

## Pass-through Agreement

THIS AGREEMENT made this 18 day of May, 2020 among Tippecanoe County, acting through the county commissioners (hereinafter referred to as the "Applicant") and Area IV Agency on Aging and Community Action Programs, Inc a private nonprofit corporation, (hereinafter referred to as the "Service Provider"), by its duly authorized representative(s), whose mailing address is: 660 North 36<sup>th</sup> Street, Lafayette, IN 47903

### WITNESSETH

WHEREAS, the Applicant has made application for the Operating and/or Capital Assistance Program under section 5311 of the Federal Transit Act with the Application incorporated and made a part of this Agreement.

WHEREAS, the goals of the Operating and Capital Assistance Programs are to enhance access to people in non-urbanized areas for purposes such as health care, shopping, education, recreation, public services, and employment.

WHEREAS, the Service Provider has the expertise and desire to provide said transportation; and

WHEREAS, the Applicant has agreed by resolution, or such similar instrument, to subcontract with the Service Provider.

NOW THEREFORE, in consideration of the mutual promises and covenants herein set forth, the Applicant and Service Provider agree as follows:

### ***SECTION I: Purpose***

The purpose of this Agreement is to provide for the undertaking of rural public transportation services to the general public in and around **Tippecanoe County, Indiana**.

### ***SECTION II: Project Implementation***

The Service Provider agrees, based on the Grant Assistance provided, to undertake and complete the Project as filed with the approval of the Indiana Department of Transportation ("INDOT") and the Federal Transportation Administration ("FTA") in accordance with the terms and conditions of this Agreement.

### ***SECTION III: Project Duration***

The Service Provider shall commence activities associated with the Project from **01/01/2021 to 12/31/2021**, as described in the 5311/5339 Application and other required documents requested by FTA and INDOT.

### ***SECTION IV: Level of Funding***

Reimbursement to the Service Provider shall be through a cost reimbursement contract. These expenditure levels are contingent upon the necessary State and Federal funds to operate the Project. If State or Federal funding sources are not available and alternative funding cannot be obtained, the Project will be adjusted so as not to incur un-reimbursable expenses.

### ***SECTION V: Eligible Project Expenditures***

Project expenditures eligible for reimbursement under the Cost Reimbursement Contract are only for those expenditures which are eligible for Section 5311 reimbursement and are further identified in the budget form accompanying the Applicant's Application.

Federal Office of Budget and Management Circular 2 CFR 200 shall be used as guidance in establishing cost principals applicable to the grant.

### ***SECTION VI: Reimbursement***

Eligible Project costs will be reimbursed to the Service Provider by the Applicant on a quarterly basis and no later than 3-5 business days after the Applicant has received payment by INDOT.

### ***SECTION VII: Financial Statement***

The Service Provider shall submit to the Applicant, no less than 7 days prior, quarterly operating claims, capital claims, financial statements, records, and fiscal documents that are required for Applicant review and approval prior to submission of such documents to INDOT or FTA as may be deemed necessary. The quarterly reports shall include revenue and expense statements including a detailed report of expenses by budget category as identified in the Budget accompanying the Applicant's Application. Furthermore, the Service Provider shall attend no less than quarterly, commissioner or applicant governing board meetings in order to present, discuss, and answer any questions or concerns relevant to such financial claims and documents. Service Providers must also submit to the Applicant an annual certified audit performed by an independent Certified Public Accountant ("CPA"). The Service Provider shall develop and maintain financial reports which are necessary for the effective control and management of operations and shall maintain financial records required by funding sources in accordance with generally accepted accounting procedures.

### ***SECTION VIII: Audit and Inspection***

The Service Provider shall permit the Applicant, INDOT, FTA, or their authorized representative, to inspect all vehicles, facilities and equipment purchased by the Applicant, including those obtained through the Section 5311 Project, all transportation services rendered by the Service Provider by the use of such vehicles, facilities and equipment and all relevant Project data and records. The Service Provider shall also permit the above-named persons to the books, records and accounts of the Service Provider pertaining to the Project. Service Provider will be subject to audits and inspections at any time, and without notice if necessary, by the applicant, INDOT and FTA to ensure compliance of the Service Provider. Any overpayment to the Service Provider as determined by an audit must be immediately refunded to the Applicant.

### ***SECTION IX: Use of Applicant's Equipment***

Any vehicles, equipment or facilities purchased under the Section 5311/5339 Assistance Program and titled in the name of the Applicant, hereinafter referred to as "Capital Assets," are hereby leased to the Service Provider for an annual fee of \$1.00. The vehicles, equipment or facilities covered by this lease shall only be used by the Service Provider for the purpose of rural public transportation services. Any fares, fees or other proceeds, including leases or sub-lease obtained by the Service Provider, shall be

used in the performance of the transportation services and shall be reported quarterly to the Applicant. Any such proceeds shall be deducted from the monthly operating costs as allowed.

The Service Provider will maintain minimum levels of proper liability, collision, and property damage insurance for the service provided in conjunction with Indiana Insurance requirements required for for-hire transportation providers.

Upon the release of Capital Assets by FTA and INDOT, or in the event the Project is terminated, the Applicant will transfer ownership of any Capital Assets for which the Service Provider has provided the required local matching funds to the Service Provider.

#### ***SECTION X: Consultant Contracts***

Contracts for consultant services in excess of \$10,000 must be submitted by the Service Provider for review and prior approval by the Applicant, INDOT and FTA. The Applicant and/or Service Provider will abide by the requirements of FTA Circular 4220.1F (Third Party Contracting Requirements) in procuring services.

#### ***SECTION XI: Project Monitoring and Evaluation Data***

The Service Provider shall provide all data for the monitoring and evaluation of the Project as requested by the Applicant, INDOT and/or FTA. The Service Provider shall provide necessary information such as ridership, vehicle, hours of service, operations costs and revenues when such information is requested by the Applicant, INDOT and/or FTA.

#### ***SECTION XII: Changes in Project Scope or Budget***

The Service Provider shall immediately notify the INDOT, FTA and the Applicant of any change in conditions, or of any event, which will adversely affect its ability to perform the Project in accordance with the provisions of this Agreement.

#### ***SECTION XIII: Labor Protection***

Provisions of the Department of Labor Special Section 5333(b) Warranty signed by the Service Provider and the Applicant are hereby incorporated into this Agreement.

#### ***SECTION XIV: Equal Employment Opportunity***

In connection with the execution of this Agreement, the Service Provider shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, sexual orientation, gender identity or national origin. The Service Provider shall take affirmative action to ensure the applicants are employed and treated fairly during their employment. Such action shall include, but not be limited to the following: employment, upgrade, demotion, or transfer, recruitment, or advertising, layoffs, or termination, rate of pay, or other forms of compensation; and selection for training including apprenticeship.

#### ***SECTION XV: Non-Discrimination***

The Service Provider agrees that as a condition to the Agreement that no otherwise qualified disabled person shall, solely by reason of race, color, religion, sex, sexual orientation, gender identity, national origin, age, disability, income status, or limited English proficiency, be excluded from participation in, be

denied, the benefits of, or otherwise be subjected to discrimination under this program or activity that receives or benefits from Federal financial assistance administered by the Applicant through funding by the United States Department of Transportation.

***SECTION XVI: Civil Rights Act of 1964***

The Service Provider shall comply with all requirements imposed under Title VI of the Civil Rights Act of 1964 (78 Stat. 252), as amended, and any and all regulations issued pursuant thereto (CFR Title 49, Subtitle A, Part 21).

***SECTION XVII: Section 5311 Program Compliance***

The Service Provider shall comply with all other assurances and regulation included in the Section 5311 Program as cited in the 5311/5339 Application.

***SECTION XVIII: Termination***

The Applicant may, by written notice to the Service Provider, terminate the Project and cancel this Agreement.

***SECTION XIX: Agreement Changes***

Any proposed change in this Agreement must have the approval of both the Applicant and the Service Provider prior to becoming effective.

***SECTION XX: Dispute***

Any dispute concerning a question of fact in connection with purposes contained within this Agreement shall be referred to the Commissioner of INDOT, whose decision shall be final.

***SECTION XXI: Responsibility for Claims and Liability***

The Service Provider shall be responsible for and save harmless the Applicant for all damage to life and property due to activities of the Service Provider, its subcontractors, agents or employees, in connection with the execution of the Project.

***SECTION XXII: Employment Eligibility Verification***

All Indiana governmental employers are required to utilize E-Verify to verify the work eligibility of all employees hired after June 30, 2011. Additionally, all Indiana employers who have “public contracts for services” with a state agency or receive grants exceeding \$1000 from a state agency will also be required to participate in the E-Verify Program. The obligation for private employers will arise as a result of governmental employers (*i.e.* state agencies) being obligated to require recipients of public service contracts and grants in excess of \$1000 entered into after or renewed after June 30, 2011, to participate in E-Verify. In order to enroll in the E-Verify program contractors, grantees & sub-grantees may search [www.everify.uscis.gov/enroll](http://www.everify.uscis.gov/enroll).

**IN WITNESS WHEREOF**, Area IV Agency on Aging and Community Action Programs, Inc and Tippecanoe County have caused this Agreement to be executed in their respective names.

**EXECUTED THIS 18 DAY OF May, 2020**

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

By: \_\_\_\_\_

Signature of Authorized Representative of Applicant – Thomas P. Murtaugh

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

By: \_\_\_\_\_

Signature of Authorized Service Provider Representative – Elva A. James

**CERTIFICATION OF APPLICANT’S ATTORNEY**

I affirm that to the best of my knowledge the Applicant and Service Provider are in total compliance with all items and conditions of the grant agreement executed between the Indiana Department of Transportation and the Applicant.

I further affirm that, to the best of my knowledge, there is no legislation or litigation pending or threatened that might adversely affect the validity of these certifications and assurances or of the performances of the Project.

Furthermore, if I become aware of circumstances that change the accuracy of the foregoing statements, I will notify the Applicant, Service Provider and INDOT.

By: \_\_\_\_\_

Doug Masson – Attorney for Tippecanoe County

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Date