3. HPES will multiply the number of unique recipients by the PMPW dollar amount and make the payment during the following week's electronic payment to the Contractor's bank account.

4. HPES will send weekly Remittance Advice documents to the Contractor.
5. In the event that the weekly payment cannot happen due to data or processing errors, HPES will send the payment in the following week. DVHA agrees that these payments will be made on a weekly basis, but it will not be considered a breach of this contract if HPES is forced to postpone a payment for one week due to a data or processing error.

The State does not agree to pay any costs not specifically described in this contract or the NEMT Manual.

If the State determines that one or more of the performance measures described in Attachment A have not been met, the Contractor will receive written notice of the deficiency as well as the amount of money the Contractor is at risk of forfeiting. The State will consider the severity of the deficiency and determine the amount of funding that may be forfeited by the Contractor. Liquidated damages will be assessed based on the State's reasonable estimate of the financial impact the deficiency has on beneficiary services or function of the transportation program and this amount will not exceed \$10,000. The Contractor will then have 15 days to respond with a corrective action plan to address the deficiency. If the State approves the corrective action plan and the Contractor meets the performance measures in the following invoice period, the State will release the retained funds. If the Contractor fails to correct the deficiency, the Contractor will permanently forfeit the funds. At the State's discretion, the Contractor may be given a longer period to correct the performance deficiency.

If the Contractor wishes to dispute any decision that results in forfeited funding, the Contractor may request a meeting with the Commissioner of the Department of Vermont Health Access (or his/her delegate) to discuss the decision.

**5. By deleting Attachment C (Customary Provisions for Contracts and Grants), beginning on page 7 of 21, revised 6/9/14, and substituting in lieu thereof Attachment C revised 3/1/15, which is an attachment beginning on page 4 of 8 of this Amendment 1.**

This amendment consists of 8 pages. Except as modified by this amendment and any previous amendments, all provisions of this contract, (#26691) dated July 1, 2014 shall remain unchanged and in full force and effect.

**STATE OF VERMONT**

**DEPARTMENT OF VERMONT HEALTH ACCESS**

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STEVEN COSTANTINO, COMMISSIONER  
DATE  
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Email: [Steven.Costantino@state.vt.us](mailto:Steven.Costantino@state.vt.us)  
AHS/DVHA

**CONTRACTOR**

**GREEN MOUNTAIN TRANSIT AGENCY**

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KAREN WALTON, GENERAL MANAGER      DATE  
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Burlington, VT 05401  
Phone: 802-864-2282  
Email: [kw Walton@cctaride.org](mailto:kw Walton@cctaride.org)  
CONTRACTOR

ATTACHMENT C: STANDARD STATE PROVISIONS  
FOR CONTRACTS AND GRANTS

1. **Entire Agreement:** This Agreement, whether in the form of a Contract, State Funded Grant, or Federally Funded Grant, represents the entire agreement between the parties on the subject matter. All prior agreements, representations, statements, negotiations, and understandings shall have no effect.
2. **Applicable Law:** This Agreement will be governed by the laws of the State of Vermont.
3. **Definitions:** For purposes of this Attachment, "Party" shall mean the Contractor, Grantee or Subrecipient, with whom the State of Vermont is executing this Agreement and consistent with the form of the Agreement.
4. **Appropriations:** If this Agreement extends into more than one fiscal year of the State (July 1 to June 30), and if appropriations are insufficient to support this Agreement, the State may cancel at the end of the fiscal year, or otherwise upon the expiration of existing appropriation authority. In the case that this Agreement is a Grant that is funded in whole or in part by federal funds, and in the event federal funds become unavailable or reduced, the State may suspend or cancel this Grant immediately, and the State shall have no obligation to pay Subrecipient from State revenues.
5. **No Employee Benefits For Party:** The Party understands that the State will not provide any individual retirement benefits, group life insurance, group health and dental insurance, vacation or sick leave, workers compensation or other benefits or services available to State employees, nor will the state withhold any state or federal taxes except as required under applicable tax laws, which shall be determined in advance of execution of the Agreement. The Party understands that all tax returns required by the Internal Revenue Code and the State of Vermont, including but not limited to income, withholding, sales and use, and rooms and meals, must be filed by the Party, and information as to Agreement income will be provided by the State of Vermont to the Internal Revenue Service and the Vermont Department of Taxes.
6. **Independence, Liability:** The Party will act in an independent capacity and not as officers or employees of the State.

The Party shall defend the State and its officers and employees against all claims or suits arising in whole or in part from any act or omission of the Party or of any agent of the Party. The State shall notify the Party in the event of any such claim or suit, and the Party shall immediately retain counsel and otherwise provide a complete defense against the entire claim or suit.

After a final judgment or settlement the Party may request recoupment of specific defense costs and may file suit in Washington Superior Court requesting recoupment. The Party shall be entitled to recoup costs only upon a showing that such costs were entirely unrelated to the defense of any claim arising from an act or omission of the Party.

The Party shall indemnify the State and its officers and employees in the event that the State, its officers or employees become legally obligated to pay any damages or losses arising from any act or omission of the Party.

7. **Insurance:** Before commencing work on this Agreement the Party must provide certificates of insurance to show that the following minimum coverages are in effect. It is the responsibility of the

Party to maintain current certificates of insurance on file with the state through the term of the Agreement. No warranty is made that the coverages and limits listed herein are adequate to cover and protect the interests of the Party for the Party's operations. These are solely minimums that have been established to protect the interests of the State.

Workers Compensation: With respect to all operations performed, the Party shall carry workers' compensation insurance in accordance with the laws of the State of Vermont.

General Liability and Property Damage: With respect to all operations performed under the contract, the Party shall carry general liability insurance having all major divisions of coverage including, but not limited to:

- Premises - Operations
- Products and Completed Operations
- Personal Injury Liability
- Contractual Liability

The policy shall be on an occurrence form and limits shall not be less than:

- \$1,000,000 Per Occurrence
- \$1,000,000 General Aggregate
- \$1,000,000 Products/Completed Operations Aggregate
- \$ 50,000 Fire/ Legal/Liability

Party shall name the State of Vermont and its officers and employees as additional insureds for liability arising out of this Agreement.

Automotive Liability: The Party shall carry automotive liability insurance covering all motor vehicles, including hired and non-owned coverage, used in connection with the Agreement. Limits of coverage shall not be less than: \$1,000,000 combined single limit.

Party shall name the State of Vermont and its officers and employees as additional insureds for liability arising out of this Agreement.

Professional Liability: Before commencing work on this Agreement and throughout the term of this Agreement, the Party shall procure and maintain professional liability insurance for any and all services performed under this Agreement, with minimum coverage of \$\_\_\_\_\_ per occurrence, and \$\_\_\_\_\_ aggregate.

- 8. Reliance by the State on Representations:** All payments by the State under this Agreement will be made in reliance upon the accuracy of all prior representations by the Party, including but not limited to bills, invoices, progress reports and other proofs of work.
- 9. Requirement to Have a Single Audit:** In the case that this Agreement is a Grant that is funded in whole or in part by federal funds, the Subrecipient will complete the Subrecipient Annual Report annually within 45 days after its fiscal year end, informing the State of Vermont whether or not a Single Audit is required for the prior fiscal year. If a Single Audit is required, the Subrecipient will submit a copy of the audit report to the granting Party within 9 months. If a single audit is not required, only the Subrecipient Annual Report is required.

For fiscal years ending before December 25, 2015, a Single Audit is required if the subrecipient

expends \$500,000 or more in federal assistance during its fiscal year and must be conducted in accordance with OMB Circular A-133. For fiscal years ending on or after December 25, 2015, a Single Audit is required if the subrecipient expends \$750,000 or more in federal assistance during its fiscal year and must be conducted in accordance with 2 CFR Chapter I, Chapter II, Part 200, Subpart F. The Subrecipient Annual Report is required to be submitted within 45 days, whether or not a Single Audit is required.

- 10. Records Available for Audit:** The Party shall maintain all records pertaining to performance under this agreement. "Records" means any written or recorded information, regardless of physical form or characteristics, which is produced or acquired by the Party in the performance of this agreement. Records produced or acquired in a machine readable electronic format shall be maintained in that format. The records described shall be made available at reasonable times during the period of the Agreement and for three years thereafter or for any period required by law for inspection by any authorized representatives of the State or Federal Government. If any litigation, claim, or audit is started before the expiration of the three year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved.
- 11. Fair Employment Practices and Americans with Disabilities Act:** Party agrees to comply with the requirement of Title 21V.S.A. Chapter 5, Subchapter 6, relating to fair employment practices, to the full extent applicable. Party shall also ensure, to the full extent required by the Americans with Disabilities Act of 1990, as amended, that qualified individuals with disabilities receive equitable access to the services, programs, and activities provided by the Party under this Agreement. Party further agrees to include this provision in all subcontracts.
- 12. Set Off:** The State may set off any sums which the Party owes the State against any sums due the Party under this Agreement; provided, however, that any set off of amounts due the State of Vermont as taxes shall be in accordance with the procedures more specifically provided hereinafter.
- 13. Taxes Due to the State:**
  - a. Party understands and acknowledges responsibility, if applicable, for compliance with State tax laws, including income tax withholding for employees performing services within the State, payment of use tax on property used within the State, corporate and/or personal income tax on income earned within the State.
  - b. Party certifies under the pains and penalties of perjury that, as of the date the Agreement is signed, the Party is in good standing with respect to, or in full compliance with, a plan to pay any and all taxes due the State of Vermont.
  - c. Party understands that final payment under this Agreement may be withheld if the Commissioner of Taxes determines that the Party is not in good standing with respect to or in full compliance with a plan to pay any and all taxes due to the State of Vermont.
  - d. Party also understands the State may set off taxes (and related penalties, interest and fees) due to the State of Vermont, but only if the Party has failed to make an appeal within the time allowed by law, or an appeal has been taken and finally determined and the Party has no further legal recourse to contest the amounts due.
- 14. Child Support:** (Applicable if the Party is a natural person, not a corporation or partnership.) Party states that, as of the date the Agreement is signed, he/she:

- a. is not under any obligation to pay child support; or
- b. is under such an obligation and is in good standing with respect to that obligation; or
- c. has agreed to a payment plan with the Vermont Office of Child Support Services and is in full compliance with that plan.

Party makes this statement with regard to support owed to any and all children residing in Vermont. In addition, if the Party is a resident of Vermont, Party makes this statement with regard to support owed to any and all children residing in any other state or territory of the United States.

**15. Sub-Agreements:** Party shall not assign, subcontract or subgrant the performance of this Agreement or any portion thereof to any other Party without the prior written approval of the State. Party also agrees to include in all subcontract or subgrant agreements a tax certification in accordance with paragraph 13 above.

**16. No Gifts or Gratuities:** Party shall not give title or possession of anything of substantial value (including property, currency, travel and/or education programs) to any officer or employee of the State during the term of this Agreement.

**17. Copies:** All written reports prepared under this Agreement will be printed using both sides of the paper.

**18. Certification Regarding Debarment:** Party certifies under pains and penalties of perjury that, as of the date that this Agreement is signed, neither Party nor Party's principals (officers, directors, owners, or partners) are presently debarred, suspended, proposed for debarment, declared ineligible or excluded from participation in federal programs, or programs supported in whole or in part by federal funds.

Party further certifies under pains and penalties of perjury that, as of the date that this Agreement is signed, Party is not presently debarred, suspended, nor named on the State's debarment list at: <http://bgs.vermont.gov/purchasing/debarment>

**19. Certification Regarding Use of State Funds:** In the case that Party is an employer and this Agreement is a State Funded Grant in excess of \$1,001, Party certifies that none of these State funds will be used to interfere with or restrain the exercise of Party's employee's rights with respect to unionization.

**20. Internal Controls:** In the case that this Agreement is an award that is funded in whole or in part by Federal funds, in accordance with 2 CFR Part II, §200.303, the Party must establish and maintain effective internal control over the Federal award to provide reasonable assurance that the Party is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the award. These internal controls should be in compliance with guidance in "Standards for Internal Control in the Federal Government" issued by the Comptroller General of the United States and the "Internal Control Integrated Framework", issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

**21. Mandatory Disclosures:** In the case that this Agreement is an award funded in whole or in part by Federal funds, in accordance with 2CFR Part II, §200.113, Party must disclose, in a timely manner, in writing to the State, all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Failure to make required disclosures may result

in the imposition of sanctions which may include disallowance of costs incurred, withholding of payments, termination of the Agreement, suspension/debarment, etc.

**22. Conflict of Interest:** Party must disclose in writing any potential conflict of interest in accordance with Uniform Guidance §200.112, Bulletin 5 Section IX and Bulletin 3.5 Section IV.B.

(End of Standard Provisions)