

AGREEMENT FOR THE PROVISION OF FIXED-ROUTE AND PARATRANSIT SERVICE

by and between

CITY OF FAIRFIELD

and

MV TRANSPORTATION, INC.

_____ , 2020

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AGREEMENT FOR THE PROVISION OF FIXED-ROUTE AND PARATRANSIT SERVICE

This Agreement for the Provision of Fixed-Route and Paratransit Services (Agreement) is made and entered into as of _____, 2020 by and between the City of Fairfield (CITY), a municipal corporation, and MV Transportation, Inc., a California corporation (CONTRACTOR).

RECITALS

WHEREAS, CITY conducted a competitive procurement process to select a contractor to operate fixed-route and paratransit services for the Fairfield and Suisun Transit System (FAST);

WHEREAS, CONTRACTOR was selected by CITY pursuant to this competitive process, and was awarded the contract by the City Council; and

WHEREAS, CITY and CONTRACTOR desire to enter into this Agreement to describe the Scope of Work to be provided by CONTRACTOR and to set forth the terms and conditions that will govern the operation by CONTRACTOR of the fixed-route and paratransit services covered by this Agreement.

NOW THEREFORE, in consideration of the mutual promises hereinafter given, CITY and CONTRACTOR hereby agree as follows:

ARTICLE I - GENERAL

1. DEFINITIONS

The following are definitions of special terms used in this document:

A. CITY'S Project Manager: CITY's Transportation Manager, or such other individual as may be designated by CITY's Director of Public Works.

B. CONTRACTOR'S Representative: The person designated in Section 5.A of this Article I.

C. PURCHASER: For purposes of Article III of this Agreement, CITY is the Purchaser.

2. SCOPE OF SERVICES

This is an Agreement to provide transit services. CONTRACTOR agrees to provide these services to CITY in accordance with the terms and conditions of this Agreement. In the performance of its work, CONTRACTOR represents that it (a) has and will exercise the degree of professional care, skill, efficiency, and judgment consistent with the highest standards maintained by similarly sized municipal transit services, with special expertise in providing all bus operations, management, courteous service, operating and supervisory staff, and to provide other supplies and equipment as related to operate the transportation services; (b) carries all applicable licenses,

certificates, certifications, and registrations in current and good standing that may be required to perform the work; and (c) will retain all such licenses, certificates, certifications, and registrations in active status throughout the duration of this Agreement.

The scope of CONTRACTOR'S services shall consist of the services set forth in the Scope of Work, attached hereto and incorporated herein as Exhibit A.

3. MODIFICATIONS TO AGREEMENT; CHANGES IN SERVICE

CITY, without invalidating this Agreement, may order additions to or deletions from the work to be performed. If warranted, the rates set forth in Exhibit B - Compensation Schedule will be adjusted accordingly. Any modifications to this Agreement pursuant to this Section 3 shall not operate to release any surety or sureties from liability or any bond(s) attached hereto and made a part hereof.

CITY reserves the right to order an increase or decrease in the overall quantity of scheduled Vehicle Revenue Hours (VRHs) with 30 days written notice to CONTRACTOR. CITY reserves the right to reduce overall VRH(s) by up to **20%**. Such reduction shall not be considered a change in the Scope of Work. In addition, CITY reserves the right to add additional VRH(s) by up to **20%**. Such addition shall not be considered a change in the Scope of Work under the Agreement.

Any changes outside of the aforementioned range or limits may be provided by CONTRACTOR at a separately negotiated fee. Contract Modifications must be authorized by CITY'S Project Manager and must be completed as an Amendment to the Agreement.

Furthermore, should CITY require changes in routes, schedules and other elements of work to respond to immediate issues impacting on-time performance, reliability, efficiency, or safety of services, CONTRACTOR shall implement such changes within 30 calendar days from receipt of written notice to proceed by CITY'S Project Manager.

4. TERM OF AGREEMENT

CONTRACTOR shall furnish CITY with all the materials, equipment, and services called for under this Agreement, and perform all other work, if any, described in Exhibit A. The term of this Agreement shall commence on the effective date noted in CITY'S written Notice to Proceed and shall continue thereafter for a four-year period, unless terminated sooner pursuant to the Agreement. CITY reserves the right, at its sole discretion, to exercise three one-year option terms. If CITY determines to exercise the option term(s), CITY will give CONTRACTOR at least 90 days written notice of its determination.

5. REPRESENTATIVES

A. It is understood and agreed by the parties that, at all times during the term of this Agreement, that Terrence Strong shall be the CONTRACTOR'S Representative, who shall serve as the primary staff person of CONTRACTOR to undertake, render, and oversee all of the services under this Agreement. Upon written notice by CONTRACTOR and written approval by the CITY'S Project Manager, which will not be unreasonably withheld, CONTRACTOR may replace the CONTRACTOR'S Representative with another person, who shall possess similar qualifications and experience for this position. Upon written demand of the PROJECT MANAGER, the CONTRACTOR shall immediately remove and replace the CONTRACTOR'S Representative. CITY'S Project Manager shall have the right to interview any proposed new

CONTRACTOR'S Representative and no new CONTRACTOR'S Representative may be retained without CITY'S Project Manager's written consent.

B. CITY Representative. Except when approval or other action is required to be given or taken by the CITY'S Director of Public Works, CITY'S Project Manager shall represent and act for CITY in all matters regarding implementation of this Agreement.

6. COMPENSATION

As compensation for the faithful performance by CONTRACTOR of each and every service called for under the base term of this Agreement, CITY shall pay CONTRACTOR in accordance with this Agreement at the rates set forth in Exhibit B - Compensation Schedule, attached hereto and incorporated herein by this reference.

CITY shall reimburse CONTRACTOR for each Vehicle Revenue Hour (VRH) that is deployed as per the published fixed route timetables, or other previously specified hours for special events or other services. A VRH does not include initial travel time from CONTRACTOR'S office, facility, or driver's break location to the first passenger's pick-up location. A VRH does not include travel time from the last passenger's drop-off location to CONTRACTOR's office, facilities or driver break destination. A VRH does not include vehicle pre-or post-trip inspections, vehicle maintenance time, driver unpaid break times, meal breaks, fueling, or probing/vaulting operations. CITY does not pay for deadhead hours.

7. LIMITS ON FUNDING AVAILABILITY

CONTRACTOR expressly agrees that Agreement is subject to the availability of funding. CITY's obligation hereunder is contingent upon the availability of appropriated funds from which payment for the Contract purposes can be made. No legal liability on the part of CITY for any payment shall arise until funds are made available to CITY for this Contract. Agreement is conditioned upon the continued availability of funds for the Contract.

CONTRACTOR expressly agrees that any costs, expenses or amounts due under or in any way related to Agreement are solely to be paid from any funds obtained from the Metropolitan Transportation Commission (MTC) or other entities providing a subsidy for these services, together with all monies collected through the farebox or other sales, and in no event shall Agreement obligate the CITY'S general fund or other CITY sources of money.

8. MANNER OF PAYMENT

CONTRACTOR shall submit monthly invoices/billing statements detailing the services performed during the billing period. Each invoice/billing statement must provide a description of the work performed during the invoice period and the contract number. Specifically, CONTRACTOR shall present costs by function performed (i.e., Fixed Route, Paratransit, or provision of Insurance) within the given month as based upon the agreed upon method by which CITY shall compensate CONTRACTOR.

CITY may require a third-party review of the proposed billable revenue hours prior to accepting the invoice/billing statement. CITY will endeavor to pay approved invoices/billing statements within 30 calendar days of their receipt. CITY reserves the right to withhold payment to the CONTRACTOR if CITY determines that the quantity or quality of the work performed is unacceptable. CITY shall provide written notice to CONTRACTOR within ten business days of

CITY'S decision not to pay and the reasons for non-payment, as based on CITY assessment of CONTRACTOR'S performance against contract requirements.

One copy of each invoice shall be submitted to CITY.

City of Fairfield (CITY)
Fairfield and Suisun Transit (FAST)
2000 Cadenasso Drive
Fairfield, California 94533

Invoices, as well as any reports that are required by CITY to accompany the monthly invoice, shall be submitted to CITY by the tenth calendar day of each month for work performed by CONTRACTOR within the prior month.

9. NOTICES

All communications relating to the day-to-day activities of the provided services shall be exchanged between CITY'S Project Manager and CONTRACTOR'S Representative.

All other notices and communications deemed by either party to be necessary or desirable to be given to the other party shall be in writing and may be given by personal delivery to a representative of the parties or by mailing the same, postage prepaid, and addressed as follows:

If to CITY: Transportation Manager
City of Fairfield (CITY)
Fairfield and Suisun Transit (FAST)
2000 Cadenasso Drive
Fairfield, California 94533
Email:

If to CONTRACTOR: General Manager: Terrence Strong
MV Transportation, Inc.
2000 Cadenasso Drive, Suite 234
Fairfield, California 94533
Email: tstrong@mvtransit.com

With Copy to: Office of the General Counsel
MV Transportation, Inc.
Attn: Office of the General Counsel
5190 N. Central Expressway, Suite 1145
Dallas, Texas N Haskell Ave, Suite LB2
Email: contractsreview@mvtransit.com

The address to which mailings may be made may be changed from time to time by notice e-mailed as described above. Any notice given by e-mail shall be deemed given on the day after that on which it is received.

10. OWNERSHIP OF WORK

All reports, plans, specifications, schedules, and other materials prepared, or in the process of being prepared for the services to be performed by CONTRACTOR under this Agreement shall be and are the property of CITY. CITY shall be entitled to copies and access to these materials during the progress of the work. Any such materials remaining in the hands of CONTRACTOR or in the hands of any subcontractor upon completion or termination of the work shall be immediately delivered to CITY. If any materials are lost, damaged, or destroyed before final delivery to CITY, CONTRACTOR shall replace them at its own expense and CONTRACTOR assumes all risks of loss, damage, or destruction of or to such materials. CONTRACTOR may retain a copy of all material produced under this Agreement for its use in its general business activities.

Any and all rights, title, and interest (including without limitation copyright and any other intellectual-property or proprietary right) to materials prepared under this Agreement by CONTRACTOR for CITY are hereby assigned to CITY. CONTRACTOR agrees to execute any additional documents which may be necessary to evidence such assignment.

CONTRACTOR represents and warrants that all materials prepared under this Agreement are original or developed from materials in the public domain (or both) and that all materials prepared under and services provided under this Agreement do not infringe or violate any copyright, trademark, patent, trade secret, or other intellectual-property or proprietary right of any third party.

Notwithstanding any other previous provision in this Section 10, CITY acknowledges and agrees that CONTRACTOR is in the business of providing transit service operations, which require the execution and production of materials that are relevant to this Agreement, but are not prepared specifically for CONTRACTOR's performance of this Agreement. To the extent such materials exist, they are solely owned by CONTRACTOR.

11. CONFIDENTIALITY

Any CITY materials to which CONTRACTOR has access or materials prepared by the CONTRACTOR during the course of this Agreement ("confidential information") shall be held in confidence by CONTRACTOR, who shall exercise all reasonable precautions to prevent the disclosure of confidential information to anyone except the officers, employees and agents of CONTRACTOR as necessary to accomplish the rendition of services set forth in this Agreement.

CONTRACTOR, its employees, subcontractors, and agents, shall not release any reports, information, or other materials prepared in connection with this Agreement, whether deemed confidential or not, without the approval of CITY'S Project Manager.

12. USE OF SUBCONTRACTORS

CONTRACTOR shall not subcontract any services to be performed by it under this Agreement without the prior written approval of CITY'S Project Manager, except for service firms engaged in drawing, reprographics, typing, and printing. Any subcontractors must be engaged under written contract with CONTRACTOR with provisions allowing CONTRACTOR to comply with all requirements of this Agreement.

13. FACILITY AVAILABILITY

CITY maintains the Fairfield Transportation Center at 2000 Cadenasso Drive, Fairfield, CA, 94533. CITY will provide CONTRACTOR with furnished office space on the second floor (the "OPERATIONS CENTER") of the Transportation Center, at no cost to CONTRACTOR, with gas, electric, water and sewer included. CONTRACTOR shall house its management, administrative, and dispatch functions at this location for the term of this Agreement. The OPERATIONS CENTER includes over 2,000 square feet for CONTRACTOR offices plus over 1,600 square feet of common area (restrooms, break room, and server room) and occasional use of a 500 square foot conference room. See Exhibit D - Facility Floor Plan.

CITY hereby grants to CONTRACTOR a nontransferable license, for the term of this Agreement, to use, occupy and maintain the OPERATIONS CENTER for the sole purpose of carrying out CONTRACTOR's duties and responsibilities related to this Agreement. CONTRACTOR acknowledges that the OPERATIONS CENTER is being made available to CONTRACTOR in "as is" condition, without warranty from CITY. CONTRACTOR further acknowledges that CITY retains all ownership rights and interests in the OPERATIONS CENTER. CONTRACTOR shall maintain the OPERATIONS CENTER in good condition at all times, and shall insure all CONTRACTOR property located at the OPERATIONS CENTER in accordance with Article II of this Agreement. The parties acknowledge and agree that nothing in this Agreement shall be construed or regarded as a transfer of the OPERATIONS CENTER or any portion thereof from the CITY to CONTRACTOR, or as the creation in CONTRACTOR of any interest in property.

CONTRACTOR shall have no liability for any matters relating to hazardous materials in the OPERATIONS CENTER or the Fairfield Transportation Center, except for liability arising out of or related to the willful or negligent acts of CONTRACTOR.

The telephone system and the basic Information Technology (IT) infrastructure (i.e., computers, servers, switches and routers) shall be the responsibility of CONTRACTOR. CONTRACTOR shall be responsible for the monthly telephone and internet service bills, as provided below.

CITY owns a hunt group of phone lines comprised of the two City-owned published numbers and multiple sub-numbers. These phone numbers shall serve as incoming call numbers only, and will be provided, at no additional cost, to CONTRACTOR for that exclusive purpose. CONTRACTOR must provide, at its sole expense, all phone lines required to make outgoing and internal calls.

14. CLAIMS FOR EXTRA WORK/TIME

CONTRACTOR shall be solely responsible for providing timely written notice to CITY of any claims for additional compensation and/or time in accordance with the provisions of this Agreement. It is CITY'S intent to investigate and attempt to resolve any CONTRACTOR claims before CONTRACTOR has performed any disputed work. Therefore, CONTRACTOR'S failure to provide timely notice shall constitute a waiver of CONTRACTOR'S claims for additional compensation and/or time.

CONTRACTOR shall not be entitled to the payment of any additional compensation for any cause, including any act, or failure to act, by CITY, or the failure or refusal to issue a modification, or the happening of any event, thing, or occurrence, unless it has given CITY due written notice of a potential claim. The potential claim shall set forth the reasons for which CONTRACTOR believes additional compensation may be due, the nature of the costs involved, and the amount of the potential claim.

If based on an act or failure to act by CITY, such notice shall be given to CITY prior to the time that CONTRACTOR has started performance of the work giving rise to the potential claim for additional compensation. In all other cases, notice shall be given within thirty days after the happening of the event or occurrence giving rise to the potential claim.

If there is a dispute over any claim, CONTRACTOR shall continue to work during the dispute resolution process in a diligent and timely manner as directed by CITY, and shall be governed by all applicable provisions of this Agreement. CONTRACTOR shall maintain cost records of all work that is the basis of any dispute. If an agreement can be reached which resolves a CONTRACTOR claim, the parties will execute a modification to this Agreement to document the resolution of the claim. If the parties cannot reach an agreement with respect to a CONTRACTOR claim, they shall follow the dispute resolution process set forth in Section 1 of Article III of this Agreement.

ARTICLE II - INSURANCE AND INDEMNIFICATION

1. COVERAGE:

A. CONTRACTOR shall procure at its sole expense, an insurance policy or policies providing the following:

- i) General Liability Insurance with limits of not less than \$25,000,000 per occurrence to include coverage for the CITY's transit operations.
- ii) Automobile Liability Insurance with limits of not less than \$25,000,000 per occurrence with coverage for CONTRACTOR and CITY owned or leased vehicles, including liability of CITY mechanic employees for vehicle maintenance and repair.
- iii) Workers' Compensation Insurance as required by the State of California.
- iv) Fidelity Bond, or other acceptable form of fidelity coverage, with limits of not less than \$100,000 per occurrence for theft, disappearance or destruction by CONTRACTOR employees.
- v) Employment Practices Liability Insurance with limits of not less than \$2,000,000.
- vi) Property insurance for all CONTRACTOR property located or stored on CITY property, provided for replacement value on an "all risk" basis or self-insurance reviewed and approved by CITY in its sole discretion

B. Damage to CITY vehicles – CONTRACTOR shall be responsible for physical damages to CITY vehicles.

2. OTHER INSURANCE PROVISIONS:

A. Organization of Insurance Program. The CITY reserves the right to organize an insurance program that best meets the needs of the CITY including the ability to self-insure, become a member of a joint powers authority providing liability coverage, purchase commercial insurance, or accept coverage from CONTRACTOR, all at CITY's sole discretion, and at any time.

In the event of a change to the insurance program, a written addendum to this section must be prepared outlining the terms, conditions, and obligations of each party.

B. Acceptability of Insurers. All insurance policies shall be issued by an admitted insurer or insurers as defined by the California Insurance Code or an authorized surplus lines company listed on the State of California Department of Insurance "Leslie List." Said policies shall have a Best's rating of no less than A: VII, unless specific approval has been granted by the CITY.

C. Additional Insured. The City of Fairfield, City of Suisun City, the Solano Transportation Authority and its member agencies, and their Councils, Boards and Commissions, officers, and employees shall be named as additional insured under all insurance coverage required by Agreement. An additional insured named herein shall not be held liable for any premium, deductible portion of any loss, or expense of any nature on this policy or any extension thereof. Any other insurance held by an additional insured shall not be required to contribute anything toward any loss or expense covered by the insurance provided by this policy.

D. Primary Insurance. Endorsement(s) shall be provided which state(s) that the coverage is Primary Insurance and that no other insurance affected by the City of Fairfield, the City of Suisun City or Solano Transportation Authority or its member agencies, will be called upon to contribute to this coverage. Any insurance or self-insurance maintained by the City of Fairfield, the City of Suisun, or Solano Transportation Authority, shall be excess of CONTRACTOR's insurance and shall not contribute with it.

E. Separation of Insureds. CONTRACTOR's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

F. Cancellation Notice. CONTRACTOR agrees that it will not cancel, reduce, or otherwise modify said insurance coverage without giving CITY thirty (30) days' prior written notice.

G. Verification of Coverage. CONTRACTOR shall furnish CITY with original certificates of insurance effecting coverage required by this clause. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. The endorsements are to be on the CITY's standard endorsement form, attached hereto as Exhibit C. All endorsements are to be received and approved by CITY before work commences. As an alternative to the CITY's forms, CONTRACTOR's insurer may provide complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications for review and approval by CITY.

H. SUBCONTRACTORS. CONTRACTOR shall include all SUBCONTRACTORS as insured under its policies or shall furnish separate certificates and endorsements for each SUBCONTRACTOR. All coverage for SUBCONTRACTORS shall be subject to all of the requirements stated herein.

I. Subrogation Waiver. Each of the foregoing policies shall expressly waive subrogation against CITY, the City of Suisun City and the Solano Transportation Authority and its member agencies.

J. Failure to Secure. If CONTRACTOR at any time during the term hereof should fail to secure or maintain the foregoing insurance, CITY shall be permitted to obtain such insurance

in the CONTRACTOR's name or as an agent of CONTRACTOR and shall be compensated by CONTRACTOR for the costs of the insurance premiums plus interest at the maximum rate permitted by law computed from the date written notice is received that the premiums have been paid. CONTRACTOR shall indemnify and hold harmless CITY from its failure to place or failure to maintain, any of the insurance policies required above.

K. Form of Insurance. CITY reserves the right to receive copies of all policies of insurance provided by CONTRACTOR at any time. CITY reserves the right in its sole discretion to approve or reject policies of CONTRACTOR. Policy forms not approved by CITY shall not relieve CONTRACTOR of meeting insurance requirements.

L. Acceptance of Documents. Acceptance of insurance certificates required under this Agreement does not relieve CONTRACTOR from liability under the indemnification and hold harmless clause. The indemnification and hold harmless clause shall apply whether or not such insurance policies shall have been determined to be applicable to any of such damages or claims for damages.

M. Deductibles and Self Insured Retentions. Any deductibles or self-insurance retentions must be declared to and approved by the CITY. At the option of the CITY, either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions; or (2) CONTRACTOR shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

N. Loss Runs. CONTRACTOR shall provide to CITY at no cost, loss runs showing all claims presented with amounts shown for indemnity payments, claim adjusting expenses, legal expenses, and outstanding reserves, along with related claim information as to type, date, location, involved driver, responsibility for loss, etc. Loss runs are to be provided upon request of CITY, no less than once annually each anniversary (July 1st) of the Agreement.

3. INDEMNITY AND HOLD HARMLESS

CONTRACTOR shall indemnify, defend with Counsel approved by CITY, and hold harmless the City of Fairfield, the City of Suisun City, Solano Transportation Authority, and their officers, agents, employees, and volunteers (hereinafter "Indemnitees") free and harmless from any and all claims, demands, causes of action, costs, expenses, liabilities, losses, damages or injuries, in law or equity, to property or persons, including wrongful death (collectively "Claims"), in any manner arising out of or incident to any acts or omissions of CONTRACTOR, its officials, officers, employees or agents in connection with the performance of this Agreement, including without limitation the payment of all consequential damages, attorneys' fees, and other related costs and expenses, except for such Claims arising out of the sole negligence, active negligence, or willful misconduct of the Indemnitees. With respect to any and all such Claims, CONTRACTOR shall defend Indemnitees at CONTRACTOR's own cost, expense, and risk and shall pay and satisfy any judgment, award, or decree that may be rendered against Indemnitees. CONTRACTOR shall reimburse Indemnitees for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. CONTRACTOR's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by CONTRACTOR or Indemnitees. CONTRACTOR's obligations under this Section (Article II, Item 3) shall survive the termination of this Agreement.

4. DISCLAIMER OF LIABILITY

CITY will not hold harmless or indemnify the CONTRACTOR for any liability whatsoever.

ARTICLE III - DISPUTES; REMEDIES

1. DISPUTE RESOLUTION PROCESS

A. Dispute Resolution. Disputes arising in the performance of this Agreement, including but not limited to disputes regarding claims for additional compensation or time pursuant to Section 13 of Article I, which are not resolved by agreement of the parties shall be decided in writing by the Director of Public Works. This decision shall be final and conclusive unless within 10 days from the date of receipt of its copy, CONTRACTOR mails or otherwise furnishes a written appeal to the CITY. Any such appeal shall be resolved by the City Manager of CITY. In connection with any such appeal, CONTRACTOR shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the City Manager shall be binding upon CONTRACTOR and CONTRACTOR shall abide by the decision.

B. Performance During Dispute. Unless otherwise directed by the CITY, CONTRACTOR shall continue performance under this Agreement while matters in dispute are being resolved.

C. Claims for Damages. Should either party to this Agreement suffer injury or damage to person or property because of any act or omission of the other party or of any of its employees, agents or others for whose acts it is legally liable, a claim for damages therefore shall be made in writing to such other party within a reasonable time after the first observance of such injury of damage.

D. Appeal from Decision of City Manager. Unless this Agreement provides otherwise, all claims, counterclaims, disputes and other matters in question between CITY and CONTRACTOR arising out of or relating to this Agreement or its breach that are not resolved by the City Manager pursuant to paragraph A of this Section 1 shall be decided by arbitration if the parties mutually agree, or otherwise in a court of competent jurisdiction within the State of California.

2. DEFAULT; TERMINATION FOR CAUSE

A. CONTRACTOR shall be in default hereunder if CONTRACTOR fails to pay any monetary obligation when due and ten (10) days written notice of such delinquency has expired without CONTRACTOR's cure thereof

B. CONTRACTOR shall be in default hereunder if CONTRACTOR fails to perform any non-monetary obligation when performance is due and a period of thirty (30) days after written notice of such delinquency has expired without CONTRACTOR's cure thereof provided, however, that if such default is not reasonably capable of being fully cured within such thirty (30) day period and provided further that CONTRACTOR shall commence such actions as shall be necessary or appropriate to cure such default and shall diligently pursue such cure thereafter, CONTRACTOR shall have up to ninety (90) days to cure any such default unless some shorter period shall be demanded by City or by a lender having a lien on the Property senior and superior to that held by City.

C. If CONTRACTOR shall default in the performance of any or all of the terms, covenants and conditions contained in this Agreement, subject to all applicable notice requirement and cure periods, CITY may terminate this Agreement. CITY also reserves the right

to implement administrative remedies which may include, but are not limited to, withholding of payments.

3. TEMPORARY SUSPENSION OF WORK

CITY, in its sole discretion, and notwithstanding the provisions of paragraphs 1 and 2 of this Article III, reserves the right to stop or suspend all or any portion of the work for such period as CITY may deem necessary. The suspension may be due to the failure on the part of CONTRACTOR to carry out orders given or to perform any provision of this Agreement or to factors that are not the responsibility of CONTRACTOR. CONTRACTOR shall comply immediately with the written order of CITY to suspend the work wholly or in part. The suspended work shall be resumed when CONTRACTOR is provided with written direction from CITY to resume the work.

If the suspension is due to CONTRACTOR'S failure to perform work or carry out its responsibilities in accordance with this Agreement, or other action or omission on the part of CONTRACTOR, all costs shall be at CONTRACTOR'S expense and no schedule extensions will be provided by CITY.

In the event of a suspension of the work, CONTRACTOR shall not be relieved of CONTRACTOR'S responsibilities under this Agreement, except the obligations to perform the work which CITY has specifically directed CONTRACTOR to suspend under this section.

If the suspension is not the responsibility of CONTRACTOR, suspension of all or any portion of the work under this Section may entitle CONTRACTOR to compensation and/or schedule extensions subject to the provisions of Section 14 of Article I of this Agreement.

4. TERMINATION FOR CONVENIENCE

CITY may terminate this Agreement, in whole or in part, upon thirty (30) days written notice to CONTRACTOR. CONTRACTOR shall be paid its costs, including contract closeout costs, and profit on work performed up to the time of termination. CONTRACTOR shall promptly submit its termination claim to CITY to be paid CONTRACTOR. If CONTRACTOR has any property in its possession belonging to CITY, CONTRACTOR will account for the same, and dispose of it in the manner CITY directs.

5. EXCUSE FROM PERFORMANCE

The parties shall be excused from performing their respective obligations hereunder if they are prevented from so performing by reason of floods, earthquakes, other acts of nature, war, civil insurrection, riots, acts of any government (including judicial action), and other similar catastrophic events which are beyond the control of and not the fault of the party claiming excuse from performance hereunder. Labor unrest, including but not limited to strike, work stoppage or slowdown, sick-out, picketing, or other concerted job action conducted by CONTRACTOR's employees or directed at CONTRACTOR is not an excuse from performance and CONTRACTOR shall be obligated to continue to provide service notwithstanding the occurrence of any or all of such events.

The party claiming excuse from performance shall, within two (2) Business Days after such party has notice of such cause, give the other party notice of the facts constituting such cause and asserting its claim to excuse under this Section.

If either party validly exercises its rights under this Section, the Parties hereby waive any claim against each other for any damages sustained thereby.

The partial or complete interruption or discontinuance of CONTRACTOR's services caused by one or more of the events described in this Section shall not constitute a default by CONTRACTOR under this Agreement.

ARTICLE IV - QUALITY ASSURANCE

1. PERFORMANCE STANDARDS; LIQUIDATED DAMAGES

To help ensure that CONTRACTOR provides the highest quality of service possible for the community, CITY has identified performance measures that will be monitored regularly to document commitment to customer service, focus on safety, and ability to provide the desired services reliably and efficiently.

Liquidated damages may be assessed on the specific measures listed below. Due to the nature of the services to be rendered, CONTRACTOR and CITY agree that it is extremely difficult to ascertain actual damages that may result from failure on the part of CONTRACTOR to meet the performance standards set forth in this Article IV. The factors relating to the impracticability of ascertaining damages include, but are not limited to, the fact that: (i) damage may result to members of the public who are denied services or denied quality or reliable service; (ii) such breaches cause inconvenience, anxiety, frustration, and deprivation of the benefits of the Agreement to individual members of the general public for whose benefit this Agreement exists, which are incapable of measurement in precise monetary terms; (iii) the monetary loss resulting from denial of services or denial of quality or reliable services is impossible to calculate in precise monetary terms; and (iv) the termination of this Agreement for such breaches, and other remedies are, at best, a means of future correction and not remedies which make the public whole for past breaches. Therefore, CONTRACTOR's liability for failure to meet those performance standards shall be limited to and fixed at the sums stated in this section, as liquidated damages.

Liquidated damages shall be assessed quarterly as they are identified. The proposed liquidated damages assessments shall be sent to CONTRACTOR for response. Once the response is received, a final determination on the level of liquidated damages to be charged will be made by CITY'S Project Manager. All proposed assessments of liquidated damages that are not responded to by CONTRACTOR within 30 days will automatically be paid or charged to CONTRACTOR. CITY shall have the right to invoice for or deduct the amount of Liquidated Damages from the monthly amount due to CONTRACTOR. CITY'S Project Manager may rely on information supplied by CONTRACTOR, by the public, by staff, or by any other means available in determining the assessment of liquidated damages.

CITY'S Data Management System shall provide CONTRACTOR with all relevant information for determining if liquidated damages will be assessed. Reports will be available monthly so the CITY and CONTRACTOR will be able to monitor CONTRACTOR'S performance on areas of importance or concern.

- i. Liquidated damages may be assessed at the rate of Five Hundred Dollars (\$500.00) per one-way trip missed.
- ii. Liquidated damages may be assessed at a rate of Five Hundred Dollars

(\$500.00) per occurrence if CONTRACTOR fails to submit a report, as required by CITY, and as identified in the RFP.

- iii. Liquidated damages may be assessed at a rate of Two Hundred Fifty Dollars (\$250.00) per observation or valid report of a contingency vehicle, an unpermitted vehicle type, or an excessive number of vehicles being used in service without prior written approval by CITY.
- iv. Liquidated damages may be assessed at the rate of Five Hundred Dollars (\$500.00) per occurrence where an operator fails to properly secure a passenger in a mobility device, including, but not exclusive of wheelchairs, prior to being transported on a vehicle.
- v. Liquidated damages may be assessed at the rate of One Hundred Dollars (\$100.00) per occurrence where CONTRACTOR fails to pick up a passenger within the 20 minutes of the scheduled pick-up time.
- vi. Liquidated damages may be assessed at the rate of Five Hundred Dollars (\$500.00) per occurrence where CONTRACTOR misses a scheduled pickup.
- vii. Liquidated damages may be assessed at a rate of Three Hundred Dollars (\$300.00) per occurrence of failure to notify CITY Fleet Division staff and CITY Transit Operations staff of injury accidents within 30 minutes or property damage and disturbances within 4 hours of occurrence.
- viii. Liquidated damages may be assessed at a rate of Three Hundred Dollars (\$300.00) per occurrence failure to provide copies of all report documentation, including pictures, on any collision or any incident causing property damage or personal injury within three business days of the occurrence.
- ix. Liquidated damages may be assessed at the rate of One Hundred Dollars (\$100.00) per day for each incident where the exterior and/or interior of the bus are not clean. An incident shall mean any vehicle inspected while in revenue service or during a pre-planned inspection/audit by authorized CITY personnel; which is found to not meet the expectations for cleanliness.
- x. Liquidated damages may be assessed at the rate of Five Hundred Dollars (\$500) per occurrence where CONTRACTOR fails to follow fare collection procedures as per this Agreement.
- xi. Liquidated damages may be assessed at the rate of One Hundred Dollars (\$100) per occurrence for any shift of revenue service that is filled by personnel other than driving staff (e.g. dispatcher, trainer, supervisor, manager). Liquidated damages under thus provision shall not be assessed in the case of special requests.

- xii. CONTRACTOR warrants that it will not remove the General Manager, Operations Manager, Safety Manager, or Regional Vice President during the term of this Agreement unless their employment is terminated, they resign, die, become permanently disabled, are required to serve in the Armed Forces of the United States, the CITY requests their removal, or if the removal is mutually agreed to in writing by both the CITY and CONTRACTOR. CONTRACTOR further agrees that, if either the General Manager or Regional Vice President is removed or reassigned during the term of this Agreement except as set forth in the preceding sentence, CONTRACTOR shall pay to City the sum of Fifteen Thousand Dollars (\$15,000), within thirty (30) days of the date of such removal or reassignment. This payment is in addition to any other rights or remedies available to CITY pursuant to this Agreement.

- xiii. Liquidated damages may be assessed at the rate of One Thousand Dollars (\$1,000) per quarter where CONTRACTOR exceeds five (5) preventable accidents for all CONTRACTOR operated vehicles.

ARTICLE V - FTA REQUIRED PROVISIONS

1. FLY AMERICA REQUIREMENTS

CONTRACTOR agrees to comply with 49 U.S.C. 40118 (the "Fly America" Act) in accordance with the General Services Administration's regulations at 41 CFR Part 301-10, which provide that recipients and subrecipients of Federal funds and their contractors are required to use U.S. Flag air carriers for U.S. Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. CONTRACTOR shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. CONTRACTOR agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

2. CHARTER BUS REQUIREMENTS

CONTRACTOR agrees to comply with 49 U.S.C. 5323(d) and 49 CFR Part 604, which provides that recipients and subrecipients of FTA assistance are prohibited from providing charter service using federally funded equipment or facilities if there is at least one private charter operator willing and able to provide the service, except under one of the exceptions at 49 CFR 604.9. Any charter service provided under one of the exceptions must be "incidental," i.e., it must not interfere with or detract from the provision of mass transportation.

3. SCHOOL BUS REQUIREMENTS

Pursuant to 49 U.S.C. 5323(f) and 49 CFR Part 605, CONTRACTORS and subrecipients of FTA assistance may not engage in school bus operations exclusively for the transportation of students and school personnel in competition with private school bus operators unless qualified under specified exemptions. When operating exclusive school bus service under an allowable

exemption, recipients and subrecipients may not use federally funded equipment, vehicles, or facilities.

4. ENERGY CONSERVATION

CONTRACTOR agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act, 42 U.S.C. §§ 6321 et seq.

5. CLEAN WATER

A. CONTRACTOR agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. CONTRACTOR agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

B. CONTRACTOR also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

6. LOBBYING RESTRICTIONS

CONTRACTOR agrees to:

A. Refrain from using Federal assistance funds to support lobbying,

B. Comply, and assure the compliance of each third party CONTRACTOR at any tier and each SUBCONTRACTOR at any tier, with U.S. DOT regulations, "New Restrictions on Lobbying," 49 C.F.R. Part 20, modified as necessary by 31 U.S.C. § 1352.

C. Comply with Federal statutory provisions to the extent applicable prohibiting the use of Federal assistance funds for activities designed to influence Congress or a State legislature on legislation or appropriations, except through proper, official channels.

7. ACCESS TO RECORDS

The following access to records requirements apply to this Agreement:

A. Where the Purchaser is not a State but a local government and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 18.36(i), CONTRACTOR agrees to provide the Purchaser, the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of CONTRACTOR which are directly pertinent to this Agreement for the purposes of making audits, examinations, excerpts and transcriptions. CONTRACTOR also agrees, pursuant to 49 C.F.R. 633.17 to provide the FTA Administrator or his authorized representatives including any PMO Contractor access to CONTRACTOR's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311.

B. Where the Purchaser is a State and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 633.17, CONTRACTOR agrees to provide the Purchaser, the FTA Administrator or his authorized representatives, including any PMO CONTRACTOR, access to CONTRACTOR's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311. By definition, a major capital project excludes contracts of less than the simplified acquisition threshold currently set at \$100,000.

C. Where the Purchaser enters into a negotiated contract for other than a small purchase or under the simplified acquisition threshold and is an institution of higher education, a hospital or other non-profit organization and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 19.48, CONTRACTOR agrees to provide the Purchaser, FTA Administrator, the Comptroller General of the United States or any of their duly authorized representatives with access to any books, documents, papers and record of CONTRACTOR which are directly pertinent to this Agreement for the purposes of making audits, examinations, excerpts and transcriptions.

D. Where any Purchaser which is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 U.S.C. 5325(a) enters into a contract for a capital project or improvement (defined at 49 U.S.C. 5302(a)1) through other than competitive bidding, CONTRACTOR shall make available records related to the contract to the Purchaser, the Secretary of Transportation and the Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.

E. CONTRACTOR agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

F. CONTRACTOR agrees to maintain all books, records, accounts and reports required under this Agreement for a period of not less than three years after the date of termination or expiration of this Agreement, except in the event of litigation or settlement of claims arising from the performance of this Agreement, in which case CONTRACTOR agrees to maintain same until the Purchaser, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 49 CFR 18.36(i)(11).

G. FTA does not require the inclusion of these requirements in subcontracts.

8. FEDERAL CHANGES

CONTRACTOR shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Department of Transportation, Federal Transit Administration, Master Agreement (FTA MA), between Purchaser and FTA, as they may be amended or promulgated from time to time during the term of this Agreement. CONTRACTOR'S failure to so comply shall constitute a material breach of this Agreement.

9. CLEAN AIR

A. CONTRACTOR agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq.

CONTRACTOR agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

B. CONTRACTOR also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

10. RECYCLED PRODUCTS

To the extent applicable, CONTRACTOR agrees to comply with U.S. EPA regulations, "Comprehensive Procurement Guidelines for Products Containing Recovered Materials," 40 C.F.R. Part 247, implementing section 6002 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6962, and otherwise provide a competitive preference for products and services that conserve natural resources and protect the environment and are energy efficient.

11. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

CONTRACTOR agrees to comply, and assures the compliance of each third party contractor and each subcontractor at any tier of the project, with the following employee protection requirements for contract employees:

A. Overtime Requirements: No CONTRACTOR or SUBCONTRACTOR contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

B. Violation; Liability for Unpaid Wages; Liquidated Damages: In the event of any violation of the clause set forth in paragraph (1) of this section CONTRACTOR and any SUBCONTRACTOR responsible therefore shall be liable for the unpaid wages. In addition, such CONTRACTOR and SUBCONTRACTOR shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

C. Withholding for Unpaid Wages and Liquidated Damages: CONTRACTOR shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by CONTRACTOR or SUBCONTRACTOR under any such contract or any other Federal contract with the same prime CONTRACTOR, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime CONTRACTOR, such sums as may be determined to be necessary to satisfy any liabilities of such CONTRACTOR or SUBCONTRACTOR for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

D. Subcontracts: CONTRACTOR or SUBCONTRACTOR shall insert in any subcontracts the clauses set forth in this section and also a clause requiring the SUBCONTRACTORS to include these clauses in any lower tier subcontracts. The prime

CONTRACTOR shall be responsible for compliance by any SUBCONTRACTOR or lower tier SUBCONTRACTOR with the clauses set forth in this section.

12. NO GOVERNMENT OBLIGATION TO THIRD PARTIES

A. CITY and CONTRACTOR acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this Agreement and shall not be subject to any obligations or liabilities to CITY, CONTRACTOR, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

B. CONTRACTOR agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the SUBCONTRACTOR who will be subject to its provisions.

13. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS.

A. CONTRACTOR acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, CONTRACTOR certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this Agreement work is being performed. In addition to other penalties that may be applicable, CONTRACTOR further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on CONTRACTOR to the extent the Federal Government deems appropriate.

B. CONTRACTOR also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on CONTRACTOR, to the extent the Federal Government deems appropriate.

C. CONTRACTOR agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the SUBCONTRACTOR who will be subject to the provisions.

14. GOVERNMENT-WIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)

CONTRACTOR agrees to comply, and assures the compliance of each third party CONTRACTOR and SUBCONTRACTOR at any tier, with Executive Orders Nos. 12549 and 12689, "Debarment and Suspension," 31 U.S.C. § 6101 note, and U.S. DOT regulations, "Governmentwide Debarment and Suspension (Nonprocurement)," within 49 C.F.R. Part 29.

15. PRIVACY ACT

The following requirements apply to CONTRACTOR and its employees that administer any system of records on behalf of the federal government under any contract:

A. CONTRACTOR agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C. § 552a. Among other things, CONTRACTOR agrees to obtain the express consent of the Federal Government before CONTRACTOR or its employees operate a system of records on behalf of the Federal Government. CONTRACTOR understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract.

B. CONTRACTOR also agrees to include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.

16. CIVIL RIGHTS

The following requirements apply to the underlying contract:

A. Nondiscrimination: In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, CONTRACTOR agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, CONTRACTOR agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

B. Equal Employment Opportunity: The following equal employment opportunity requirements apply to the underlying contract:

- i. Race, Color, Creed, National Origin, Sex: In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, CONTRACTOR agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. CONTRACTOR agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for

training, including apprenticeship. In addition, CONTRACTOR agrees to comply with any implementing requirements FTA may issue.

- ii. Age: In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623 and Federal transit law at 49 U.S.C. § 5332, CONTRACTOR agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, CONTRACTOR agrees to comply with any implementing requirements FTA may issue.
- iii. Disabilities: In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, CONTRACTOR agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, CONTRACTOR agrees to comply with any implementing requirements FTA may issue.

C. CONTRACTOR also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

17. TRANSIT EMPLOYEE PROTECTIVE ARRANGEMENTS

A. CONTRACTOR agrees to comply with applicable transit employee protective requirements as follows:

- i. General Transit Employee Protective Requirements: To the extent that FTA determines that transit operations are involved, CONTRACTOR agrees to carry out the transit operations work on the underlying contract in compliance with terms and conditions determined by the U.S. Secretary of Labor to be fair and equitable to protect the interests of employees employed under this Agreement and to meet the employee protective requirements of 49 U.S.C. A 5333(b), and U.S. DOL guidelines at 29 C.F.R.

Part 215, and any amendments thereto. These terms and conditions are identified in the letter of certification from the U.S. DOL to FTA applicable to the FTA Recipient's project from which Federal assistance is provided to support work on the underlying contract. CONTRACTOR agrees to carry out that work in compliance with the conditions stated in that U.S. DOL letter. The requirements of this subsection (1), however, do not apply to any contract financed with Federal assistance provided by FTA either for projects for elderly individuals and individuals with disabilities authorized by 49 U.S.C. § 5310(a)(2), or for projects for nonurbanized areas authorized by 49 U.S.C. § 5311. Alternate provisions for those projects are set forth in subsections (b) and (c) of this clause.

- ii. Transit Employee Protective Requirements for Projects Authorized by 49 U.S.C. § 5310(a)(2) for Elderly Individuals and Individuals with Disabilities: If the contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5310(a)(2), and

if the U.S. Secretary of Transportation has determined or determines in the future that the employee protective requirements of 49 U.S.C. § 5333(b) are necessary or appropriate for the state and the public body subrecipient for which work is performed on the underlying contract, CONTRACTOR agrees to carry out the Project in compliance with the terms and conditions determined by the U.S. Secretary of Labor to meet the requirements of 49 U.S.C. § 5333(b), U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the U.S. DOL's letter of certification to FTA, the date of which is set forth Grant Agreement or Cooperative Agreement with the state. CONTRACTOR agrees to perform transit operations in connection with the underlying contract in compliance with the conditions stated in that U.S. DOL letter.

- iii. Transit Employee Protective Requirements for Projects Authorized by 49 U.S.C. § 5311 in Nonurbanized Areas: If the contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5311, CONTRACTOR agrees to comply with the terms and conditions of the Special Warranty for the Nonurbanized Area Program agreed to by the U.S. Secretaries of Transportation and Labor, dated May 31, 1979, and the procedures implemented by U.S. DOL or any revision thereto.

B. CONTRACTOR also agrees to include the any applicable requirements in each subcontract involving transit operations financed in whole or in part with Federal assistance provided by FTA.

18. DISADVANTAGED BUSINESS ENTERPRISE

CONTRACTOR agrees to take the following measures to facilitate participation by disadvantaged business enterprises (DBE) in the Project:

A. CONTRACTOR agrees to comply with section 1101(b) of TEA-21, 23 U.S.C. § 101 note, and U.S. DOT regulations, "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs," 49 C.F.R. Part 26.

B. CONTRACTOR agrees that it shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any third party contract, or sub-agreement supported with Federal assistance derived from the U.S. DOT or in the administration of its DBE program or the requirements of 49 C.F.R. Part 26. CONTRACTOR agrees to take all necessary and reasonable steps set forth in 49 C.F.R. Part 26 to ensure nondiscrimination in the award and administration of all third party contracts and sub-agreements supported with Federal assistance derived from the U.S. DOT. CONTRACTOR's DBE program, as required by 49 C.F.R. Part 26 and approved by the U.S. DOT, is incorporated by reference and made part of the Grant Agreement or Cooperative Agreement. Implementation of this DBE program is a legal obligation, and failure to carry out its terms shall be treated as a violation of the Grant Agreement or Master Agreement. Upon notification to CONTRACTOR of its failure to implement its approved DBE program, the U.S. DOT may impose sanctions as provided for under 49 C.F.R. Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. § 1001, and/or the Program Fraud Civil Remedies Act, 31 U.S.C. §§ 3801 et seq.

19. INCORPORATION OF FTA 4220.1F TERMS

The preceding provisions include, in part, certain standard terms and conditions required by U.S. DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by dot, as set forth in FTA circular 4220.1F, dated November 1, 2008, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA-mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. CONTRACTOR shall not perform any act, fail to perform any act, or refuse to comply with any CITY request, which would cause CITY to be in violation of the FTA terms and conditions.

20. SUBSTANCE ABUSE

CONTRACTOR agrees to comply with the following Federal substance abuse regulations:

A. Drug-Free Workplace: U.S. DOT regulations, "Drug-Free Workplace Requirements (Grants)," 49 C.F.R. Part 29, Subpart F, as modified by 41 U.S.C. §§ 702 et seq.

B. Alcohol Misuse and Prohibited Drug Use: FTA regulations, "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations," 49 CFR Part 655, to the extent applicable. CONTRACTOR agrees to establish and implement a drug and alcohol testing program that complies with 49 CFR Parts 655, produce any documentation necessary to establish its compliance with Parts 655, and permit any authorized representative of the United States Department of Transportation or its operating administrations, the State Oversight Agency of California, or CITY, to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 CFR Parts 655 and review the testing process. CONTRACTOR agrees further to certify annually its compliance with Part 655 and to submit the Management Information System (MIS) reports before February 15 to Senior Management Analyst, 2000 Cadenasso Drive, Fairfield, CA 94533. To certify compliance CONTRACTOR shall use the "Substance Abuse Certifications" in the "Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements," which is published annually in the Federal Register.

21. PROMPT PAYMENT OF WITHHELD FUNDS TO SUBCONTRACTORS

No retainage will be held by the CITY from progress payments due to the CONTRACTOR. Prime contractors and subcontractors are prohibited from holding retainage from subcontractors. Any delay or postponement of payment may take place only for good cause and with the agency's prior written approval. Any violation of these provisions shall subject the violating contractor or subcontractor to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative or judicial remedies, otherwise available to the contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the contractor, deficient subcontractor performance and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.

ARTICLE VI - ADDITIONAL REQUIREMENTS

1. PERFORMANCE BOND AND PERFORMANCE BOND RENEWAL

CONTRACTOR shall maintain a valid Performance Bond in a form satisfactory to CITY, in an amount equal to at least \$2,000,000, throughout the entire term of this Agreement, including option years if exercised. The Performance Bond shall, guarantee CONTRACTOR'S full performance under this Agreement. CONTRACTOR shall provide CITY with a series of Performance Bonds. CONTRACTOR shall file a renewed Performance Bond with CITY a minimum of 30 days prior to any expiration date indicated on an existing Performance Bond. At no time during the term of this Agreement, including any option terms that may be exercised, will there be any gap in coverage of a valid Performance Bond. Failure to provide continuous coverage of a Performance Bond will constitute a material breach. If no replacement Performance Bond is provided as required, the existing Performance Bond shall continue in effect for its full term, but CONTRACTOR may be deemed in material breach of the contract if CONTRACTOR fails to provide a replacement bond in the manner described above.

2. MAINTENANCE, AUDIT AND INSPECTION OF RECORDS

All CONTRACTOR and subcontractor costs incurred in the performance of this Agreement will be subject to audit. CONTRACTOR and its subcontractors shall permit CITY, or its authorized representatives to inspect, examine, make excerpts from, transcribe, and copy CONTRACTOR'S books, work, documents, papers, materials, payrolls records, accounts, and any and all data relevant to the Agreement at any reasonable time, and to audit and verify statements, invoices or bills submitted by CONTRACTOR pursuant to this Agreement. CONTRACTOR shall also provide such assistance as may be required in the course of such audit. CONTRACTOR shall retain these records and make them available for inspection hereunder for a period of six years after expiration or termination of the Agreement.

If, as a result of the audit, it is determined by CITY'S auditor or staff that reimbursement of any costs including profit or fee under this Agreement was in excess of that represented and relied upon during price negotiations or represented as a basis for payment, CONTRACTOR agrees to reimburse CITY for those costs within 60 days of written notification by CITY.

3. RECOVERED MATERIALS

CONTRACTOR agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962), including but not limited to the regulatory provisions of 40 C.F.R. Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 C.F.R. Part 247.

4. SAFE OPERATION OF MOTOR VEHICLES

CONTRACTOR agrees as follows:

A. **Seat Belt Use:** In accordance with the provisions of Executive Order No 13043, "Increasing Seat Belt Use in the United States," April 16, 1997, 23 U.S.C. § 402 note, CONTRACTOR is required to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned, rented, or personally operated vehicles.

B. Distracted Driving, Including Text Messaging While Driving: In accordance with Executive Order No. 13513, "Federal Leadership on Reducing Text Messaging While Driving," October 1, 2009, and DOT Order 3902.10, "Text Messaging While Driving," December 30, 2009, CONTRACTOR is required to comply with the terms of the following Special Provision:

i. Definitions as used in this Section Provision:

- a. "Driving" means operating a motor vehicle on a roadway, including while temporarily stationary because of traffic, a traffic light, stop sign, or otherwise. "Driving" does not include being in your vehicle (with or without the motor running) in a location off the roadway where it is safe and legal to remain stationary.
- b. "Text Messaging" means reading from or entering data into any handheld or other electronic device, including for the purpose of short message service texting, e-mailing, instant messaging, obtaining navigational information, or engaging in any other form of electronic data retrieval or electronic data communication. The term does not include the use of a cell phone or other electronic device for the limited purpose of entering a telephone number to make an outgoing call or answer an incoming call, unless the practice is prohibited by State or local law.

ii. Safety: CONTRACTOR is required to:

Adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers including policies to ban text messaging while driving:

- a. CONTRACTOR-owned or CONTRACTOR-rented vehicles or Government owned, leased or rented vehicles;
- b. Privately-owned vehicles when on official contract related business or when performing any work for or on behalf of CITY; or
- c. Any vehicle, on or off duty, and using an employer supplied electronic device.

5. CONFLICT OF INTEREST

Conflict of Interest terms will be in force throughout the term of this Agreement. More specifically, the following shall apply:

A. General

Depending on the nature of the work performed, CONTRACTOR may be subject to the same conflict of interest prohibitions established by the Federal Transit Administration (FTA) and California law that govern CITY'S employees and officials (Cal. Govt. Code Section 1090 et seq. and Cal. Govt. Code Section 87100 et seq.). During the proposal process or the term of this Agreement, CONTRACTOR and its employees may be required to disclose financial interests.

CONTRACTOR warrants and represents that it presently has no interest and agrees that it will not acquire any interest that would present a conflict of interest under California Government Code §1090 et seq. or §87100 et seq. during the performance of services under this Agreement. CONTRACTOR further covenants that it will not knowingly employ any person having such an interest in the performance of this Agreement. Violation of this provision may result in this Agreement being deemed void and unenforceable.

Depending on the nature of the work performed, CONTRACTOR may be required to publicly disclose financial interests under CITY'S Conflict of Interest Code. Upon request by CITY, CONTRACTOR agrees to promptly submit a Statement of Economic Interest on the form provided by CITY.

No person previously in the position of Director, Officer, employee or agent of CITY during his or her tenure or for one year after that tenure shall have any interest, direct or indirect, in this Agreement or the proceeds under this Agreement, nor may any such person act as an agent or attorney for, or otherwise represent CONTRACTOR by making any formal or informal appearance, or any oral or written communication, before CITY, or any Officer or employee of CITY, for a period of one year after leaving office or employment with CITY if the appearance or communication is made for the purpose of influencing any action involving the issuance, amendment, award or revocation of a permit, license, grant, or contract.

B. Organizational Conflicts of Interest

CONTRACTOR shall take all reasonable measures to preclude the existence or development of an organizational conflict of interest in connection with work performed under this Agreement and other solicitations. An organizational conflict of interest occurs when, due to other activities, relationships, or contracts, a firm or person is unable, or potentially unable, to render impartial assistance or advice to CITY; a firm or person's objectivity in performing the contract work is or might be impaired; or a firm or person has an unfair competitive advantage in proposing for award of a contract as a result of information gained in performance of this or some other Agreement.

CONTRACTOR shall not engage the services of any subcontractor or independent CONTRACTOR on any work related to this Agreement if the subcontractor or independent CONTRACTOR, or any employee of the subcontractor or independent CONTRACTOR, has an actual or apparent organizational conflict of interest related to work or services contemplated under this Agreement.

If at any time during the term of this Agreement CONTRACTOR becomes aware of an organizational conflict of interest in connection with the work performed hereunder, CONTRACTOR immediately shall provide CITY with written notice of the facts and circumstances giving rise to this organizational conflict of interest. CONTRACTOR'S written notice will also propose alternatives for addressing or eliminating the organizational conflict of interest.

In the event a conflict is presented, whether disclosed by CONTRACTOR or discovered by CITY, CITY will consider the conflict presented and any alternatives proposed and meet with CONTRACTOR to determine an appropriate course of

action. CITY'S determination as to the manner in which to address the conflict shall be final.

During the term of this Agreement, CONTRACTOR must maintain lists of its employees, and the subcontractors and independent contractors used and their employees. CONTRACTOR must provide this information to CITY upon request. However, submittal of such lists does not relieve the CONTRACTOR of its obligation to assure that no organizational conflicts of interest exist. CONTRACTOR shall retain this record for five years after CITY makes final payment under this Agreement. Such lists may be published as part of future CITY solicitations.

CONTRACTOR shall maintain written policies prohibiting organizational conflicts of interest and shall ensure that its employees are fully familiar with these policies. CONTRACTOR shall monitor and enforce these policies and shall require any subcontractors and affiliates to maintain, monitor and enforce policies prohibiting organizational conflicts of interest.

Failure to comply with this section may subject CONTRACTOR to damages incurred by CITY in addressing organizational conflicts that arise out of work performed by CONTRACTOR, or to termination of this Agreement for breach.

C. Ethics in Public Contracting

CONTRACTOR, by submitting a Proposal, certifies that it is not a party to any collusive action or any action that may be in violation of the Sherman Antitrust Act. By submitting a Proposal, CONTRACTOR certifies that its Proposal was made without fraud; that it has not offered or received any kickbacks or inducements from any other CONTRACTOR in connection with the offer; and that it has not conferred on any public employee, public member, or public official having responsibility for this procurement transaction, any payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value. CONTRACTOR further certifies that no relationship exists between itself and CITY or another person or organization that interferes with fair competition or constitutes a conflict of interest with respect to a contract with CITY.

ARTICLE VII - MISCELLANEOUS

1. CONTRACTOR'S STATUS

Neither CONTRACTOR nor any party contracting with CONTRACTOR shall be deemed to be an agent or employee of CITY. CONTRACTOR is and shall be an independent CONTRACTOR and the legal relationship of any person forming services for CONTRACTOR shall be one solely between that person and CONTRACTOR.

2. ASSIGNMENT

CONTRACTOR shall not assign any of its rights nor transfer any of its obligations under this Agreement without the prior written consent of CITY. CITY may assign this Agreement to another

public agency, in the event such public agency assumes responsibility for operating the FAST system.

3. CITY WARRANTIES

CITY makes no warranties, representations, or agreements, either express or implied, beyond such as are explicitly stated in this Agreement.

4. WAIVER

Any waiver of any breach or covenant of this Agreement must be in writing executed by a duly authorized representative of the party waiving the breach. A waiver by any of the parties of a breach or covenant of this Agreement shall not be construed to be a waiver of any succeeding breach or any other covenant unless specifically and explicitly stated in such waiver.

5. SEVERABILITY

If any provision of this Agreement shall be deemed invalid or unenforceable, that provision shall be reformed and/or construed consistently with applicable law as nearly as possible to reflect the original intentions of this Agreement, and in any event, the remaining provisions of this Agreement shall remain in full force and effect.

6. NO THIRD PARTY BENEFICIARIES

This Agreement is not for the benefit of any person or entity other than the parties.

7. APPLICABLE LAW

This Agreement, its interpretation and all work performed under it shall be governed by the laws of the State of California. CONTRACTOR must comply with all federal, State, and local laws, rules, and regulations applicable to the Agreement and to the work to be done hereunder, including all rules and regulations of CITY.

8. RIGHTS AND REMEDIES OF CITY

The rights and remedies of CITY provided herein shall not be exclusive and are in addition to any other rights and remedies provided by law or under the Agreement.

9. BINDING ON SUCCESSORS

All of the terms, provisions, and conditions of this Agreement shall be binding upon and inure to the benefit of the parties and their respective successors, assigns and legal representatives.

10. ENTIRE AGREEMENT; MODIFICATION

This Agreement for Services, including any exhibits, constitutes the complete Agreement between the parties and supersedes any prior written or oral communications. This Agreement may be modified or amended only by written instrument signed by both CONTRACTOR and CITY. In the event of a conflict between the terms and conditions of this Agreement and the exhibits, the terms of this Agreement will prevail.

IN WITNESS WHEREOF, this Agreement has been executed by CITY and CONTRACTOR through their duly authorized representatives as of the date first set forth above.

“CITY”
CITY OF FAIRFIELD

“CONTRACTOR”
MV TRANSPORTATION, INC.

Stefan T. Chatwin, City Manager

Executive Vice President, Marie Graul

ATTEST:

, City Clerk

APPROVED AS TO FORM

Gregory W. Stepanicich, City Attorney

Note: If the CONTRACTOR is a Corporation, this Agreement must be executed by two Corporate Officers, consisting of:

- (1) the President, Vice President or Chair of the Board, and
- (2) the Secretary, Assistant Secretary, Chief Financial Officer, Assistant Chief Financial Officer, Treasurer, or Assistant Treasurer.

In the alternative, this Agreement may be executed by a single Officer or a person other than an Officer provided that evidence satisfactory to CITY is provided demonstrating that such individual is authorized to bind the Corporation (e.g., a copy of a certified resolution from the Corporation’s Board or a copy of the Corporation’s bylaws).

EXHIBIT A

SCOPE OF WORK

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EXHIBIT A
SCOPE OF WORK

1. OPERATION FUNCTIONS

CONTRACTOR shall provide Transit Operations Management at a level and capability to oversee its functions and employees. CONTRACTOR shall be responsible for safe and reliable bus service including supervision of daily activities of all drivers, dispatchers, and other personnel necessary to support system operations. CONTRACTOR shall develop, implement, and maintain formal procedures to be used for system monitoring and road supervisory functions.

The Management Plan, Operations Plan, Utility Plan, Safety Plan, Training Program, Start-up Plan, Hiring and Retention Strategy, and Job Classifications and Wage Scales submitted in CONTRACTOR'S proposal, as modified by CONTRACTOR and CITY during the procurement process and approved by CITY (collectively, "the Implementation Program"), are incorporated into this Scope of Work as those fully set forth herein. Except as provided otherwise in this Agreement, including this Scope of Work, CONTRACTOR shall implement and comply with the Implementation Program.

2. TICKET SALES

CITY has established a Transit Store at the Fairfield Transportation Center (FTC). CONTRACTOR shall staff and operate Transit Store from 5 am to 8 am and from 5 pm to 8 pm or as directed by CITY. Operation shall consist of, but not be limited to the following activities; operating electronic media including cash register, credit card machine, selling of CITY provided fare instruments, selling of fare instruments from other public agencies as well as other items as determined by CITY, distributing printed materials to the public, and providing general customer service to the public. CONTRACTOR, in cooperation with CITY, shall develop and keep current a detailed job description for Transit Store Employee position(s), and submit it to CITY for approval. CONTRACTOR shall ensure that no persons, except CONTRACTOR personnel assigned to operate Transit Store, and CONTRACTOR management, shall be allowed within store, or in any other way affect Transit Store operation. This will be done in accordance with Standard Operating Procedures – Transit Fare Handling and Farebox Maintenance.

3. EMPLOYEE PERFORMANCE

CONTRACTOR shall be solely responsible for performance of its employees and shall take appropriate action to ensure employees perform in a professional and acceptable manner. This shall include the regular practice of ride checks and viewing video to monitor operator performance.

Upon written demand of CITY, CONTRACTOR shall immediately remove ANY employees whom CITY considers unsuitable for such work from activities associated with this Agreement. Removed employees must be replaced within twenty-four (24) hours or as agreed to between CITY and CONTRACTOR

4. SERVICE RELIABILITY

CONTRACTOR shall provide timely and reliable transit services. This includes maintaining trip

completion levels and on-time performance operating levels within the specified arrival and departure times. On-time performance will be closely monitored by CITY and will be computed on a monthly basis by CONTRACTOR. Except as otherwise directed by CITY, on time for fixed route means that the bus leaves a scheduled time point no sooner than the scheduled time and no more than five (5) minutes after the scheduled time. On time for the DART paratransit service means that vehicle arrives at pick-up location no more than fifteen (15) minutes before or after the scheduled pick-up time.

CITY shall not be obligated to pay CONTRACTOR for trips not run. Liquidated damages may be assessed by CITY for trips missed and other areas of non-performance in accordance with the provisions included in this Agreement. Any additional service, beyond the scheduled service and the required ADA complimentary paratransit service, must be preapproved by CITY.

5. FARE COLLECTION

CONTRACTOR shall collect fares from all persons riding services provided under this Agreement in accordance with the fare structure established by CITY. CITY reserves the right to amend the fare structure. Any changes to the fare structure shall be communicated to CONTRACTOR in writing at least ten (10) days in advance of taking effect. CONTRACTOR shall not deny access to any person paying a valid fare without specific permission by CITY. CONTRACTOR will not issue free passes or any other passes without prior approval of CITY.

All fares collected by CONTRACTOR shall be collected in fareboxes provided or approved by CITY. CONTRACTOR will accept transfers and other fare instruments from other transit systems as directed by CITY. CONTRACTOR shall be responsible for probing and emptying each farebox daily, as well as depositing the contents of each cash box into the revenue collection receiver. This will be done in accordance with the GFI farebox collection procedures.

6. USE OF BUSES AND EQUIPMENT

CONTRACTOR understands that vehicles and equipment provided by CITY under this Agreement shall be used only to provide services included under this Agreement.

The CONTRACTOR'S right to use the buses and equipment is merely a license that is terminable at will by CITY with reasonable notice, and such vehicles may not be transferred or assigned by CONTRACTOR.

Operation of vehicles utilized by CONTRACTOR in the performance of this Agreement shall comply with all applicable Federal, State, and local laws and regulations governing vehicles used for common carrier passenger transportation.

CITY will provide camera system on all CITY vehicles to be operated by CONTRACTOR to monitor unusual events (e.g., accidents, above average acceleration or deceleration, etc.). CITY vehicles have technology that include bus tracking, on time performance reporting, internet information for riders, automated stop announcements, passenger boarding information, and data feed to regional transit information centers (e.g., Transit.511.org). CITY will be responsible for security camera installation. CITY will install all technology on vehicles, including any CONTRACTOR provides. All (electronic and tangible) data collected, stored, and produced by any CONTRACTOR owned (or controlled) technology shall become the property of CITY, and CITY shall dictate to CONTRACTOR how such data shall be provided to CITY upon its request. CONTRACTOR shall further retain such data for an amount of time specified by CITY.

CITY will retain the right to dictate the location of any equipment placed on CITY vehicles and/or facilities, and CITY equipment shall have priority consideration with regards to its placement. No modifications to CITY vehicles, equipment or facilities will be permitted without written authorization from CITY'S Project Manager.

CITY requires that any vehicles in the CITY designated Contingency Fleet remain there unless otherwise directed by CITY. CONTRACTOR must obtain prior written approval by CITY'S Project Manager before any vehicle in the Contingency Fleet may be used in service.

CITY also reserves the right to dictate what vehicle type may be used on a specific service (local fixed route/commuter express bus service/paratransit) or route. Furthermore, CITY reserves the right to dictate to CONTRACTOR how many vehicles may be used for revenue service and/or on a CITY route, and any additional vehicles beyond the permitted number for any service must be approved by CITY in writing prior to their use.

7. MAINTENANCE AND MAINTENANCE FACILITIES

CONTRACTOR responsibilities include, but are not limited to inspecting, operating, checking and refilling fluids, probing vaults, emptying vaults, and fueling the vehicles in accordance with this Agreement and Scope of Work. Other maintenance, repair, or modification of CITY vehicles shall be by CITY. CITY shall be responsible for providing bus wash facilities for use by CONTRACTOR personnel.

CITY shall provide initial and annual refresher fuel island training to CONTRACTOR personnel assigned to fuel CITY owned vehicles. CONTRACTOR and its personnel shall follow all CITY procedures for fuel spills, fuel island malfunctions and mishaps.

CITY shall be responsible for maintaining all CITY-provided equipment including, including work done under warranties. CONTRACTOR shall be liable for the cost of repairing or replacing any physical or mechanical damage caused by CONTRACTOR negligence and not caused by CITY.

CONTRACTOR shall be liable for the cost of replacing any equipment damaged beyond use as a result of CONTRACTOR'S negligence (e.g., tires which cannot be recapped due to damage from improper use).

CITY shall store all equipment at its Corporation Yard, 420 Gregory Street, Fairfield, California, and/or other locations as determined by CITY, and CONTRACTOR shall be allowed to access equipment for service as determined by CITY. CITY shall make equipment available to CONTRACTOR no later than ten (10) workdays prior to commencement of first day of revenue service.

CONTRACTOR shall return all equipment to CITY at 420 Gregory Street, Fairfield, California at the termination of Agreement in the same condition as accepted, allowing for ordinary wear and tear. Ordinary wear and tear shall be interpreted according to the equipment's use. CONTRACTOR shall be liable for the cost of repairing or replacing any physical or mechanical damage, and related expenses, caused by CONTRACTOR negligence and not caused by CITY.

CONTRACTOR shall not have the right to install equipment or make any minor or major alterations to any CITY-owned equipment without prior written consent of CITY'S Project Manager. Any installation of CONTRACTOR equipment, including modifications or alterations to CITY-owned vehicles for CONTRACTOR equipment, shall be performed by CITY at

CONTRACTOR expense. CONTRACTOR shall not post any notices, announcements or other materials in or on CITY-owned equipment unless approved by CITY.

CITY shall be responsible for the safe design, placement, installation and maintenance of all bus stop signs, benches and shelters. CONTRACTOR shall not stop, board, or de-board passengers at locations other than designated by the CITY.

CITY shall be responsible for maintenance facilities and maintenance of all CITY-provided equipment not specifically assigned to CONTRACTOR by CITY to be maintained, with the exception of the interior and exterior cleanliness of all fixed-route and paratransit vehicles, including support vehicles. CONTRACTOR shall diligently maintain the cleanliness of all equipment, as specified in Section 8 of this Scope of Work. CONTRACTOR is responsible for general housekeeping, and security of equipment and facilities when in CONTRACTOR's possession. CONTRACTOR is financially responsible for correcting any damage, and paying for related expenses, caused by the negligent maintenance or operation of facilities, equipment, or vehicles by CONTRACTOR'S personnel. CITY shall be responsible for making repairs or replacement of CITY-provided facilities and equipment, except as otherwise specified in this Scope of Work.

CITY shall have the right to inspect, at any time, all CITY-provided facilities or equipment. CONTRACTOR shall correct any problems, within twenty-four (24) hours of written notification by CITY if the problem can be corrected within such time. If the situation is not correctable within twenty-four (24) hours, then arrangements for correction shall commence within that period, and the correction completed expeditiously thereafter. CONTRACTOR is responsible for notifying CITY immediately of any maintenance safety violations for correction.

If CONTRACTOR fails to correct a problem after receiving CITY notification, CITY may, at its discretion, make corrections and shall charge the actual reasonable cost to CONTRACTOR for these corrections. CITY may deduct these charges from any amount due or that may become due to CONTRACTOR under this Agreement.

CONTRACTOR will use due diligence to maintain CITY's vehicles in a clean, orderly, and safe manner and in accordance with CITY standards and this Scope of Work. CITY shall have the right to inspect, at any and all times, CITY-provided equipment to verify CONTRACTOR compliance with the foregoing. This provision shall also apply to any facilities or equipment, including leased equipment, used by CONTRACTOR for backup service.

CITY may request that the Motor Carrier Unit of the California Highway Patrol (CHP) annually prepare and submit to CITY a Safety Compliance Report (CHP-343). CITY may also request the Transit Operator Compliance Certificate (CHP-339). CONTRACTOR must attain satisfactory rating in the driver records category of the Safety Compliance Report. CONTRACTOR must expeditiously correct any deficiencies noted on the California Highway Patrol report.

CONTRACTOR shall provide the process, tools, equipment, and supplies necessary for cleaning blood borne pathogens immediately after an event has occurred, in the field or in the Corporation Yard. Within thirty (30) days of the date of this Agreement, CONTRACTOR shall submit for CITY review and approval a medical waste response plan, setting forth written procedures for responding to the presence of blood borne pathogens, proper methods for disposal of sharps, documentation of employee training in such procedures, and indicating the process for replacement of vehicles in the field when exposure is not possible to mitigate adequately.

8. CLEANING

CONTRACTOR is required to maintain the inside and outside appearance of buses and support vehicles in a neat, safe, and operable condition. Such cleaning will include removal of all dirt, debris, and graffiti. CONTRACTOR will promptly report any broken, cut, worn, torn or vandalized components of the buses.

On a daily basis, all vehicles utilized in revenue service shall be swept and have trash and debris removed. On a weekly basis, the exterior of all vehicles utilized in revenue service shall be cleaned, including washing and scrubbing of the full exterior, wheels, fuel-fill area. On a monthly basis, all vehicles utilized in revenue service shall be cleaned, including washing and scrubbing of the full exterior, wheels, fuel-fill area, inside of all windows, scrubbing of oil or other excessive residue off the rear end, dusting or vacuuming of all seats, dashboard, stanchions and exposed services, and sweeping or vacuuming of all floor areas, including the removal of gum, grease, oil, etc.

Bus exteriors must always be maintained for an aesthetically pleasing appearance. CITY will provide soaps for the cleaning of the exterior of the vehicles. CONTRACTOR is responsible for providing all other cleaning agents. CONTRACTOR shall only use quality grade cleaning agents that will not damage the exterior or interior surfaces of the buses including advertisements (if applicable).

All graffiti, interior and exterior, that is cleanable shall be removed as soon as practical. If the graffiti is obscene, or gang related, it shall be removed immediately, or the vehicle shall not be used in revenue service until corrected. CONTRACTOR shall report graffiti that cannot be removed to CITY as soon as possible.

All windows and/or inserts that are scratched/etched/fogged to the point of becoming opaque/distorted/seriously damaged causing possible safety issues shall be reported to CITY immediately.

Seats shall be maintained in proper operating condition. In the event that bodily fluids or solids are deposited on any seats, CONTRACTOR shall ensure that all seats are steam cleaned and properly disinfected as soon as possible before being returned to revenue service. In the event that seats cannot be cleaned, CONTRACTOR shall report the condition to CITY within twenty-four (24) hours.

All seats shall be free of excessive dust. Cushioned seats must be vacuumed, keeping dust to a minimum. Each revenue service vehicle shall have the seats, stanchions, ceilings, side walls, and floors scrubbed, washed, or shampooed during a monthly service. All seats and surfaces must be completely dry before being placed in revenue service.

CONTRACTOR shall submit daily proposed Daily Vehicle Reports, Daily Vehicle Inspection Reports, Checklists and Inspection Report and any other applicable reports to CITY for approval prior to the service start-up date.

9. TRANSIT DRIVER'S PARKING LOT FACILITY

CITY will furnish a 12 foot by 60 foot trailer to be used as a Transit Driver's Parking Lot Facility within the Woolner Street parking area. The facility meets ADA accessibility requirements. It will include separate male and female restrooms. An adequate break area with sink and counter will be furnished with tables, chairs, and bulletin board. City will provide electricity, water, and

wastewater connections, and will pay the monthly charges for electricity, water, and wastewater. All other utilities and consumables are the responsibility of CONTRACTOR. The break area in the trailer, like the break area in the Fairfield Transportation Center, will be configured for installation of a refrigerator and microwave so CONTRACTOR will have the option to provide these amenities for drivers at both locations.

10. OPERATORS

CONTRACTOR shall be entirely responsible for the employment and supervision of operators necessary to perform system operations functions. Such responsibilities shall include, although not necessarily limited to:

- Operator recruitment
- Screening
- Selection
- Training
- Supervision
- Proper licensing
- Employee relations
- Customer Service
- Evaluation
- Discipline
- Retraining
- Termination

11. MINIMUM QUALIFICATIONS

As a part of operator recruitment, operator must:

- Have a minimum of three (3) years licensed driving experience
- Have no more than three (3) moving violations or accidents within the immediately preceding three-year period
- Have no convictions for misdemeanor or felony driving under the influence (DUI) or no failures to appear
- Have never been convicted of a violent crime, or a crime of moral turpitude
- Be a United States citizen
- CONTRACTOR shall procure background checks before hiring any operator. The background check shall be available for inspection on request by CITY.
- Each operator must hold, and at all times maintain, the proper valid licenses and certifications required by the DMV, CHP, State and Federal regulating agencies to operate a transit vehicle in revenue or non-revenue service. Licenses and certifications shall include, but not be limited to the following: a valid Class B-P (endorsed for air brakes and passenger transport) driver's license issued by the State of California, a DMV Medical Examiner's Certificate, and Verified Transit Training (VTT). CONTRACTOR shall screen the California Division of Motor Vehicle Record (DMV Record) of each prospective operator.
- CONTRACTOR shall conduct an assessment or assessments, subject to State and Federal Law, to determine each applicant's compliance with the qualifications stated in this subparagraph 11

- All operators must be able to read and speak the English language sufficiently to, at minimum, converse with the general public, understand highway traffic signs and signals, understand street signs and maps, understand routes, schedules and detour notices, respond to dispatch, and fill out incident and accident reports, run sheets, and any other document or report requested.

12. DRUG AND ALCOHOL PROGRAM

CONTRACTOR shall comply with all applicable Federal and State laws and requirements including but not limited to the FTA Drug and Alcohol Testing Programs. CONTRACTOR shall be required to furnish a Drug Screening Program. CONTRACTOR shall pay for all drug screens for CONTRACTOR'S operators. CONTRACTOR shall submit quarterly and annual Drug and Alcohol MIS reports to CITY.

13. OPERATOR APPEARANCE

Prior to the first day of service, CONTRACTOR shall set up a committee consisting of a CITY representative, operators, and contractor management. This committee shall develop a uniform standard. Operator shall wear a shoulder patch on right shoulder identifying FAST. Under this patch a 'runner' provided by CONTRACTOR shall be worn to identify the operator as an employee of CONTRACTOR. This 'runner' patch must be approved by CITY. CONTRACTOR shall provide an identification badge for each employee. Badges shall be worn at all times employees are performing any work provided under this Agreement.

CITY reserves the right to change its operator uniform. CONTRACTOR shall be advised of any changes at least sixty (60) days before implementation.

14. ROAD SUPERVISION

CONTRACTOR shall have road supervisors in the field, covering CONTRACTOR'S services at all times that there is a revenue vehicle in operation. CONTRACTOR shall provide an adequate number of persons to staff the Road Supervisor function. Road Supervisors shall be in numbers sufficient to respond to any incident/accident within a maximum of twenty (20) minutes of the call during revenue operating hours.

Road supervisors are responsible for managing and directing the activities of the vehicle operators including on-time performance, maintenance and lift problems, fare issues, farebox problems, accident investigation, assistance in disputes/incidents, determining and working with detours for CONTRACTOR'S routes. Road Supervisors must be available to transport passengers in the event of a breakdown, etc.

15. TRAINERS

All training shall be administered by a qualified trainer. Trainers shall meet the following minimum requirements:

- Must have at least three (3) years of experience as an instructor.
- Must possess a valid Class A or B California License, current Medical Form DL51 with a passenger endorsement, and Verified Transit Training (VTT).

All new trainers must be observed instructing and be approved by CITY before being used as an instructor.

16. INITIAL OPERATOR TRAINING

Initial Operator training shall include “Verification of Transit Training” (VTT) with a minimum of forty (40) hours of classroom, which includes the following topics:

- Pre-trip inspection
- Map reading
- Schedule reading
- Farebox, including logging on, fares, transfers, passes, etc.
- Recording NTD information including Bus Number, Route, Run, Trip, Service and Revenue Odometer Readings. Recording any CITY reporting requirements
- Mobile Data Terminals (MDT): log-on; performing arrivals, departures, no-shows, and cancellations; radio use; radio procedures and requirements; and dispatch and call-in requirements
- Manifests (for Dial-A-Ride services): Including the use of MDT for receiving manifests and responding to or sending information via MDT
- On-time performance procedures
- Detour sheets
- Bike rack usage
- Emergency accident and incident procedures and reports
- Defensive driving
- Layover and relief procedures
- Effective customer service practices
- Passenger relations, including dealing with the problem passenger
- Specialized elderly and disabled instruction, including ADA regulations, wheelchair lift procedures and sensitivity training
- Bloodborne Pathogens Exposure Control Plan

A minimum of twenty (20) hours of individual behind-the-wheel initial training shall also be provided by a qualified trainer. Individual behind-the-wheel instruction is defined as the number of hours that the student is behind-the-wheel with a trainer instructing one-on-one.

17. REFRESHER OPERATOR TRAINING

On an annual basis, CONTRACTOR shall conduct an eight (8) hour refresher training course for its operators as required by the DMV in order to maintain VTT. This refresher course will include farebox retraining and effective customer service practices. In addition, if an operator receives a valid customer service complaint, CONTRACTOR shall review customer service practices with an operator.

18. SPECIAL RETRAINING

CONTRACTOR shall provide special retraining for operators who have been involved in a preventable accident, who fail to follow proper procedures, who have become lost on route, or who fail to use equipment correctly. Special retraining shall be made available for operators who may require it due to a change in bid selection or extended leave of absence. Operators who fail to maintain an unclassified revenue rate of less than six percent (6%) shall be retrained on the farebox operations. Operators that do not maintain an unclassified revenue rate of less than seven percent (7%) for three (3) consecutive months following the retraining must be replaced.

19. DESCRIPTION OF SERVICES

CITY generally operates a timed-transfer system of eight (8) local routes and two (2) intercity routes. CITY operates Monday through Friday and provides limited service on Saturday. The intercity commuter express routes provide service between Sacramento, Davis, Dixon, Vacaville, Fairfield, Suisun City, Benicia, and BART stations in Pleasant Hill, and at El Cerrito del Norte.

CITY's ADA Paratransit bus service is available to persons with a disabling condition that prevents them from utilizing the CITY fixed route bus system, after they complete the eligibility certification process to confirm they are unable to board a regular CITY fixed route bus, access a CITY bus stop, or otherwise navigate the regular fixed route bus system due to a disabling condition as defined by the Americans with Disabilities Act (ADA). This does not include disabilities that only make use of accessible transit service difficult or inconvenient.

19.1 List of Routes

Local CITY Routes

Route 1 - FTC / West Texas Street / North Texas Street / Fairfield Walmart
Route 2 - Solano Town Center / Hannigan Fairfield-Vacaville Train Station
Route 3 - FTC / Solano Town Center / Fairfield Walmart
Route 4 - Fairfield Walmart / Travis Air Force Base
Route 5 - FTC / Suisun City Hall / Suisun City Senior Center
Route 6 - Solano Town Center / Suisun City Walmart / Lawler Ranch
Route 7 - FTC / Solano College / Cordelia Library
Route 8 - Cordelia Library / Cordelia

Intercity "Solano Express" Routes

Blue Line – Pleasant Hill BART / Benicia / Fairfield / Vacaville / Dixon / Davis / Sacramento (Monday-Saturday)

Green Express - Fairfield / El Cerrito del Norte BART (Monday-Friday)

19.2 Service Requirements

CITY'S fixed route system focuses on the central areas of the City of Fairfield and Suisun City. In addition, the service provides connection to the BART service through connections to the El Cerrito del Norte BART station and Pleasant Hill BART station. A System Map for CITY'S fixed route system, as well as service schedules, may be found online at www.fasttransit.org. CONTRACTOR shall be responsible for ensuring that connections to neighboring services are met. CONTRACTOR shall be further responsible for ensuring that the revenue service it operates is per the published schedule in print and on the website; any deviations from the published schedule must be approved by CITY in writing.

CITY's Paratransit ADA service is operated within the city limits of Fairfield and Suisun City and three-fourths ($\frac{3}{4}$) of a mile from fixed route service. Additionally, the CITY's ADA Paratransit currently provides limited service to Vacaville.

19.3 Service Hours and Days

Depending on the specific route, service is generally available on the local routes between the hours of 5:30 a.m. and 8:00 p.m., Monday through Friday, and 9:00 a.m. through 6:00 p.m. on Saturday. Service is generally available on the intercity routes between 4:00 a.m. and 8:00 p.m. Monday through Friday, with limited Saturday service between 8:00 a.m. and 8:00 p.m. on the Blue Line only. CITY's Paratransit provides service parallel to the fixed route system, operating the same hours and days.

No service is provided on the following holidays: Independence Day, Labor Day, Thanksgiving Day, Christmas Day, New Year's Day, and Memorial Day.

19.4 Revenue Service Hours

CITY anticipates that it will provide 86,689 revenue service hours and 91,082 total hours (revenue + deadhead) on fixed routes. CITY believes that this level of service will remain relatively consistent in future years. In addition CITY anticipates total annual Revenue Service Miles of 1,858,396 Miles and Total Miles of 1,947,362 miles.

CITY anticipates that it will provide 12,303 revenue service hours and 13,097 total hours (revenue + deadhead) on the Paratransit services. CITY believes that this level of service will remain relatively consistent in future years. In addition City anticipates total annual Revenue Service Miles of 210,866 Miles and Total Miles of 226,660 miles.

20. FACILITY AVAILABILITY

CITY will provide furnished office space on the second floor of the Fairfield Transportation Center to function as the operations base for the transit service. The facility is located at 2000 Cadenasso Drive, Fairfield, CA, 94533 and is provided to CONTRACTOR at no cost with most utilities included. Concurrently with this Agreement, CONTRACTOR has entered into a license agreement providing for the use of the Transportation Center. CONTRACTOR is required to house its management, administrative, and dispatch functions at this location for the life of the contract. The space includes over 2,000 square feet for CONTRACTOR offices plus over 1,600 square feet of common area (restrooms, break room, and server room) and occasional use of a 500 square foot conference room. See Exhibit D – Facility Floor. The telephone system and the basic Information Technology (IT) infrastructure (i.e., computers, servers, switches and routers) shall be the responsibility of CONTRACTOR. CONTRACTOR shall be responsible for the monthly telephone and internet service bills, as provided below.

CITY owns a hunt group of phone lines comprised of the two City-owned published numbers and multiple sub-numbers. These phone numbers shall serve as incoming call numbers only, and will be provided, at no additional cost, to CONTRACTOR for that exclusive purpose. CONTRACTOR must provide, at its sole expense, all phone lines required to make outgoing and internal calls.

21. LIST OF FIXED ROUTE VEHICLES

CITY regularly evaluates the Fixed Route spare ratio. When local conditions allow, it is CITY'S intention to have a spare ratio of twenty percent (20%).

Bus Number	Make	Model Year	Passenger Capacity*	Length (in Feet)	Type2
647	Gillig	2002	35/29+2	35	Gillig
648	Gillig	2002	35/29+2	35	Gillig
649	Gillig	2002	35/29+2	35	Gillig
650	Gillig	2002	35/29+2	35	Gillig
651	Gillig	2002	35/29+2	35	Gillig
652	Gillig	2002	35/29+2	35	Gillig
653	Gillig	2002	32/25+2	35	Gillig
670	MCI	2003	52/42+2	45	MCI
671	MCI	2003	52/42+2	45	MCI
672	MCI	2003	52/42+2	45	MCI
673	MCI	2003	52/42+2	45	MCI
674	MCI	2003	52/42+2	45	MCI
675	MCI	2003	52/42+2	45	MCI
676	MCI	2003	52/42+2	45	MCI
677	MCI	2003	52/42+2	45	MCI
678	MCI	2003	52/42+2	45	MCI
18679	MCI	2018	57/47+2	45	MCI
18680	MCI	2018	57/47+2	45	MCI
18681	MCI	2018	57/47+2	45	MCI
18682	MCI	2018	57/47+2	45	MCI
18683	MCI	2018	57/47+2	45	MCI
684	MCI	2003	52/47+2	45	MCI
18685	MCI	2018	57/47+2	45	MCI
18686	MCI	2018	57/47+2	45	MCI
18687	MCI	2018	57/47+2	45	MCI
18688	MCI	2018	57/47+2	45	MCI
7620	Gillig	2007	32/25+2	35	GILLIG
7621	Gillig	2007	32/25+2	35	GILLIG
7622	Gillig	2007	32/25+2	35	GILLIG
7623	Gillig	2007	32/25+2	35	GILLIG
7629	Gillig	2007	32/25+2	35	GILLIG
7630	Gillig	2007	32/25+2	35	GILLIG
7633	Gillig	2007	32/25+2	35	GILLIG
3668	Gillig	2003	45/39+2	40	GILLIG
3669	Gillig	2003	45/39+2	40	GILLIG

Bus Number	Make	Model Year	Passenger Capacity*	Length (in Feet)	Type2
9625	Gillig	2009	32/25+2	35	GILLIG
9626	Gillig	2009	32/25+2	35	GILLIG
9635	Gillig	2009	32/25+2	35	GILLIG
9636	Gillig	2009	26/20+2	29	GILLIG
11631	Gillig	2011	26/20+2	29	GILLIG
11632	Gillig	2011	26/20+2	29	GILLIG
11645	Gillig	2011	26/20+2	29	GILLIG
13640	Gillig	2013	38/31+2	40	GILLIG
13641	Gillig	2013	38/31+2	40	GILLIG
13642	Gillig	2013	38/31+2	40	GILLIG
13643	Gillig	2013	38/31+2	40	GILLIG
13644	Gillig	2013	38/31+2	40	GILLIG
13654	Gillig	2013	38/31+2	40	GILLIG

*Passenger Capacity: ##/#+# Format represents total seated capacity/seating capacity plus # of wheelchairs. Example: 35/29+2 = Total of 35 seated passengers with no wheelchairs, 29 seated passengers with two-wheel chaired passengers.

22. LIST OF PARATRANSIT VEHICLES

Bus Number	Make	Model Year	Passenger Capacity	Length (in Feet)	Type2
7708	Ford	2007	12/2+4	22	PARATRANSIT
7709	Ford	2007	12/2+4	22	PARATRANSIT
11700	Ford	2011	12/2+4	22	PARATRANSIT
11703	Ford	2011	12/2+4	22	PARATRANSIT
11704	Ford	2011	12/2+4	22	PARATRANSIT
14701	Ford	2014	12/2+4	22	PARATRANSIT
14702	Ford	2014	12/2+4	22	PARATRANSIT
16705	Ford	2016	12/2 or 6/4	22	PARATRANSIT
16706	Ford	2016	12/2 or 6/4	22	PARATRANSIT
16707	Ford	2016	12/2 or 6/4	22	PARATRANSIT
16708	Ford	2016	12/2 or 6/4	22	PARATRANSIT
16709	Ford	2016	12/2 or 6/4	22	PARATRANSIT

23. LIST OF SUPPORT VEHICLES

Equip. ID	Make	Model Year	Equipment Description
9041	Ford	2009	FORD E-350 11 PASSENGER VAN WAGON
12105	Ford	2012	2012 FORD E-350 12-PASSENGER VAN

12111	Ford	2012	2012 FORD E-350 12-PASSENGER VAN
13178	Ford	2013	2013 FORD E-350 12-PASSENGER VAN
13690	Ford	2013	2013 FORD E-350 12-PASSENGER VAN

24. DISPATCH REQUIREMENTS

CONTRACTOR shall have dispatch and scheduling staff on duty during all revenue service hours. CONTRACTOR shall provide an adequate number of persons to staff the vehicle dispatch and scheduling functions.

24.1 Dispatch Log

The dispatchers will be required to keep a daily dispatch log, which shall include, but not be limited to:

- Bus assignment
- Operator assignment
- Pull-out and Pull-in
- Late and missed trips
- Road calls
- Incidents and Accidents will immediately be input into CITY's Data Management System
- All other incidents or dispatch calls that vary from normal or expected system operation

Dispatch logs shall be submitted to CITY daily on following business day.

24.2 Communications and Scheduling Personnel

Communications and scheduling staff must be able to communicate service-related information effectively in English. Bi-lingual English/Spanish personnel shall be available during all hours of operation. Dispatchers shall communicate to the operators via radio. Dispatchers shall respond to requests to talk in the order received, unless a priority request is communicated. In that case, the priority request shall take precedence over the other requests. In addition, operators shall inform dispatch whenever a passenger fails to pay their appropriate fare for the trip.

CONTRACTOR'S communications and scheduling staff must be trained to proficiency and scheduled to process the volume of incoming telephone requests for ADA services. They also must accurately record the required passenger trip information, monitor on time adherence, and appropriately dispatch vehicles. CONTRACTOR'S dispatch and scheduling personnel must be knowledgeable in all aspects of CITY ADA operations.

CONTRACTOR shall have sufficient reservationists on duty at all times to ensure that telephone "wait" or "on hold" time(s) do not exceed three (3) minutes on ninety-five percent (95%) of all calls, and do not exceed five (5) minutes on ninety-nine percent (99%) of all calls.

- Automatic answering devices or Interactive Voice Recognition (IVR) systems may be substituted for normal reservation taking; however, CONTRACTOR must implement a means for passengers to speak directly with a qualified representative to coordinate pick-up/drop-off or other service related information. During

working hours, CONTRACTOR must respond to passengers' voicemail trip requests no more than one hour after the voicemail is left. For voicemail trip requests left during non-working hours, CONTRACTOR must respond by the next working day. All messaging systems (e.g., telephone) will provide information in both English and Spanish.

- CONTRACTOR shall ensure that all dispatch and scheduling personnel are trained to proficiency in the requirements of the Service Criteria for Complementary Paratransit Service as outlined in Title 49 Parts 37 and 38 of the Code of Federal Regulations, (as amended October 2011), before being assigned to CONTRACTOR'S Communications Center, and shall ensure that ongoing mechanisms are in place for the evaluation of Dispatcher/Scheduler performance, education, and training.
- CONTRACTOR shall ensure that all dispatch personnel are trained to proficiency in basic customer service techniques and shall ensure that such personnel have a comprehensive understanding of all policies and procedures that are associated with all programs specified within this scope of work.
- CONTRACTOR will observe and enforce trip-by-trip eligibility and will only schedule trips that meet the criteria for eligibility. CONTRACTOR is responsible for accurately determining whether a requested trip meets trip eligibility requirements. If a trip request meets eligibility requirements at either the pick-up or drop-off location it should be scheduled.

24.3 Reservations/Scheduling

CONTRACTOR SHALL PERFORM RESERVATIONS AND SCHEDULING OF Paratransit trips as follows:

1. Reservations may be made one (1) to seven (7) days in advance by calling the ride reservation line. Passengers will be ensured a negotiated ready time and confirmation for each trip scheduled. Passengers may call to schedule a trip any day during operating hours. Reservationists will negotiate with ADA passengers a pick up time from one (1) hour before or one (1) hour after their requested time. Subscription service (standing reservations) shall continue to be provided to passengers as specified by the CITY.
2. CONTRACTOR shall use the CITY provided automated scheduling system (currently Routematch) to schedule rides.

25. PICK-UP OF ADA PARATRANSIT PASSENGERS

CONTRACTOR shall arrive at the appointed passenger pick-up location not more than fifteen (15) minutes prior to the appointed pick-up time and no more than fifteen (15) minutes after the appointed pick up time. Passengers picked up later than fifteen (15) minutes will be considered "late". Drivers who show up prior to scheduled pick-up time must wait until the fifteen (15) minutes before the appointed pick-up time before honking the horn. CONTRACTOR shall notify passengers by telephone whenever possible if the vehicle scheduled to pick them up is expected to arrive at the appointed pick-up location more than fifteen (15) minutes later than the appointed time.

Upon arrival of the vehicle at the passenger's pick-up point, the driver shall notify the passenger of their presence by a honk of the horn. Passengers who reside in an assisted living facility or are to be picked-up at a medical facility must be at the curb. Drivers will not go into facilities. The driver will wait no less than five (5) minutes to pick-up a passenger. Should the passenger not appear during that time frame, the driver will resume service and proceed to the next scheduled reservation or bus stop. The missed pick-up will be considered a "no-show" and the procedures for no-show will be followed.

CONTRACTOR is to make every possible attempt to notify riders when their pick-up and/or drop-off time has been changed by CONTRACTOR for any reason. Riders who are not notified of a scheduled change shall not be counted as a "no-show" if they miss the ride.

Drivers shall assist passengers whenever possible from the curb of their origin to the curb of their destination. CONTRACTOR shall use the highest reasonable degree of care in assisting passengers. Assistance to passengers shall, at a minimum, meet the requirements of the Americans with Disabilities Act. CONTRACTOR shall park as close as safely possible to each passenger's origin and destination, including entering parking lots as necessary.

26. PUBLIC INFORMATION/PROMOTION REQUIREMENTS

26.1 Schedules

CITY will print and provide schedules for routes served by CONTRACTOR. Updated schedules will be provided in advance of a schedule change and must be placed in vehicles on the appropriate routes by CONTRACTOR at least three (3) days prior to the changes going into effect. CONTRACTOR shall dispose of all outdated schedules. CONTRACTOR shall maintain an inventory of current schedules, and notify CITY when there is a need for additional schedules prior to depletion of their supply.

26.2 On-Board Distribution/Collection of Information

CITY will periodically require that the driver distribute and/or collect information to/from passengers. In most instances, this will be service-related materials regarding detours, proposed route changes, or passenger surveys. CITY will provide specific instruction to the CONTRACTOR with the materials to be distributed and/or collected.

CITY shall notify the CONTRACTOR of any promotion CITY is conducting on a route. CONTRACTOR will be required to post information or promotional materials provided by CITY. All Free Ride/Discount Coupons associated with the promotion shall be honored by the CONTRACTOR. Samples of the associated promotional coupons will be provided to familiarize operators with them. The operator shall have the responsibility to verify that the Free Ride/Discount Coupon presented is valid and has not expired. Instructions will be provided for the counting of riders using the Free Ride/Discount Coupons. Since operators will be asked about CITY activities, the information and related coupons shall be posted in a prominent location and/or circulated among the operators. CONTRACTOR will be further required to remove any outdated postings of any information or promotional materials on buses and/or bus facilities, unless otherwise directed by CITY.

26.3 Media Contact

News media inquiries regarding bus service shall be forwarded to CITY for handling and replies. CONTRACTOR shall, however, designate an individual who is authorized to speak on behalf of CONTRACTOR should such a resource or reference be needed, as determined by CITY.

26.4 Meeting Attendance

There will be times when the services operated by CONTRACTOR are the topic of discussion at public meetings. Upon request, CONTRACTOR management staff shall be required to attend such meetings. Whenever possible, CITY will notify CONTRACTOR in advance of particular concerns that might be raised. Should comments be directed to CONTRACTOR regarding operational issues, CONTRACTOR shall submit to CITY within seven (7) days a plan to address the issues discussed.

26.5 Lost and Found

CONTRACTOR shall tag lost articles with the day, route number, description of the article, and driver's name. CONTRACTOR shall maintain the items found for a period of sixty (60) days prior to discarding found items.

26.6 Emergency Contact

CONTRACTOR shall provide a list of twenty-four (24) hour emergency numbers and a contact(s) to be used by CITY for responding to emergency situations as necessary.

27. CUSTOMER SERVICE

27.1 Customer Contact and Standards

CONTRACTOR shall staff telephone lines dedicated to service requests.

CONTRACTOR shall add Customer Service personnel, or require re-training, if CITY determines that an unacceptable number of calls are being placed on "hold" because insufficient personnel is available to answer telephones or handle Customer Service duties.

CONTRACTOR shall add Customer Service personnel if CITY determines that customer comments/ complaints are left unresolved due to insufficient personnel being available to respond to such comments/complaints.

CONTRACTOR must state in proposal the level of staffing intended to handle the responsibilities of the Customer Service personnel.

CONTRACTOR'S employees shall treat all passengers in a courteous and respectful manner consistent with good business practices. If CITY determines that a pattern of indefensible customer service relations complaints is established, CONTRACTOR shall upgrade its customer relations training program to CITY'S satisfaction and retrain its personnel as necessary to reduce complaints.

CONTRACTOR has provided, as part of its Proposal, and CITY has approved, **customer service standards** that CONTRACTOR expects its employees to uphold while on duty and when providing customer service. CONTRACTOR has also provided a proposed training program,

which CITY has approved, describing how employees will be trained and held to these standards during the course of employment. CONTRACTOR shall implement the approved customer service standards and training program during the term of this Agreement. No changes shall be made to same without the prior written approval of the CITY Project Manager.

27.2 Passenger Complaints

Passenger and other complaints on service operation are an adverse reflection on both CONTRACTOR and CITY. It is in the best interest of both parties under this Agreement to minimize complaints against transportation services.

Definition of a Complaint

A complaint is defined as any written or verbal communication provided to CONTRACTOR, which adversely reflects on CITY'S operation of services as provided by the CONTRACTOR, or which relates any incident involving a CONTRACTOR operated vehicle and/or operator.

Investigation and Response

Every complaint, concern, suggestion, or commendation concerning personnel and service provided to or received by CONTRACTOR must be investigated and a response developed. Any complaints that concern bus safety issues, driver behavior, including rudeness, discourtesy, etc., that may result in disciplinary action must be thoroughly investigated with appropriate action taken and documented. All complaints must be investigated and responded to within seventy-two (72) hours of receipt.

Any complaints, suggestions, or commendations received by CONTRACTOR will be immediately input into CITY's Data Management System.

28. REPORTING REQUIREMENTS

28.1 CITY Data Management System

All data furnished by CONTRACTOR must reside in CITY'S Data Management System unless otherwise specified by CITY. CONTRACTOR must maintain access and information in CITY's Data Management System which provides the basis for CONTRACTOR invoicing. The Data Management System consolidates and integrates data from multiple system databases and sources in one location for easy access. Data is configured to be consistent with National Transit Database (NTD) reporting requirements and definitions to easily create mandatory NTD reports.

28.2 National Transit Database (NTD) Reporting

CONTRACTOR shall track NTD Revenue Service Miles and Hours, NTD Total Miles and Hours, and report totals on a monthly and yearly basis through CITY's Data Management System. NTD Revenue Service Miles/Hours, Deadhead Miles/Hours, and Total Miles/Hours, are defined as:

a) Revenue Service (Miles/Hours): The time when a vehicle is available to the general public and there is an expectation of carrying passengers. These passengers either

directly pay fares, are subsidized by public policy, or provide payment through some contractual arrangement.

b) Deadhead (Miles/Hours): Deadhead includes the miles and hours that a vehicle travels when out of revenue service.

- 1) Leaving or returning to the yard facility, or
- 2) Changing routes when there is no expectation of carrying revenue passengers

c) Deadheading:

- 1) Vehicles traveling from a dispatching point to the first passenger pick-up point are considered deadheading and are not included in revenue service. Therefore, do not report this travel as NTD revenue service miles/hours.
- 2) Vehicles traveling back to a dispatching location are considered deadheading. Do not report this travel as NTD revenue service miles/hours.
- 3) Vehicles traveling with or without passengers while available to carry passengers between pick-up/drop-off points are considered NTD revenue service miles/hours.
- 4) If vehicle storage is different from the dispatching location, travel between these locations is considered deadheading.

d) NTD Revenue Service Miles/Hours: NTD revenue service miles and NTD revenue service hours include all travel and time from the point of the first passenger pick-up to the last passenger drop-off, excluding lunch-breaks if any, as long as the vehicle does not return to the dispatching point. In addition, NTD revenue service miles/hours include the distance and time to pick up the next passenger. This data is actual (not scheduled) and shall be input into CITY's Data Management System as noted.

e) NTD Total Miles/Hours: NTD total miles and NTD total hours include the distance and time from gate departure to gate return, excluding lunch-breaks, if any. NTD Total Miles/Hours include revenue service and deadheading to and from the yard facility. Vehicle Pre/Post-Trip Inspection time, Training and Maintenance travel and time are not included in NTD Total Miles and Hours. This data is actual (not scheduled) and shall be input into CITY's Data Management System as noted.

28.3 Other Reports (Written or In-Person)

CONTRACTOR shall be required to submit any reports (i.e. Disadvantaged Business Enterprise (DBE) reports) as required by the Federal Transit Administration (FTA), including reports related to subcontractors and work performed by them, to ensure 1) continued eligibility for federal funding and 2) the ability to finance operations and preventive maintenance efforts with such funding.

Upon request, CONTRACTOR shall submit a "CONTRACTOR Staffing Report" with its monthly invoice, due by the tenth (10th) calendar day of each month, that must report any position vacancies, turnover rate since the start of the current fiscal year, number of regular hours performed by non-salaried staff (by position category), number of overtime hours performed by non-salaried staff (by position category), and monthly salaries and benefits paid (by position

category). This report shall further include the names of each employee, seniority with the CONTRACTOR'S organization and seniority under the CITY'S contract with CONTRACTOR, if different, and individual status as a part-time, temporary or full-time employee. CONTRACTOR shall provide additional staffing details as required by CITY.

CONTRACTOR shall provide daily reports for CITY'S Project Manager reporting the following in a manner dictated by CITY: 1) missed trips; 2) any Supplemental Service dispatched beyond the scheduled service to address on-time performance or load issues; 3) revenue miles and hours, deadhead miles and hours, and routes served by supplemental/tripper service; 4) electronic farebox calls and reason, and; 5) bus swaps and reason. Much of this information will be found in CITY'S Data Management System, which will be made available to CONTRACTOR.

CONTRACTOR shall submit daily vehicle inspection reports (DVIR) for all revenue service vehicles to CITY'S Fleet Management Division Staff at the end of each service day.

CONTRACTOR shall notify CITY Fleet Division staff and CITY Transit Operations staff of injury accidents within thirty (30) minutes or property damage and disturbances within four (4) hours of occurrence. CONTRACTOR shall coordinate a vehicle safety inspection with the Fleet Division during the initial notification. CONTRACTOR shall provide copies of all report documentation, including pictures, on any collision or any incident causing property damage or personal injury within three (3) business days of the occurrence.

CONTRACTOR shall be present and responsive at audits or Federal Triennial Reviews as requested by CITY. CONTRACTOR shall also be readily available at a moment's notice for such events. Additionally, CONTRACTOR shall provide any reports requested by CITY for such events for purposes of responding to or closing-out any issues or findings.

Upon request, CONTRACTOR shall provide reports on the telephone system that provide statistics for the number of received calls by Day/Date/Hour, and the number of calls answered, their average and maximum wait time, the number of calls abandoned with their average and maximum wait time, busy rate by Day/Date/Hour and the average call length. Note that the telephone system must electronically record all incoming and outgoing telephone calls from or to the telephone reservation line, store the recordings for a minimum of thirty (30) days and provide electronic copies to CITY staff upon request. Telephone system must provide at least two (2) hours of uninterrupted battery backup in case of power failure,

**EXHIBIT B
COMPENSATION SCHEDULE**

**FORM 8
Price Proposal Form
Fixed Route and DART
Base Years**

FY 2020/2021

Initial Level of Service = 98,992 Total Vehicle Revenue Hours

Monthly Fixed Expense	\$ 124,942.71
Cost Per Revenue Vehicle Hour	<u>\$ 44.28</u>
Monthly Liability Insurance (General & Auto)	<u>\$ 35,260.21</u>
TOTAL ANNUAL COST	<u>\$ 6,306,227.01</u>

FY 2021/2022

12 Months of Service = 98,992 Total Vehicle Revenue Hours

Monthly Fixed Expense	\$ 119,191.76
Cost Per Revenue Vehicle Hour	<u>\$ 45.07</u>
Monthly Liability Insurance (General & Auto)	<u>\$ 35,486.81</u>
TOTAL ANNUAL COST	<u>\$ 6,317,316.40</u>

FY 2022/2023

12 Months of Service = 98,992 Total Vehicle Revenue Hours

Monthly Fixed Expense	\$ 121,407.70
Cost Per Revenue Vehicle Hour	<u>\$ 45.99</u>
Monthly Liability Insurance (General & Auto)	<u>\$ 35,715.69</u>
TOTAL ANNUAL COST	<u>\$ 6,437,912.47</u>

FY 2023/2024

Initial Level of Service = 98,992 Total Vehicle Revenue Hours

Monthly Fixed Expense	\$ 123,154.72
Cost Per Revenue Vehicle Hour	<u>\$ 46.97</u>
Monthly Liability Insurance (General & Auto)	<u>\$ 35,946.85</u>
TOTAL ANNUAL COST	<u>\$ 6,558,493.75</u>

CONFIDENTIAL

FORM 9
Price Proposal Form
Fixed Route and DART
OPTION YEARS

FY 2024/2025

12 Months of Service = 98,992 Total Vehicle Revenue Hours

Monthly Fixed Expense	\$ 126,179.79
Cost Per Revenue Vehicle Hour	\$ 48.34
Monthly Liability Insurance (General & Auto)	\$ 36,180.32
TOTAL ANNUAL COST	\$ 6,733,681.98

FY 2025/2026

12 Months of Service = 98,992 Total Vehicle Revenue Hours

Monthly Fixed Expense	\$ 127,301.39
Cost Per Revenue Vehicle Hour	\$ 49.94
Monthly Liability Insurance (General & Auto)	\$ 36,416.13
TOTAL ANNUAL COST	\$ 6,908,106.91

FY 2026/2027

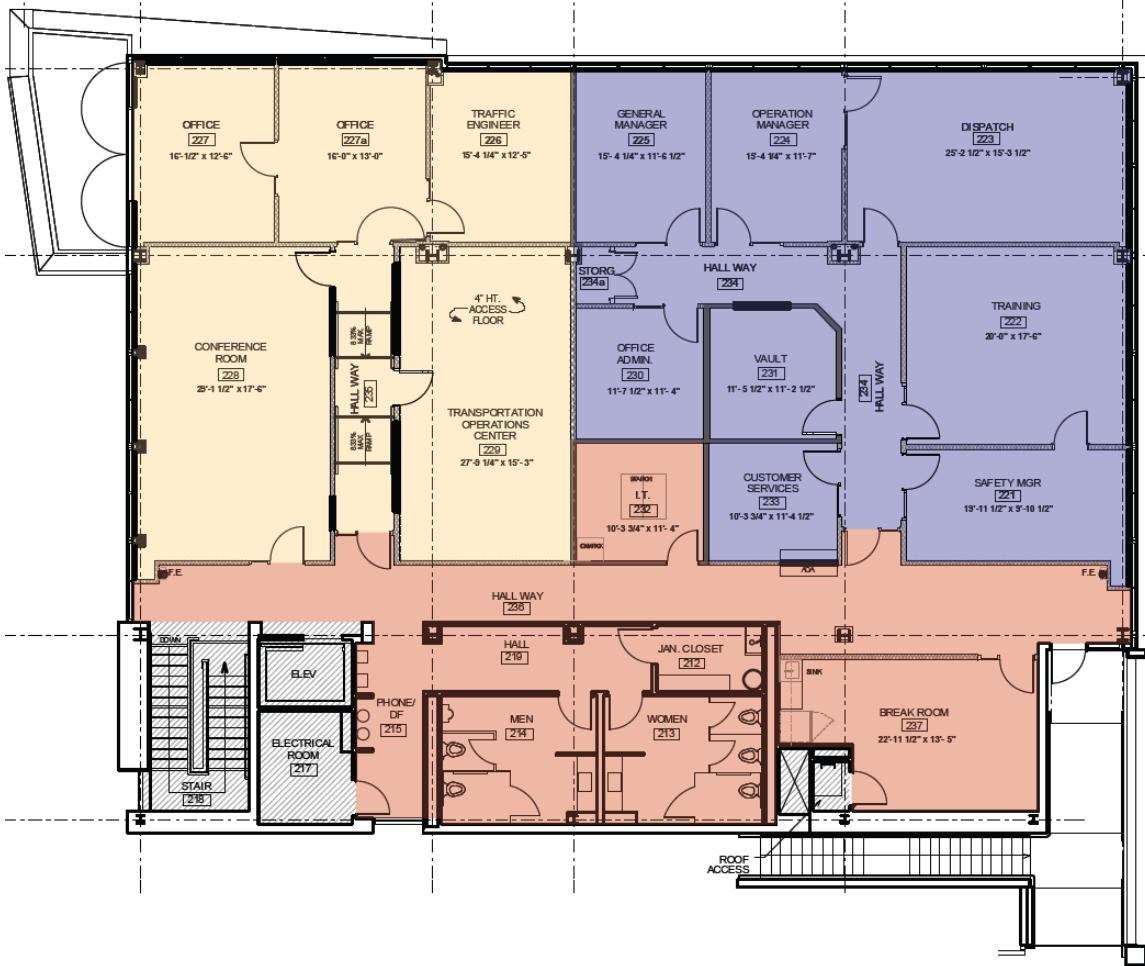
12 Months of Service = 98,992 Total Vehicle Revenue Hours

Monthly Fixed Expense	\$ 131,060.99
Cost Per Revenue Vehicle Hour	\$ 51.73
Monthly Liability Insurance (General & Auto)	\$ 36,654.30
TOTAL ANNUAL COST	\$ 7,132,944.82

**EXHIBIT C
CITY OF FAIRFIELD
INSURANCE POLICY ENDORSEMENT**

Insurance Endorsements will be inserted here.

EXHIBIT D FACILITY FLOORPLAN



AREAS LEGEND

- 1,717 SQFT CITY AREA
- 2,023 SQFT TRANSIT CONTRACTOR AREA
- 1,643 SQFT COMMON AREA

NOTE:
SEE SHEET A-031 FOR ADDITIONAL INFORMATION