

FORSYTH COUNTY
BOARD OF COMMISSIONERS

MEETING DATE: February 23, 2021

AGENDA ITEM NUMBER: 5

SUBJECT:

RESOLUTION AUTHORIZING EXECUTION OF AN AMENDMENT BETWEEN FORSYTH COUNTY AND INTELLICHOICE STAFFING, LLC, TO PROVIDE ADDITIONAL TEMPORARY EMPLOYMENT SERVICES FOR COVID-19 VACCINATION RESPONSE AT THE DEPARTMENT OF PUBLIC HEALTH (FORSYTH COUNTY DEPARTMENT OF PUBLIC HEALTH)

COUNTY MANAGER'S RECOMMENDATION OR COMMENTS: Recommend Approval

SUMMARY OF INFORMATION:

IntelliChoice Staffing, LLC, currently provides personnel to supplement the Department of Public Health staff to administer COVID-19 vaccinations. This amendment with IntelliChoice Staffing, LLC, covers temporary employment services utilized for COVID-19 mass vaccination at the Department of Public Health. The agreement is effective from December 1, 2020, through June 30, 2021, and brings the total to a not to exceed amount of \$423,500.

ATTACHMENTS:

YES

NO

SIGNATURE:

f. Dudley Watts, Sr. /AMS
COUNTY MANAGER

DATE:

February 15, 2021

**RESOLUTION AUTHORIZING EXECUTION OF AN AMENDMENT BETWEEN
FORSYTH COUNTY AND INTELLICHOICE STAFFING, LLC, TO PROVIDE
ADDITIONAL TEMPORARY EMPLOYMENT SERVICES FOR COVID-19
VACCINATION RESPONSE AT THE DEPARTMENT OF PUBLIC HEALTH
(FORSYTH COUNTY DEPARTMENT OF PUBLIC HEALTH)**

WHEREAS the Forsyth County Department of Public Health utilizes temporary employees for COVID-19 response in order to deliver mass community vaccination;

WHEREAS Forsyth County currently has a contract with IntelliChoice Staffing, LLC, effective from December 1, 2020, through June 30, 2021, to provide personnel to supplement the Department of Public Health's staff to administer COVID-19 vaccinations;

WHEREAS this amendment allows IntelliChoice Staffing, LLC, to furnish additional Registered Nurses and Licensed Nurse Practitioners for the County;

WHEREAS this amendment shall increase the contract amount making the total payment amount not to exceed \$423,500; and

WHEREAS it is the recommendation of the County Manager, Assistant County Manager, and the Public Health Director that the County enter into an amendment with IntelliChoice, LLC, to fulfill the terms of the agreement;

NOW, THEREFORE, BE IT 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, an amendment with IntelliChoice Staffing, LLC, which is attached hereto and incorporated herein by reference, in an amount not to exceed \$423,500, subject to a pre-audit certificate thereon by the County Chief Financial Officer, where applicable, and approval to form and legality by the County Attorney.

Adopted this 23rd day of February 2021.

NORTH CAROLINA

AMENDMENT TO AGREEMENT

FORSYTH COUNTY

THE AGREEMENT, effective December 1, 2020, by and between Forsyth County, North Carolina (the "CLIENT") and Intellicochoice Staffing, LLC ("ICS" or "IntelliChoice"), is hereby amended, effective December 1, 2021, by the County and the Provider as follows:

Both the Agreement and this Amendment shall be effective December 1, 2020.

Section 5.2 – Payment of the Agreement is hereby deleted, and the following shall be added as Section 5.2 - Payment:

"All amounts due to ICS are due and payable within thirty (30) days from the delivery of invoice to CLIENT. CLIENT will send all payments to the following address:

Intellicochoice Staffing
4735 Reedy Branch Rd., Suite C
Winterville, NC 28590

Payments not received within thirty (30) days from receipt of the applicable invoice will accumulate interest, until paid, at the rate of two-thirds percent (.667%) per month on the unpaid balance, which is an annual percentage rate of eight percent (8%), or the maximum rate permitted by applicable law, whichever is less.

Total Payments under this contract are not to exceed \$423,500."

Except as herein amended, the Agreement attached as Attachment A and incorporated herein by reference remains unchanged and in full force and effect.

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

FORSYTH COUNTY, NORTH CAROLINA

(SEAL)

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

Date: _____

ATTEST:

Ashleigh M. Sloop, Clerk to the Board

Date: _____

ICS

(SEAL)

By: _____

Printed Name: _____

Title: _____

Date: _____

STAFFING SERVICES AGREEMENT - Immunizations

This Staffing Services Agreement is entered into this, the 17th day of December, 2020, by and between Forsyth County Department of Public Health, referred to in this Agreement as "CLIENT," and IntelliChoice Staffing, LLC., an Ohio and North Carolina LLC, including its affiliates and subsidiaries, with its corporate offices located at 4735 Reedy Branch Rd., Suite C, Winterville, NC 28590, referred to in this Agreement as "ICS or IntelliChoice."

RECITALS

WHEREAS, CLIENT operates a legal entity that allows contract staffing, CLIENT located in North Carolina, and wishes to engage ICS to provide personnel to supplement CLIENT's staff for the purpose of providing Immunizations/Vaccines to consenting individuals.

WHEREAS, ICS operates a supplemental staffing agency and employs licensed health care personnel to provide healthcare services to CLIENT.

THEREFORE, in consideration of the above premises set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged by the parties, and intending to be legally bound, CLIENT and ICS hereby agree to the following terms and conditions.

ARTICLE 1 TERM OF AGREEMENT

Section 1.1 Term and Termination.

This Agreement will be in effect from December 1st, 2020 until June 30th, 2021 and is eligible to renewed at CLIENT's request at the end of the first year and each subsequent year provided however, that either party may terminate this agreement at any time, with or without cause, by providing at least thirty (30) days advance written notice of the termination date to the other party. Such termination will have no effect upon the rights and obligations resulting from any transactions occurring prior to the effective date of the termination.

ARTICLE 2 RESPONSIBILITIES OF ICS

Section 2.1 Services.

ICS will, upon request by CLIENT, provide one or more licensed health care providers (i.e. Nurses, Practitioners, Therapists, etc.) as specified by CLIENT (collectively, "Personnel") for supplemental staffing services, subject to availability of qualified Personnel.

Section 2.2 Personnel.

ICS will supply CLIENT with Personnel who meet the following criteria:

- 1) Possess current state license/registration and/or certification.
- 2) Possess CPR certification, as well as any other life-saving training, as required by State law.
- 3) Meet applicable laws, regulations, and/or accreditation standards, to be presented to CLIENT Administrator upon request.

4) Possess proof of pre-employment screening to include a physical (as applicable to State law) and TB skin test, professional references, criminal background check(s) (and drug screenings as applicable).

5) Possess the relevant professional experience and training as requested by CLIENT.

Section 2.3 Insurance.

ICS will maintain (at its sole expense), or require the individuals it provides under this Agreement to maintain, a valid policy of insurance evidencing general and professional liability coverage of not less than \$1,000,000 per occurrence and \$3,000,000 in the aggregate, covering sole negligent acts or omissions which may give rise to liability for services provided under this Agreement. ICS will provide a certificate of insurance evidencing such coverage upon request by CLIENT.

Section 2.4 Employer Obligations.

ICS, or its subcontractor(s), will maintain direct responsibility as employer for payment of wages, and federal, state, and local income taxes, social security taxes, worker's compensation, and unemployment insurance. ICS agrees to maintain documentation on all Personnel provided by ICS in an employee file.

Section 2.5 Record Access.

In instances where CLIENT is Medicare and/or Medicaid certified, ICS agrees that in accordance with Section 952 of the Omnibus Budget Reconciliation Act of 1980, its contracts, books, documents and records will be made available upon request to the Comptroller General of the United States, the United States Department of Health and Human Services and their duly authorized representatives ("USDHHS") until the expiration of four (4) years after the date on which such services were furnished under this Agreement.

ARTICLE 3 RESPONSIBILITIES OF CLIENT

Section 3.1 Requests for Personnel.

CLIENT will use its best efforts to request Personnel at least twenty-four (24) hours prior to reporting time in order to assure prompt arrival of assigned Personnel. All information regarding reporting time and assignment will be provided by CLIENT at the time of the initial call.

Section 3.2 Short-notice Requests.

ICS will make every effort to fill short-notice requests (less than 24 hours notice) by CLIENT. Failure to staff personnel to CLIENT on short-notice requests CAN NOT be included in any calculation of performance guarantees of ICS.

Section 3.3 Staff Order Cancellation.

CLIENTS must give ICS a minimum of 2 hours notice of cancellation of scheduled shifts. If CLIENT fails to provide more than 2 hours of notice, CLIENT agrees to pay ICS the equivalent of 4 billable hours per employee cancelled.

Section 3.4_ Responsibility for Patient Care.

CLIENT retains full authority and responsibility for professional and medical management of care for each of its patients and for ensuring that services provided by ICS personnel under this agreement are furnished in a safe and effective manner and in accordance with applicable standards.

Section 3.5_ Placement Fee/NON Solicitation of ICS employees.

For a period of twelve (12) months following that date on which an ICS Personnel member last worked a shift at CLIENT, CLIENT agrees that it will take no steps to recruit, hire or employ as its own employees or as a contractor those Personnel provided by ICS during the term of this Agreement. CLIENT understands and agrees that ICS is not an employment agency and that Personnel are assigned to the CLIENT to render temporary service(s) and are not assigned to become employed by the CLIENT. The CLIENT further acknowledges and agrees that the substantial investment in business related costs incurred by ICS in recruiting, training and employing Personnel, to include advertisement, recruitment, interviewing, evaluation, reference checks, training, and supervising Personnel. In the event that CLIENT, or any affiliate, subsidiary, department, or division of CLIENT hires, employs or solicits ICS Personnel, CLIENT will be in breach of this Agreement. If CLIENT breaches this section, CLIENT acknowledges ICS's right to immediate payment \$2000.00 in liquidated damages.

Section 3.6_ Non-Performance.

If CLIENT concludes, in its sole discretion, that any Personnel provided by ICS have engaged in misconduct, or have been negligent, CLIENT may require the individual to leave the premises and will notify ICS immediately in writing, providing in reasonable detail the reason(s) for such dismissal. CLIENT's obligation to compensate ICS for such individual's services will be limited to the number of hours actually worked. ICS will not reassign the individual to CLIENT without prior approval of the CLIENT.

Section 3.7_ Right to Dismiss.

CLIENT may request the dismissal of any ICS Personnel for any reason. CLIENT agrees to notify ICS of any such action immediately in writing, providing in reasonable detail the reason(s) for such dismissal. CLIENT shall be obligated to compensate ICS for all hours worked prior to dismissal of Personnel.

Section 3.8_ Insurance.

ICS understands the CLIENT is a self-insured entity. CLIENT will notify ICS if it's self-insured status changes within the duration of this executed agreement.

Section 3.9_ Compliance with Regulatory Standards.

In all instances where Personnel are supervised by CLIENT, CLIENT shall be required to document and

develop an incident report of any injury, illness, or ailment experienced by Personnel at the CLIENT workplace in accordance with applicable federal, state and local laws, rules and regulations.

ARTICLE 4 MUTUAL RESPONSIBILITIES

Section 4.1 Orientation. ICS will cooperate with CLIENT to promptly provide ICS Personnel with an orientation to CLIENT. ICS shall review instructions regarding confidentiality (including patient and employee), and orient ICS Personnel to the specific Exposure Control Plan of the CLIENT as it pertains to OSHA requirements for blood-borne pathogens, as well as any of the CLIENT'S specific policies and procedures provided to ICS for such purpose. ICS will provide Personnel with a CLIENT Protocol document that lists basic information regarding CLIENT'S everyday operations.

Section 4.2 Non-discrimination. Neither ICS nor CLIENT will discriminate on the basis of age, race, color, national origin, religion, sex, disability, being a qualified disabled veteran, being a qualified veteran of the Vietnam era, or any other category protected by law.

ARTICLE 5 COMPENSATION

Section 5.1 Invoicing.

ICS will supply Personnel under this Agreement at the rates listed in the Attachment(s). ICS will submit invoices to CLIENT every week for Personnel provided to CLIENT during the preceding week. Invoices shall be submitted to the following address:

Forsyth County Department of Public Health

PO Box 686, Winston Salem, NC 27102-0686

ATTN: ACCOUNTS PAYABLE

Section 5.2 Payment.

All amounts due to ICS are due and payable within thirty (30) days from date of invoice. CLIENT will send all payments to the following address:

IntelliChoice Staffing

4735 Reedy Branch Rd., Suite C

Winterville, NC 28590

Payments not received within thirty (30) days from the applicable invoice date will accumulate interest,

until paid, at the rate of two-thirds percent (.066%) per month on the unpaid balance, equating to an annual percentage rate of eight percent (8%), or the maximum rate permitted by applicable law, whichever is less.

The total payments under this contract are not to exceed \$49,500.

Section 5.3 **Rate Change.**

ICS will provide CLIENT at least thirty (30) days advance written notice of any change in rates.

ARTICLE 6 GENERAL TERMS

Section 6.1 **Independent Contractors.**

ICS and CLIENT are independent legal entities. Nothing in this Agreement shall be construed to create the relationship of employer and employee, or principal and agent, or any relationship other than that of independent parties contracting with each other solely for the purpose of carrying out the terms of this Agreement. Neither ICS nor CLIENT nor any of their respective agents or employees shall control or have any right to control the activities of the other party in carrying out the terms of this Agreement.

Section 6.2 **Assignment.**

Neither party may assign this Agreement without the prior written consent of the other party, and such consent will not be unreasonably withheld. No such consent will be required for assignment to an entity owned by or under common control with assignor or in connection with any acquisition of all of the assets or capital stock of a party; provided however, the assigning party will provide notice of such transaction to the other party and remain fully responsible for compliance with all of the terms of this Agreement.

Section 6.3 **Indemnification.**

ICS agrees to indemnify and hold harmless CLIENT, and its directors, officers, and agents from and against any and all claims, actions, or liabilities which may be asserted against them by third parties in connection with the sole negligent performance of ICS, its directors, officers, employees or agents under this Agreement only. CLIENT agrees to indemnify and hold harmless ICS, its directors, officers, shareholders, employees and agents from and against any and all claims, actions, or liabilities which may be asserted against them by third parties in connection with the negligent performance of CLIENT, its Directors, officers, employees, contractors or agents under this Agreement.

Section 6.4 **Attorneys' Fees.**

In the event either party is required to obtain legal assistance (including in-house counsel) to enforce its rights under this Agreement, or to collect any monies due to such party for services provided, each party is responsible for paying its own attorney's fees, court costs and expenses, if any, incurred enforcing its rights and/or collecting its monies.

Section 6.5 **Notices.**

Any notice or demand required under this Agreement will be in writing; will be personally served or sent by certified mail, return receipt requested, postage prepaid, or by a recognized overnight carrier which provides proof of

receipt; and will be sent to the addresses below. Either party may change the address to which notices are sent by sending written notice of such change of address to the other party.

Forsyth County Department of Public Health
799 N Highland Ave, Winston-Salem, NC 27101

IntelliChoice Staffing LLC
4735 Reedy Branch Rd. Suite C
Winterville, NC 28590
ATTN: John Seyler

Section 6.5 **Headings.**

The headings of sections and subsections of this Agreement are for reference only and will not affect in any way the meaning or interpretation of this Agreement.

Section 6.6 **Entire Contract; Counterparts.**

This Agreement constitutes the entire contract between CLIENT and ICS regarding the services to be provided hereunder. Any agreements, promises, negotiations, or representations not expressly set forth in this Agreement are of no force or effect. This Agreement may be executed in any number of counterparts, each of which will be deemed to be the original, but all of which shall constitute one and the same document. No amendments to this Agreement will be effective unless made in writing and signed by duly authorized representatives of both parties.

Section 6.7 **Availability of Personnel.**

The parties agree that ICS's duty to supply Personnel on request of CLIENT is subject to the availability of qualified ICS Personnel. The failure of ICS to provide Personnel or the failure of CLIENT to request personnel shall result in no penalty to CLIENT or any party claiming by or through it and shall not constitute a breach of this Agreement.

Section 6.8 **Compliance with Laws.**

ICS agrees that all services provided pursuant to this Agreement shall be performed in compliance with all applicable federal, state, or local rules and regulations.

Section 6.9 **Severability**

In the event that one or more provision of this Agreement is deemed invalid, unlawful and/or

unenforceable, then only that provision will be omitted, and will not affect the validity or enforceability of any other provision; the remaining provisions will be deemed to continue in full force and effect.

Section 6.10 _ Governing Law and Jurisdiction.

This Agreement will be governed by and construed in accordance with the laws of the State of North Carolina, without regard to its principles of conflict of laws. Any dispute or claim from this Agreement shall be resolved exclusively in the federal and state courts of the State of North Carolina and the parties hereby irrevocably submit to the personal jurisdiction of said courts and waive all defenses thereto.

Section 6.11 _ Confidentiality.

The parties agree to keep the terms and conditions of this Agreement, and any information exchanged or obtained hereunder strictly confidential, and not to disclose such information and materials to any third party, except pursuant to a court order or applicable law, rule or regulation.

Section 6.12 _ Limitation on Liability.

Neither ICS nor CLIENT will be responsible for special, indirect, incidental, consequential, or other similar damages, including but not limited to lost profits, that the other party may incur or experience in connection with this agreement or the services provided, however caused, even if such party has been advised of the possibility of such damages.

Section 6.13 _ Amendment.

No amendment, modification or discharge of this Agreement, and no waiver hereunder, shall be valid or binding unless set forth in writing and duly executed by the party against whom enforcement of the amendment, modification, discharge or waiver is sought.

ARTICLE 7. CONFIDENTIALITY OF PROTECTED HEALTH INFORMATION

Section 7.1 _ HIPAA and FERPA Compliance.

In instances where ICS or its employees receives Protected Health Information, (herein referred to as "PHI") in connection with the Services provided by CLIENT, ICS and CLIENT agree that they shall each:

- 1) comply with the applicable provisions of the Administrative simplification section of the Health Insurance Portability and Accountability Act of 1996, as codified at 42 U.S.C. § 1320d through d-8 ("HIPAA")
- 2) adhere to all requirements of any applicable regulations promulgated hereunder.
- 3) not use or further disclose any PHI concerning a client/patient other than as permitted by this Agreement, the requirements of HIPAA and/or applicable federal regulations. Both Parties shall implement appropriate safeguards to prevent the use or disclosure of a client's/patient's PHI other than as provided for by this Agreement.

4) promptly report any violations, use and/or disclosure of a client's/patient's PHI not provided for by this Agreement as soon as practicable, upon becoming aware of the improper violation(s), use and/or disclosure.

CLIENT and ICS shall handle all educational records under FERPA guidelines.

Section 7.2 Breach of Confidentiality.

In the event that either party is in breach of any provision(s) of this Article and Section 6.11 of this Agreement, it shall immediately advise the opposite party and take steps to remedy such breach, including, but not limited to protecting against the consequences of any disclosure or use of PHI in violation of this Agreement. Both parties acknowledge that use or disclosure of the PHI, in any manner inconsistent with this Agreement, may result in irreparable and continuing damage and that the party damaged by the disclosure shall have the right to seek legal and equitable relief, including injunctive relief, without the necessity of posting bond or other security necessary to protect against any such breach or threatened breach, including, without limitation, injunctive relief. CLIENT and ICS have acknowledged their understanding of agreement to the mutual promises written above by executing and delivering this Agreement as of the date set forth above.

SIGNATURES AND EXECUTION OF AGREEMENT

CLIENT: AUTHORIZED AGENT OF CLIENT MUST SIGN

SIGNATURE:  5852DF4A04694DD... _____

DATE: 1/6/2021 _____

PRINT NAME: Shontell Robinson _____

POSITION: Deputy County Manager _____

ICS: AUTHORIZED AGENT OF ICS MUST SIGN

SIGNATURE:  _____

DATE: 01/06/2021 _____

PRINT NAME: Mark Donaldson _____

POSITION: Regional Manager _____

ATTACHMENT A

Rate agreement between Forsyth County Department of Public Health and IntelliChoice Staffing, LLC

Charges will be based on the following hourly rate schedule effective 12/17/2020

SERVICE	RATES
RN/LPN	\$55.00 per hour
CMA	\$40.00 per hour

Temp-to-Hire Statement: Client **may** hire ICS employee as CLIENT employee after completion of 1040 billed hours. CLIENT must give ICS notice in writing of intent to hire employee.

Overtime. - Overtime rates are charged for all hours worked in excess of forty (40) per week or according to applicable state law. The overtime rate is one and one-half (1 1/2) times the regular billing rate for such hours. Double time shall be billed for all hours in excess of twelve (12) hours per day in accordance with State law.

Holidays. - Holiday rates will apply to all hours worked on the eligible holiday. Time and one-half will be charged for the following holidays: New Year's Eve , Thanksgiving Day, New Year's Day, Labor Day, Memorial Day, Christmas Eve, Independence Day, Christmas Day, Easter, Presidents Day, Martin Luther King Day.

DocuSigned by:

 SIGNATURE: _____
5852DF4A04694DD...

1/6/2021
 DATE: _____

PRINT NAME: Shontell Robinson

POSITION: Deputy County Manager

Contract #2021-0351-00: FY21 Intellichoice Temp Ni

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

Date

Paul L. Jambry
Director of Finance

Approved as to Form and Legality

Erica Glass

Forsyth County Attorney

1/4/2021

1/6/2021