



NOTICE OF SPECIAL MEETING OF THE CARSON CITY REGIONAL TRANSPORTATION COMMISSION (RTC)

Day: Wednesday
Date: August 5, 2020
Time: 8:30 a.m.
Location: Community Center, Sierra Room, 851 East William Street, Carson City, Nevada

AGENDA

NOTICE TO PUBLIC: The State of Nevada and Carson City are currently in a declared State of Emergency in response to the global pandemic caused by the coronavirus (COVID-19) infectious disease outbreak. In accordance with the Governor's Declaration of Emergency Directive 006, which has suspended the provisions of NRS 241.020 requiring the designation of a physical location for meetings of public bodies where members of the public are permitted to attend and participate, public meetings of Carson City will NOT have a physical location open to the public until such time this Directive is removed.

Members of the public who wish only to view the meeting but do NOT plan to make public comment may watch the livestream of the RTC meeting at:

<https://www.carson.org/transparency/meeting-agendas-minutes-and-recordings>

The public may provide public comment in advance of a meeting by written submission to the following email address: lmaloney@carson.org. For inclusion or reference in the minutes of the meeting, your public comment must include your full name and be submitted via email by not later than 3:00 p.m. the day before the meeting.

Members of the public who wish to provide live public comment may do so during the designated public comment periods, indicated on the agenda, via telephonic appearance by dialing the numbers listed below. Please do NOT join by phone if you do not wish to make public comment. To join by telephone, you must dial the following number: +1-408-418-9388 (Meeting ID: 146 965 4653).

To videoconference, you must have access to an Internet connection and a computer equipped with a camera and microphone with which you can join a meeting at the following link:

<https://carsoncity.webex.com/carsoncity/onstage/g.php?MTID=e6f696dd1de5fc09cb269e35083fa355e>.

AGENDA NOTES: The Carson City Regional Transportation Commission (RTC) is pleased to make reasonable accommodations for members of the public who are disabled and wish to attend the meeting via video conference or telephonic appearance, or who wish to make written submissions to RTC. If special arrangements are necessary, please notify RTC staff in writing at 3505 Butti Way, Carson City, Nevada, 89701, or LMaloney@carson.org, or call Lucia Maloney at (775) 887-2355 at least 24 hours in advance of the meeting.

For more information or for copies of the supporting material regarding any of the items listed on the agenda, please contact Lucia Maloney, Transportation Manager, at (775) 887-2355. Additionally, the agenda with all supporting material is posted under the RTC at www.carson.org/agendas, or is available upon request at 3505 Butti Way, Carson City, Nevada, 89701.

1. ROLL CALL AND DETERMINATION OF A QUORUM

2. AGENDA MANAGEMENT NOTICE: The Chair may take items on the agenda out of order; combine two or more agenda items for consideration; and/or remove an item from the agenda or delay discussion relating to an item on the agenda at any time.

3. DISCLOSURES: Any member of the RTC Board may inform the Chair of his or her intent to make a disclosure of a conflict of interest on any item appearing on the agenda or on any matter relating to the RTC's official business. Such disclosures must also be made at such time the specific agenda item is introduced.

4. PUBLIC COMMENT:** The public is invited at this time to comment on and discuss any topic that is relevant to, or within the authority of this public body. Comments are limited to three minutes per person per topic. If your item requires extended discussion, please request the Chair to calendar the matter for a future RTC meeting. No action may be taken upon a matter raised under this item of the agenda until the matter itself has been specifically included on an Agenda as an item upon which action may be taken.

5. PUBLIC MEETING ITEM(S):

5-A For Possible Action – Discussion and possible action regarding Contract No. 19300178, Jump Around Carson (JAC) Public Transportation Operating Services, to First Transit, Inc., for the operation of all JAC Fixed Route and JAC Paratransit Services for three years, \$1,122,736 in year one, \$1,167,816 in year two, and \$1,219,841 in year three, for a total not to exceed amount of \$3,510,393 for the first three year term, with an option for three additional one-year terms.

Staff Summary: The current transit operating contract began in October 2016 and will expire August 30, 2020, after the completion of an initial three-year term and one one-year extension. As required by regulations, Carson City issued a request for proposals soliciting bids from qualified contractors to enter into a new contract for an initial three-year period with three one-year extensions available following the successful completion of the initial contract term. The City received two proposals, one from MV Transportation, which currently provides the JAC services, and one from First Transit, and recommends awarding the contract to First Transit.

6. BOARD COMMENTS: For Information Only – Status reports and comments from the members of the RTC Board.

7. The Next Meeting is Tentatively Scheduled – 4:30 p.m., Wednesday, August 12, 2020, at the Sierra Room - Community Center, 851 East William Street, immediately after the meeting of the Carson Area Metropolitan Planning Organization.

8. PUBLIC COMMENT:** The public is invited at this time to comment on any matter that is not specifically included on the agenda as an action item. No action may be taken on a matter raised under this item of the agenda. Comments are limited to three minutes per person per topic. If your item requires extended discussion, please request the Chair to calendar the matter for a future RTC meeting. No action may be taken upon a matter raised under this item of the agenda until the matter itself has been specifically included on an Agenda as an item upon which action may be taken.

9. ADJOURNMENT: For Possible Action

****PUBLIC COMMENT LIMITATIONS - Although the RTC often provides an opportunity for additional public comment during each specific item designated for possible action on the agenda, public comment will be temporarily limited to the beginning of the agenda before any action is taken and again at the end before adjournment. This policy will remain effective during the period of time the State of Nevada is under a State of Emergency as declared by the Governor due to the COVID-19 pandemic, and is intended to achieve the efficient conduct of meetings while facilitating public participation via videoconference and telephonic means.**

NOTICE TO PUBLIC: In accordance with the Governor’s Emergency Declaration Directive 006 suspending state law provisions requiring the posting of public meeting agendas at physical locations, this agenda was posted electronically at the following Internet websites:

This notice has been posted at the following locations:

www.carson.org/agendas
<http://notice.nv.gov>

This page intentionally left blank.



STAFF REPORT

Report To: The Carson City Regional Transportation Commission (RTC)

Meeting Date: August 5, 2020

Staff Contact: Lucia Maloney, Transportation Manager

Agenda Title: For Possible Action – Discussion and possible action regarding Contract No. 19300178, Jump Around Carson (JAC) Public Transportation Operating Services, to First Transit, Inc., for the operation of all JAC Fixed Route and JAC Paratransit Services for three years, \$1,122,736 in year one, \$1,167,816 in year two, and \$1,219,841 in year three, for a total not to exceed amount of \$3,510,393 for the first three year term, with an option for three additional one-year terms.

Staff Summary: The current transit operating contract began in October 2016 and will expire August 30, 2020, after the completion of an initial three-year term and one one-year extension. As required by regulations, Carson City issued a request for proposals soliciting bids from qualified contractors to enter into a new contract for an initial three-year period with three one-year extensions available following the successful completion of the initial contract term. The City received two proposals, one from MV Transportation, which currently provides the JAC services, and one from First Transit, and recommends awarding the contract to First Transit.

Agenda Action: Formal Action/Motion

Time Requested: 15 Minutes

Proposed Motion

I move to award the contract as presented.

Background/Issues & Analysis

The RFP was distributed and published in the Reno Gazette Journal and NGEM on May 1, 2020. The proposals were opened at approximately 2:10 p.m. on June 2, 2020 at 201 North Carson Street, Carson City, Nevada 89701. Present during the opening were: Christy Parks, MV Transportation; Lucia Maloney and Alex Cruz, Public Works; and Carol Akers, Purchasing and Contracts.

Proposals were received from the following bidders.

Name of Proposers

First Transit

MV Transportation

Total for Three Years

\$3,510,393

\$4,847,605

Staff recommends award to First Transit as the lowest responsive and responsible bidder pursuant to NRS Chapter 332.

Staff has received a Notice of Contract Termination from MV Transit, effectively terminating the existing operations contract effective August 30, 2020.

Applicable Statute, Code, Policy, Rule or Regulation

NRS Chapter 332

Financial Information

Is there a fiscal impact? Yes No

If yes, Fund Name, Account Name / Account Number: Transit fund, Operating Contract account; 2253026-500331.

Is it currently budgeted? Yes No

The Fiscal Year 2021 Operating Contract expense budget is \$839,397. If approved, the expense (Transit fund, Operating Contract account / 2253026-500331) and revenue (Transit fund, Federal Grants account / 2253081-431010) accounts will be augmented by adding \$283,339 to each (from the CARES Act grant).

If approved, the above referenced account may be decreased by as much as \$3,510,393 over the period August 10, 2020 through August 31, 2023. Various federal grants are available to be utilized for this contract, including the CARES Act grant (reimbursable at up to 100%, approximately \$1,600,000 available for Operations), the Fiscal Year 2018 5307 Apportionment (G302618007, reimbursable at 50% with partial reimbursement at 80%), the Fiscal Year 2019 5307 Apportionment (Grant No. TBD, reimbursable at 50% with partial reimbursement at 80%), the Fiscal Year 2020 5307 apportionment (Grant No. TBD, reimbursable at 50% with partial reimbursement at 80%), and the Fiscal Year 2019 5310 apportionment (Grant No. TBD, reimbursable at 80%). Available General Fund transfer to the Transit Fund at the current Fiscal Year 2021 level (\$466,300 annually), anticipated farebox revenues (approx. \$50,000 annually), the State's Aging and Disability Services Division grant for Senior Bus Passes (\$97,000 annually), and the State's Division of Health Care Financing and Policy (DHCFP) grant for Medicaid-eligible ride reimbursement (approx. \$22,000 annually), are expected to adequately cover all local match requirements as part of the proposed three-year contract, as well as cover ongoing City expenses as required for continued program operations (fleet maintenance, vehicle replacement, bus stop maintenance, JAC overhead, facility expenses, etc.), for the duration of the contract term.

Alternatives

Do not approve the contract and provide alternate direction to staff.

Supporting Material

- Exhibit-1: Draft Contract No. 19300178
- Exhibit-2: Redlined Draft Contract No. 19300178
- Exhibit-3: Notice of Contract Termination, July 21, 2020
- Exhibit-4: Proposal Price Comparison

Board Action Taken:

Motion: _____ 1) _____ Aye/Nay
2) _____

(Vote Recorded By)

This page intentionally left blank.

INDEPENDENT CONTRACTOR AGREEMENT

Contract No. 19300178

Title: Jump Around Carson (JAC) Public Transportation Operating Service

THIS CONTRACT is made and entered into as of the date of the last authorized signature below, by and between Carson City, a consolidated municipality, a political subdivision of the State of Nevada, hereinafter referred to as “**CITY**”, and First Transit, hereinafter referred to as “**CONTRACTOR**”. CITY and CONTRACTOR may be individually referred to as “Party” and collectively referred to as “Parties.”

WITNESSETH:

WHEREAS, the Purchasing and Contracts Administrator for **CITY** is authorized pursuant to Nevada Revised Statutes (hereinafter referred to as “NRS”) 332 and Carson City Purchasing Resolution #1990-R71, to approve and accept this Contract as set forth in and by the following provisions; and

WHEREAS, CONTRACTOR’S compensation under this agreement (does X) (does not) utilize in whole or in part money derived from one or more federal grant funding source(s) as set forth in **Exhibit B**; and

WHEREAS, it is deemed necessary that the services of **CONTRACTOR** for **CONTRACT No. 19300178** (hereinafter referred to as “Contract”) are both necessary and in the best interest of **CITY**; and

NOW, THEREFORE, in consideration of the aforesaid premises, and the following terms, conditions and other valuable consideration, the parties mutually agree as follows:

1. REQUIRED APPROVAL:

This Contract shall not become effective until and unless approved by the Carson City Regional Transportation Commission and all required documents are received and signed by all parties.

2. SCOPE OF WORK (Incorporated Contract Documents):

2.1 **CONTRACTOR** shall provide and perform the following services set forth in **Exhibit A**, which shall all be attached hereto and incorporated herein by reference for and on behalf of **CITY** and hereinafter referred to as the “SERVICES”.

2.2 **CONTRACTOR** represents that it is duly licensed by **CITY** for the purposes of performing the SERVICES.

2.3 **CONTRACTOR** represents that it is duly qualified and licensed in the State of Nevada for the purposes of performing the SERVICES.

2.4 **CONTRACTOR** represents that it and/or the persons it may employ possess all skills and training necessary to perform the SERVICES described herein and required hereunder. **CONTRACTOR** shall perform the SERVICES faithfully, diligently, in a timely and professional manner, to the best of its ability, and in such a manner as is customarily performed by a person who is in the business of providing such services in similar circumstances. **CONTRACTOR** shall be responsible for the professional quality and technical accuracy of all SERVICES furnished by **CONTRACTOR** to **CITY**.

For P&C Use Only
CCBL expires _____
GL expires _____
AL expires _____
WC expires _____

INDEPENDENT CONTRACTOR AGREEMENT

Contract No. 19300178

Title: Jump Around Carson (JAC) Public Transportation Operating Service

2.5 **CONTRACTOR** represents that neither the execution of this Contract nor the rendering of services by **CONTRACTOR** hereunder will violate the provisions of or constitute a default under any other contract or agreement to which **CONTRACTOR** is a party or by which **CONTRACTOR** is bound, or which would preclude **CONTRACTOR** from performing the SERVICES required of **CONTRACTOR** hereunder, or which would impose any liability or obligation upon **CITY** for accepting such SERVICES.

2.6 Before commencing with the performance of any SERVICES under this Contract, **CONTRACTOR** shall obtain all necessary permits and licenses as may be necessary. Before and during the progress of work under this Contract, **CONTRACTOR** shall give all notice and comply with all the laws, ordinances, rules and regulations of every kind and nature now or hereafter in effect promulgated by any Federal, State, County, or other Governmental Authority, relating to the performance of work under this Contract. If **CONTRACTOR** performs any work that is contrary to any such law, ordinance, rule or regulation, it shall bear all the costs arising therefrom.

2.7 It is expressly understood and agreed that all SERVICES done by **CONTRACTOR** shall be subject to inspection and acceptance by **CITY** and approval of SERVICES shall not forfeit the right of **CITY** to require correction, and nothing contained herein shall relieve **CONTRACTOR** of the responsibility of the SERVICES required under the terms of this Contract until all SERVICES have been completed and accepted by **CITY**.

3. **CONTRACT TERM:**

3.1 The initial term of this Contract shall be effective from August 10, 2020, subject to Carson City Regional Transportation Commission approval (anticipated to be August 5, 2020) to August 31, 2023, unless sooner terminated by either party as specified in **Section 7** (CONTRACT TERMINATION).

3.2 This Contract may be extended for an additional three one-year terms. These options shall be exercised by mutual written agreement between the Parties and approved by the Carson City Regional Transportation Commission no fewer than 60 days prior to the end of the then-current term.

4. **NOTICE:**

4.1 Except any applicable bid and award process where notices may be limited to postings by **CITY** on its Bid Opportunities website (www.carson.org), all notices or other communications required or permitted to be given under this Contract shall be in writing and shall be deemed to have been duly given if delivered personally in hand, by e-mail, by regular mail, by telephonic facsimile with simultaneous regular mail, or by certified mail, return receipt requested, postage prepaid on the date posted, and addressed to the other party at the address specified below.

4.2 Notice to **CONTRACTOR** shall be addressed to:

Bradley Thomas, President
First Transit
600 Vine Street, Suite 1400
Cincinnati, OH 45202
PHONE: 513-241-2200
James.Coffman@firstgroup.com

INDEPENDENT CONTRACTOR AGREEMENT

Contract No. 19300178

Title: Jump Around Carson (JAC) Public Transportation Operating Service

4.3 Notice to **CITY** shall be addressed to:

Carson City Purchasing and Contracts Department
Carol Akers, Purchasing & Contracts Administrator
201 North Carson Street, Suite 2
Carson City, NV 89701
775-283-7362 / FAX 775-887-2286
CAkers@carson.org

5. **COMPENSATION:**

5.1 The parties agree that **CONTRACTOR** will provide the SERVICES specified in **Section 2** (SCOPE OF WORK) and **CITY** agrees to pay **CONTRACTOR** the Contract's compensation based upon the Scope of Work Fee Schedule for a not to exceed maximum amount of One Million One Hundred Twenty Two Thousand Seven Hundred Thirty Six Dollars and 00/100 (\$1,122,736) for year one, including transition activities (August 10, 2020 – August 31, 2021); One Million One Hundred Sixty Seven Thousand Eight Hundred Sixteen Dollars and 00/100 (\$1,167,816) for year two (September 1, 2021 – August 31, 2022); and One Million Two Hundred Nineteen Thousand Eight Hundred Forty One Dollars and 00/100 (\$1,219,841) for year three (September 1, 2022 – August 31, 2023) for a total contract amount of Three Million Five Hundred Ten Thousand Three Hundred Ninety Three Dollars and 00/100 (\$3,510,393), hereinafter referred to as the "Contract Sum".

5.2 Contract Sum represents full and adequate compensation for the completed SERVICES, and includes the furnishing of all materials; all labor, equipment, tools, and appliances; and all expenses, direct or indirect, connected with the proper execution of the SERVICES.

5.3 Compensation shall be provided for both Monthly Fixed Costs and Variable Costs stated as dollars per revenue service hour, as provided in Exhibit A. To ensure that the fixed cost reimbursement portion of the contract is fair and equitable, should First Transit have any of the following staff positions vacant for more than 45 days, the actual cost of that position's monthly salary will be reimbursed to the City on the next, subsequent invoice. The positions covered under the fixed cost reimbursement are Two (2) full time Dispatchers, One (1) Operations/Safety manager and One (1) General Manager. If the **CONTRACTOR** can show that they have made every reasonable effort to fill the vacancy or they have provided staffing coverage from other sources, the City may waive this penalty by giving prior, written approval.

5.4 **CITY** does not agree to reimburse **CONTRACTOR** for expenses unless otherwise specified.

6. **TIMELINESS OF BILLING SUBMISSION:**

6.1 The parties agree that timeliness of billing is of the essence to this Contract and recognize that **CITY** is on a fiscal year which is defined as the period beginning July 1 and ending June 30 of the following year. All billings for dates of service prior to July 1 must be submitted to **CITY** no later than the first Friday in August of the same year. A billing submitted after the first Friday in August will subject **CONTRACTOR** to an administrative fee not to exceed \$100.00. The parties hereby agree this is a reasonable estimate of the additional costs to **CITY** of processing the billing as a stale claim and that this amount will be deducted from the stale claim payment due to **CONTRACTOR**.

INDEPENDENT CONTRACTOR AGREEMENT

Contract No. 19300178

Title: Jump Around Carson (JAC) Public Transportation Operating Service

7. CONTRACT TERMINATION:

7.1 Termination Without Cause:

7.1.1 Any discretionary or vested right of renewal notwithstanding, either party may terminate this contract upon 45 days' prior written notice to the other party.

7.1.2 **CITY** reserves the right to terminate this Contract for convenience whenever it considers termination, in its sole and unfettered discretion, to be in the public interest. In the event that the Contract is terminated in this manner, payment will be made for SERVICES actually completed. If termination occurs under this provision, in no event shall **CONTRACTOR** be entitled to anticipated profits on items of SERVICES not performed as of the effective date of the termination or compensation for any other item, including but not limited to, unabsorbed overhead. **CONTRACTOR** shall require that all subcontracts which it enters related to this Contract likewise contain a termination for convenience clause which precludes the ability of any subcontractor to make claims against **CONTRACTOR** for damages due to breach of contract, lost profit on items of SERVICES not performed, or unabsorbed overhead, in the event of a convenience termination.

7.2 Termination for Nonappropriation:

7.2.1 All payments and SERVICES provided under this Contract are contingent upon the availability of the necessary public funding, which may include various internal and external sources. In the event that Carson City does not acquire and appropriate the funding necessary to perform in accordance with the terms of the Contract, the Contract shall automatically terminate upon **CITY'S** notice to **CONTRACTOR** of such nonappropriation, and no claim or cause of action may be based upon any such nonappropriation.

7.3 Cause Termination for Default or Breach:

7.3.1 A default or breach may be declared with or without termination.

7.3.2 This Contract may be terminated by either party upon written notice of default or breach to the other party as follows:

7.3.2.1 If **CONTRACTOR** fails to provide or satisfactorily perform any of the conditions, work, deliverables, goods, or any SERVICES called for by this Contract within the time requirements specified in this Contract or within any granted extension of those time requirements; or

7.3.2.2 If any state, county, city or federal license, authorization, waiver, permit, qualification or certification required by statute, ordinance, law, or regulation to be held by **CONTRACTOR** to provide the goods or SERVICES or any services required by this Contract is for any reason denied, revoked, debarred, excluded, terminated, suspended, lapsed, or not renewed; or

7.3.2.3 If **CONTRACTOR** becomes insolvent, subject to receivership, or becomes voluntarily or involuntarily subject to the jurisdiction of the bankruptcy court; or

7.3.2.4 If **CITY** materially breaches any material duty under this Contract and any such breach impairs **CONTRACTOR'S** ability to perform; or

7.3.2.5 If it is found by **CITY** that any quid pro quo or gratuities in the form of money,

INDEPENDENT CONTRACTOR AGREEMENT

Contract No. 19300178

Title: Jump Around Carson (JAC) Public Transportation Operating Service

services, entertainment, gifts, or otherwise were offered or given by **CONTRACTOR**, or any agent or representative of **CONTRACTOR**, to any officer or employee of **CITY** with a view toward securing a contract or securing favorable treatment with respect to awarding, extending, amending, or making any determination with respect to the performing of such contract; or

7.3.2.6 If it is found by **CITY** that **CONTRACTOR** has failed to disclose any material conflict of interest relative to the performance of this Contract.

7.4 Time to Correct (Declared Default or Breach):

7.4.1 Termination upon a declared default or breach may be exercised only after providing seven (7) calendar days written notice of default or breach, and the subsequent failure of the defaulting or breaching party, within five (5) calendar days of providing that default or breach notice, to provide evidence satisfactory to the aggrieved party demonstrating that the declared default or breach has been corrected. Time to correct shall run concurrently with any notice of default or breach and such time to correct is not subject to any stay with respect to the nonexistence of any Notice of Termination. Untimely correction shall not void the right to termination otherwise properly noticed unless waiver of the noticed default or breach is expressly provided in writing by the aggrieved party. There shall be no time to correct with respect to any notice of termination without cause or termination for nonappropriation.

7.4.2 The Parties shall negotiate in good faith in an attempt to resolve any dispute that may arise under this Agreement. Disputes that cannot be resolved by negotiation shall be submitted to mediation using a mutually agreed upon mediator. In the absence of an agreement on a mediator, each party shall select a temporary mediator and those mediators shall jointly select the permanent mediator. If mediation is not successful, the parties may pursue their remedies as they choose.

7.5 Winding Up Affairs Upon Termination:

7.5.1 In the event of termination of this Contract for any reason, the parties agree that the provisions of this **Subsection 7.5** survive termination:

7.5.1.1 The parties shall account for and properly present to each other all claims for fees and expenses and pay those which are undisputed and otherwise not subject to set off under this Contract. Neither party may withhold performance of winding up provisions solely based on nonpayment of fees or expenses accrued up to the time of termination; and

7.5.1.2 **CONTRACTOR** shall satisfactorily complete SERVICES in progress at the agreed rate (or a pro rata basis if necessary) if so requested by **CITY**; and

7.5.1.3 **CONTRACTOR** shall execute any documents and take any actions necessary to effectuate an assignment of this Contract if so requested by **CITY**; and

7.5.1.4 **CONTRACTOR** shall preserve, protect, and promptly deliver into **CITY** possession all proprietary information in accordance with "**Section 19**".

7.6 Notice of Termination:

7.6.1 Unless otherwise specified in this Contract, termination shall not be effective until seven (7) calendar days after a party has provided written notice of default or breach, or notice of

INDEPENDENT CONTRACTOR AGREEMENT

Contract No. 19300178

Title: Jump Around Carson (JAC) Public Transportation Operating Service

without cause termination. Notice of Termination may be given at the time of notice of default or breach, or notice of without cause termination. Notice of Termination may be provided separately at any time after the running of the 7-day notice period, and such termination shall be effective on the date the Notice of Termination is provided to the party unless a specific effective date is otherwise set forth therein. Any delay in providing a Notice of Termination after the 7-day notice period has run without a timely correction by the defaulting or breaching party shall not constitute any waiver of the right to terminate under the existing notice(s).

8. REMEDIES:

Except as otherwise provided for by law or this Contract, the rights and remedies of the parties shall not be exclusive and are in addition to any other rights and remedies provided by law or equity, including, without limitation, actual damages, and to a prevailing party reasonable attorney's fees and costs. The parties agree that, in the event a lawsuit is filed and a party is awarded attorney's fees by the court, for any reason, the amount of recoverable attorney's fees shall not exceed the rate of \$125 per hour. CITY may set off consideration against any unpaid obligation of CONTRACTOR to CITY.

9. LIMITED LIABILITY:

CITY will not waive and intends to assert available NRS Chapter 41 liability limitations in all cases. Contract liability of both parties shall not be subject to punitive damages. Liquidated damages shall not apply unless otherwise expressly provided for elsewhere in this Contract. Damages for any CITY breach shall never exceed the amount of funds appropriated for payment under this Contract, but not yet paid to CONTRACTOR, for the fiscal year budget in existence at the time of the breach. CONTRACTOR'S tort liability shall not be limited.

10. FORCE MAJEURE:

Neither party shall be deemed to be in violation of this Contract if it is prevented from performing any of its obligations hereunder due to strikes, picketing, labor disputes, labor shortages, failure of public transportation, civil or military authority, government action, act of public enemy, accidents, fires, explosions, civil disturbance, riots, war, terrorism, or acts of God, including, without limitation, earthquakes, floods, winds, storms, pandemics and/or epidemics. In the event CONTRACTOR is unable to provide the transportation services as specified in this Agreement due to aforementioned causes, County shall excuse CONTRACTOR from performance under this Agreement. The intervening cause must not be through the fault of the party asserting such an excuse, and the excused party is obligated to promptly perform in accordance with the terms of this Contract after the intervening cause ceases.

11. INDEMNIFICATION:

11.1 To the extent permitted by law, including, but not limited to, the provisions of NRS Chapter 41, each party shall indemnify, hold harmless and defend, not excluding the other's right to participate, the other party from and against all liability, claims, actions, damages, losses, and expenses, including but not limited to reasonable attorney's fees and costs, arising out of any alleged negligent or willful acts or omissions of the indemnifying party, its officers, employees and agents. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of the indemnity which would otherwise exist as to any party or person described in this Section.

11.2 Except as otherwise provided in Subsection 11.4 below, the indemnifying party shall not be obligated to provide a legal defense to the indemnified party, nor reimburse the indemnified party for the same, for any period occurring before the indemnified party provides written notice of the pending claim(s) or cause(s) of action to the indemnifying party, along with:

11.2.1 a written request for a legal defense for such pending claim(s) or cause(s) of action; and

11.2.2 a detailed explanation of the basis upon which the indemnified party believes that the

INDEPENDENT CONTRACTOR AGREEMENT

Contract No. 19300178

Title: Jump Around Carson (JAC) Public Transportation Operating Service

claim or cause of action asserted against the indemnified party implicates the culpable conduct of the indemnifying party, its officers, employees, and/or agents.

11.3 After the indemnifying party has begun to provide a legal defense for the indemnified party, the indemnifying party shall not be obligated to fund or reimburse any fees or costs provided by any additional counsel for the indemnified party, including counsel through which the indemnified party might voluntarily choose to participate in its defense of the same matter.

11.4 After the indemnifying party has begun to provide a legal defense for the indemnified party, the indemnifying party shall be obligated to reimburse the reasonable attorney's fees and costs incurred by the indemnified party during the initial thirty (30) day period of the claim or cause of action, if any, incurred by separate counsel.

12. **INDEPENDENT CONTRACTOR:**

12.1 **CONTRACTOR**, as an independent contractor, is a natural person, firm or corporation who agrees to perform SERVICES for a fixed price according to his or its own methods and without subjection to the supervision or control of the **CITY**, except as to the results of the SERVICES, and not as to the means by which the SERVICES are accomplished.

12.2 It is mutually agreed that **CONTRACTOR** is associated with **CITY** only for the purposes and to the extent specified in this Contract, and in respect to performance of the contracted SERVICES pursuant to this Contract. **CONTRACTOR** is and shall be an independent contractor and, subject only to the terms of this Contract, shall have the sole right to supervise, manage, operate, control, and direct performance of the details incident to its duties under this Contract.

12.3 Nothing contained in this Contract shall be deemed or construed to create a partnership or joint venture, to create relationships of an employer-employee or principal-agent, or to otherwise create any liability for **CITY** whatsoever with respect to the indebtedness, liabilities, and obligations of **CONTRACTOR** or any other party.

12.4 **CONTRACTOR**, in addition to **Section 11** (INDEMNIFICATION), shall indemnify and hold **CITY** harmless from, and defend **CITY** against, any and all losses, damages, claims, costs, penalties, liabilities, expenses arising out of or incurred in any way because of, but not limited to, **CONTRACTOR'S** obligations or legal duties regarding any taxes, fees, assessments, benefits, entitlements, notice of benefits, employee's eligibility to work, to any third party, subcontractor, employee, state, local or federal governmental entity.

12.5 Neither **CONTRACTOR** nor its employees, agents, or representatives shall be considered employees, agents, or representatives of **CITY**.

13. **INSURANCE REQUIREMENTS (GENERAL):**

13.1 **NOTICE: The following general insurance requirements shall apply unless these general requirements are altered by any specific requirements set forth in CITY'S solicitation for bid document, the adopted bid or other document incorporated into this Contract by the parties.**

13.2 **CONTRACTOR**, as an independent contractor and not an employee of **CITY**, must carry policies of insurance in amounts specified and pay all taxes and fees incident hereunto. **CITY** shall have no liability except as specifically provided in this Contract. **CITY** or **CITY'S** insurance shall insure the JAC vehicles while the JAC vehicles are being operated or maintenance by **CITY** employees.

13.3 **CONTRACTOR** shall not commence work before: (1) **CONTRACTOR** has provided the required evidence of insurance to **CITY** Purchasing and Contracts, and (2) **CITY** has approved the insurance policies provided by **CONTRACTOR**.

13.4 Prior approval of the insurance policies by **CITY** shall be a condition precedent to any payment of consideration under this Contract and **CITY'S** approval of any changes to insurance coverage during the course of performance shall constitute an ongoing condition subsequent this Contract. Any failure of **CITY**

INDEPENDENT CONTRACTOR AGREEMENT

Contract No. 19300178

Title: Jump Around Carson (JAC) Public Transportation Operating Service

to timely approve shall not constitute a waiver of the condition.

13.5 *Insurance Coverage (13.6 through 13.23):*

13.6 **CONTRACTOR** shall, at **CONTRACTOR'S** sole expense, procure, maintain and keep in force for the duration of this Contract the following insurance conforming to the minimum requirements specified below. Unless specifically specified herein or otherwise agreed to by **CITY**, the required insurance shall be in effect prior to the commencement of work by **CONTRACTOR** and shall continue in force as appropriate until the later of:

13.6.1 Final acceptance by **CITY** of the completion of this Contract; or

13.6.2 Such time as the insurance is no longer required by **CITY** under the terms of this Contract.

13.6.3 Any insurance or self-insurance available to **CITY** under its coverage(s) shall be in excess of and non-contributing with any insurance required from **CONTRACTOR**. **CONTRACTOR'S** insurance policies shall apply on a primary basis. Until such time as the insurance is no longer required by **CITY**, **CONTRACTOR** shall provide **CITY** with renewal or replacement evidence of insurance no less than thirty (30) calendar days before the expiration or replacement of the required insurance. If at any time during the period when insurance is required by this Contract, an insurer or surety shall fail to comply with the requirements of this Contract, as soon as **CONTRACTOR** has knowledge of any such failure, **CONTRACTOR** shall immediately notify **CITY** and immediately replace such insurance or bond with an insurer meeting the requirements.

13.7 *General Insurance Requirements (13.8 through 13.23):*

13.8 **Certificate Holder:** Each certificate shall list Carson City c/o Carson City Purchasing and Contracts, 201 N. Carson Street, Suite 2, Carson City, NV 89701 as a certificate holder.

13.9 **Additional Insured:** By endorsement to the general liability insurance policy evidenced by **CONTRACTOR**, The City and County of Carson City, Nevada, its officers, employees and immune contractors shall be named as additional insureds for all liability arising from this Contract.

13.10 **Waiver of Subrogation:** Each liability insurance policy, except for professional liability, shall provide for a waiver of subrogation in favor of City.

13.11 **Cross-Liability:** All required liability policies shall provide cross-liability coverage as would be achieved under the standard ISO separation of insureds clause.

13.12 **Deductibles and Self-Insured Retentions:** Insurance maintained by **CONTRACTOR** shall apply on a first dollar basis without application of a deductible or self-insured retention unless otherwise specifically agreed to by **CITY**. Such approval shall not relieve **CONTRACTOR** from the obligation to pay any deductible or self-insured retention. Any deductible or self-insured retention shall not exceed \$5,000.00 per occurrence, unless otherwise approved by **CITY**.

13.13 **Policy Cancellation:** Except for ten (10) calendar days' notice for non-payment of premium, premium, **CONTRACTOR** or its insurers must provide thirty (30) calendar days prior written notice to Carson City Purchasing and Contracts if any policy will be canceled, non-renewed or if required coverage and /or limits reduced or materially altered, and shall provide that notices required by this paragraph shall be sent by mail to Carson City Purchasing and Contracts, 201 N. Carson Street, Suite 2, Carson City, NV 89701. When available, each insurance policy shall be endorsed to provide thirty (30) days' notice of cancellation, except for ten (10) days' notice for non-payment of premium, to City.

13.14 **Approved Insurer:** Each insurance policy shall be issued by insurance companies authorized to do business in the State of Nevada or eligible surplus lines insurers under federal and Nevada law and having agents in Nevada upon whom service of process may be made, and currently rated by A.M. Best as "A-VII" or better.

INDEPENDENT CONTRACTOR AGREEMENT

Contract No. 19300178

Title: Jump Around Carson (JAC) Public Transportation Operating Service

13.15 **Evidence of Insurance:** Prior to commencement of work, **CONTRACTOR** must provide the following documents to Carson City Purchasing and Contracts, 201 North Carson Street, Suite 3, Carson City, NV 89701:

13.16 **Certificate of Insurance:** **CONTRACTOR** shall furnish City with a certificate(s) of insurance, executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements set forth herein. The Acord 25 Certificate of Insurance form or a form substantially similar must be submitted to Carson City Purchasing and Contracts to evidence the insurance policies and coverages required of **CONTRACTOR**.

13.17 **Additional Insured Endorsement:** An Additional Insured Endorsement (CG20 10 or C20 26), signed by an authorized insurance company representative, must be submitted to Carson City Purchasing and Contracts to evidence the endorsement of **CITY** as an additional insured per **Subsection 13.9** (Additional Insured).

13.18 **Schedule of Underlying Insurance Policies:** If Umbrella or Excess policy is evidenced to comply with minimum limits, a copy of the Underlying Schedule from the Umbrella or Excess insurance policy may be required.

13.19 **Review and Approval:** Documents specified above must be submitted for review and approval by **CITY** Purchasing and Contracts prior to the commencement of work by **CONTRACTOR**. Neither approval by **CITY** nor failure to disapprove the insurance furnished by **CONTRACTOR** shall relieve **CONTRACTOR** of **CONTRACTOR'S** full responsibility to provide the insurance required by this Contract. Compliance with the insurance requirements of this Contract shall not limit the liability of **CONTRACTOR** or its sub-contractors, employees or agents to **CITY** or others, and shall be in addition to and not in lieu of any other remedy available to **CITY** under this Contract or otherwise. **CITY** reserves the right to request and review a copy of any required insurance policy or endorsement to assure compliance with these requirements.

13.20 **COMMERCIAL GENERAL LIABILITY INSURANCE:**

CONTRACTOR shall maintain commercial general liability (CGL) and, if necessary, commercial umbrella insurance with a limit of not less than \$1,000,000 each occurrence.

13.20.1 *Minimum Limits required:*

13.20.2 Two Million Dollars (\$2,000,000.00) - General Aggregate.

13.20.3 Two Million Dollars (\$2,000,000.00) - Products & Completed Operations Aggregate.

13.20.4 One Million Dollars (\$1,000,000.00) - Each Occurrence.

13.20.5 CGL insurance shall be written on ISO occurrence form CG 00 01 04 13 (or a substitute form providing equivalent coverage) and shall cover liability arising from premises, operations, products-completed operations, personal and advertising injury, and liability assumed under an insured contract [(including the tort liability of another assumed in a business contract)].

13.20.6 Carson City, its officers, employees and immune contractors shall be included as an insured under the CGL, using ISO additional insured endorsement CG 20 10 or CG 20 26, or a substitute providing equivalent coverage, and under the commercial umbrella, if any.

13.20.7 This insurance shall apply as primary insurance with respect to any other insurance or self-insurance programs afforded to City There shall be no endorsement or modification of the CGL to make it excess over other available insurance; alternatively, if the CGL states that it is excess or pro rata, the policy shall be endorsed to be primary with respect to the additional insured.

INDEPENDENT CONTRACTOR AGREEMENT

Contract No. 19300178

Title: Jump Around Carson (JAC) Public Transportation Operating Service

- 13.20.8 There shall be no endorsement or modification of the CGL limiting the scope of coverage for liability assumed under a contract.
- 13.20.9 **CONTRACTOR** waives all rights against **CITY** and its agents, officers, directors and employees for recovery of damages to the extent these damages are covered by the commercial general liability or commercial umbrella liability insurance maintained pursuant to this Contract. Insurer shall endorse CGL policy as required to waive subrogation against **CITY** with respect to any loss paid under the policy.
- 13.21 **BUSINESS AUTOMOBILE LIABILITY INSURANCE:**
- 13.21.1 *Minimum Limit required:*
- 13.21.2 **CONTRACTOR** shall maintain automobile liability and, if necessary, commercial umbrella liability insurance with a limit of not less than \$1,000,000 each accident for bodily injury and property damage.
- 13.21.3 Such insurance shall cover liability arising out of owned, hired, and non-owned autos (as applicable). Coverage as required above shall be written on ISO form CA 00 01, CA 00 05, CA 00 25, or a substitute form providing equivalent liability coverage.
- 13.21.4 **CONTRACTOR** waives all rights against **CITY** and its agents, officers, directors and employees for recovery of damages to the extent these damages are covered by the automobile liability or other liability insurance obtained by **CONTRACTOR** pursuant this Contract.
- 13.22 **PROFESSIONAL LIABILITY INSURANCE**
- 13.22.1 *Minimum Limit required:*
- 13.22.2 **CONTRACTOR** shall maintain professional liability insurance applying to all activities performed under this Contract with limits not less than One Million Dollars (\$1,000,000.00) and Two Million Dollars (\$2,000,000) in the aggregate.
- 13.22.3 Retroactive date: Prior to commencement of the performance of this Contract.
- 13.22.4 **CONTRACTOR** will maintain professional liability insurance during the term of this Contract and for a period of three (3) years after termination of this Contract unless waived by the **CITY**. In the event of non-renewal or other lapse in coverage during the term of this Contract or the three (3) year period described above, **CONTRACTOR** shall purchase Extended Reporting Period coverage for claims arising out of **CONTRACTOR's** negligence acts, errors and omissions committed during the term of the Professional Liability Policy. The Extended Reporting Period shall continue through a minimum of three (3) years after termination date of this Contract.
- 13.22.5 A certified copy of this policy may be required.
- 13.23 **WORKERS' COMPENSATION AND EMPLOYER'S LIABILITY INSURANCE:**
- 13.23.1 **CONTRACTOR** shall provide workers' compensation insurance as required by NRS Chapters 616A through 616D inclusive and Employer's Liability insurance with a minimum limit not less than \$1,000,000 each accident for bodily injury by accident or \$1,000,000 each employee for bodily injury by disease.

INDEPENDENT CONTRACTOR AGREEMENT

Contract No. 19300178

Title: Jump Around Carson (JAC) Public Transportation Operating Service

13.23.2 **CONTRACTOR** may, in lieu of furnishing a certificate of an insurer, provide an affidavit indicating that **CONTRACTOR** is a sole proprietor; that **CONTRACTOR** will not use the services of any employees in the performance of this Contract; that **CONTRACTOR** has elected to not be included in the terms, conditions, and provisions of NRS Chapters 616A-616D, inclusive; and that **CONTRACTOR** is otherwise in compliance with the terms, conditions, and provisions of NRS Chapters 616A-616D, inclusive.

13.23.3 **CONTRACTOR** waives all rights against **CITY** and its agents, officers, directors, and employees for recovery of damages to the extent these damages are covered by the workers' compensation and employer's liability or commercial umbrella liability insurance obtained by Contractor pursuant to this Contract. Contractor shall obtain an endorsement equivalent to WC 00 03 13 to affect this waiver.

14. **BUSINESS LICENSE:**

14.1 **CONTRACTOR** shall not commence work before **CONTRACTOR** has provided a copy of his Carson City business license to Carson City Purchasing and Contracts.

14.2 The Carson City business license shall continue in force until the later of: (1) final acceptance by **CITY** of the completion of this Contract; or (2) such time as the Carson City business license is no longer required by **CITY** under the terms of this Contract.

15. **COMPLIANCE WITH LEGAL OBLIGATIONS:**

CONTRACTOR shall procure and maintain for the duration of this Contract any state, county, city, or federal license, authorization, waiver, permit, qualification or certification required by statute, ordinance, law, or regulation to be held by **CONTRACTOR** to provide the goods or SERVICES or any services of this Contract.

CONTRACTOR will be responsible to pay all government obligations, including, but not limited to, all taxes, assessments, fees, fines, judgments, premiums, permits, and licenses required or imposed by law or a court. Real property and personal property taxes are the responsibility of **CONTRACTOR** in accordance with NRS Chapter 361 generally and NRS 361.157 and 361.159, specifically regarding for profit activity. **CONTRACTOR** agrees to be responsible for payment of any such government obligations not paid by its subcontractors during performance of this Contract. **CITY** may set-off against consideration due any delinquent government obligation.

If the **CITY** was required by NRS 332.039(1) to advertise or request a proposal for this Agreement, by signing this Agreement, the **CONTRACTOR** provides a written certification that the **CONTRACTOR** is not currently engaged in, and during the Term shall not engage in, a Boycott of Israel. The term "Boycott of Israel" has the meaning ascribed to that term in Section 3 of Nevada Senate Bill 26 (2017). The **CONTRACTOR** shall be responsible for fines, penalties, and payment of any State of Nevada or federal funds that may arise (including those that the **CITY** pays, becomes liable to pay, or becomes liable to repay) as a direct result of the **CONTRACTOR's** non-compliance with this Section.

16. **WAIVER OF BREACH:**

Failure to declare a breach or the actual waiver of any particular breach of this Contract or its material or nonmaterial terms by either party shall not operate as a waiver by such party of any of its rights or remedies as to any other breach.

17. **SEVERABILITY:**

If any provision contained in this Contract is held to be unenforceable by a court of law or equity, this Contract shall be construed as if such provision did not exist and the nonenforceability of such provision shall not be held to render any other provision or provisions of this Contract unenforceable.

18. **ASSIGNMENT / DELEGATION:**

INDEPENDENT CONTRACTOR AGREEMENT

Contract No. 19300178

Title: Jump Around Carson (JAC) Public Transportation Operating Service

To the extent that any assignment of any right under this Contract changes the duty of either party, increases the burden or risk involved, impairs the chances of obtaining the performance of this Contract, attempts to operate as a novation, or includes a waiver or abrogation of any defense to payment by **CITY**, such offending portion of the assignment shall be void, and shall be a breach of this Contract. **CONTRACTOR** shall neither assign, transfer nor delegate any rights, obligations or duties under this Contract without the prior written approval of **CITY**; provided, however, that **CONTRACTOR** may assign or sublet its rights under this agreement to a parent, subsidiary, related or affiliated company. Further **CONTRACTOR** may, without approval, assign or otherwise transfer this Agreement in connection with a merger, acquisition, corporate reorganization public stock offering, or sale of all or substantially all of its assets with reasonable notice to the **CITY**. The parties do not intend to benefit any third party beneficiary regarding their respective performance under this Contract.

19. CITY OWNERSHIP OF PROPRIETARY INFORMATION:

Any files, reports, histories, studies, tests, manuals, instructions, photographs, negatives, blue prints, plans, maps, data, system designs, computer programs, computer codes, and computer records (which are intended to be consideration under this Contract), or any other documents or drawings, prepared or in the course of preparation by **CONTRACTOR** (or its subcontractors) in performance of its obligations under this Contract shall be the exclusive property of **CITY** and all such materials shall be delivered into **CITY** possession by **CONTRACTOR** upon completion, termination, or cancellation of this Contract. **CONTRACTOR** shall not use, willingly allow, or cause to have such materials used for any purpose other than performance of **CONTRACTOR'S** obligations under this Contract without the prior written consent of **CITY**. Notwithstanding the foregoing, **CITY** shall have no proprietary interest in any materials licensed for use by **CITY** that are subject to patent, trademark or copyright protection.

20. PUBLIC RECORDS:

Pursuant to NRS 239.010, information or documents received from **CONTRACTOR** may be open to public inspection and copying. **CITY** will have the duty to disclose unless a particular record is made confidential by law or a common law balancing of interests. **CONTRACTOR** may clearly label specific parts of an individual document as a "trade secret" or "confidential" in accordance with NRS 332.061, provided that **CONTRACTOR** thereby agrees to indemnify and defend **CITY** for honoring such a designation. The failure to so label any document that is released by **CITY** shall constitute a complete waiver of any and all claims for damages caused by any release of the records.

21. CONFIDENTIALITY:

CONTRACTOR shall keep confidential all information, in whatever form, produced, prepared, observed or received by **CONTRACTOR** to the extent that such information is confidential by law or otherwise required by this Contract.

22. FEDERAL FUNDING:

22.1 *In the event federal grant funds are used for payment of all or part of this Contract:*

22.1.1 **CONTRACTOR** certifies, by signing this Contract, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency. This certification is made pursuant to the regulations implementing Executive Order 12549, Debarment and Suspension, 28 C.F.R. pt. 67, § 67.510, as published as pt. VII of the May 26, 1988, Federal Register (pp. 19160-19211), and any relevant program-specific regulations. This provision shall be required of every subcontractor receiving any payment in whole or in part from federal funds.

22.1.2 **CONTRACTOR** and its subcontractors must be registered in the US Government System for Award Management (SAM) for verification on projects with federal funding.

INDEPENDENT CONTRACTOR AGREEMENT

Contract No. 19300178

Title: Jump Around Carson (JAC) Public Transportation Operating Service

22.1.3 **CONTRACTOR** and its subcontractors shall comply with all terms, conditions, and requirements of the Americans with Disabilities Act of 1990 (P.L. 101-136), 42 U.S.C. 12101, as amended, and regulations adopted thereunder contained in 28 C.F.R. 26.101-36.999, inclusive, and any relevant program-specific regulations.

22.1.4 **CONTRACTOR** and its subcontractors shall comply with the requirements of the Civil Rights Act of 1964, as amended, the Rehabilitation Act of 1973, P.L. 93-112, as amended, and any relevant program-specific regulations, and Executive Order 11478 (July 21, 2014) and shall not discriminate against any employee or offeror for employment because of race, national origin, creed, color, sex, sexual orientation, gender identity, religion, age, disability or handicap condition (including AIDS and AIDS-related conditions).

22.1.5 If and when applicable to the particular federal funding and the Scope of Work under this Contract, **CONTRACTOR** and its subcontractors shall comply with: American Iron and Steel (AIS) provisions of P.L. 113- 76, Consolidated Appropriations Act, 2014, Section 1605 – Buy American (100% Domestic Content of iron, steel and manufactured goods); Federal Highway Administration (FHWA) 23 U.S.C. § 313 – Buy America, 23 C.F.R. §635.410 (100% Domestic Content of steel, iron and manufactured products); Federal Transit Administration (FTA) 49 U.S.C. § 5323(j), 49 C.F.R. Part 661 – Buy America Requirements (See 60% Domestic Content for buses and other Rolling Stock).

23. LOBBYING:

23.1 The parties agree, whether expressly prohibited by federal law, or otherwise, that no funding associated with this Contract will be used for any purpose associated with or related to lobbying or influencing or attempting to lobby or influence for any purpose the following:

23.1.1 Any federal, state, county or local agency, legislature, commission, council or board;

23.1.2 Any federal, state, county or local legislator, commission member, council member, board member, or other elected official; or

23.1.3 Any officer or employee of any federal, state, county or local agency; legislature, commission, council or board.

24. OTHER TERMS:

24.1 Change in Laws, Specifications, or Other Conditions: In the event of changes in state or federal taxes, laws or specifications, increased insurance or surety premiums, or any other condition which causes any of **CONTRACTOR's** operating costs hereunder to increase at a rate in excess of any negotiated escalation (e.g., changes in the Affordable Care Act or the Minimum Wage Laws), the parties shall meet to determine a reasonable and just amount to cover such increases. After such amount is approved by the Regional Transportation Commission, the rates of **CONTRACTOR** compensation shall be adjusted to reflect such increases.

24.2 Trigger for Renegotiation: **CITY** and **CONTRACTOR** will consult on a regular basis concerning the service requirements under this Contract. In the event of increases or decreases in the number of passengers requiring transportation or in routes or schedules, the number of vehicles, revenue service hours will be adjusted accordingly. **CITY** may increase or decrease services to be provided by **CONTRACTOR** under this RFP ("Schedule Readjustments"). However, where Schedule Readjustments impact by 15% or more, the service levels or equipment levels required, the parties agree to renegotiate the contracted fixed costs and revisit the need to add/remove fixed support such as dispatchers and road supervisors. This ensures minimized risk for both the **CITY** and **CONTRACTOR** in the event that service levels change.

24.3 Minimum Number of CDL Drivers with Passenger and/or Airbrake Endorsement: **CONTRACTOR**

INDEPENDENT CONTRACTOR AGREEMENT

Contract No. 19300178

Title: Jump Around Carson (JAC) Public Transportation Operating Service

is required to provide a sufficient amount of CDL Drivers with Passenger and/or Airbrake endorsements to operate transportation services under this contract.

24.4 Installation of Chains or Other Traction Devices: **CONTRACTOR** will be responsible for the proper installation of chains or other traction devices, as needed, for the safe operation of vehicles and services under this Agreement.

24.5 Vehicle Washing: **CONTRACTOR** will meet or exceed the vehicle cleaning standards as outlined in Section 4.12 of RFP Advertised Proposal #19300178 *Public Transportation Operating Service*.

25. GENERAL WARRANTY:

CONTRACTOR warrants that it will perform all SERVICES required hereunder in accordance with the prevailing standard of care by exercising the skill and care normally required of individuals performing the same or similar SERVICES, under the same or similar circumstances, in the State of Nevada.

26. PROPER AUTHORITY:

The parties hereto represent and warrant that the person executing this Contract on behalf of each party has full power and authority to enter into this Contract. **CONTRACTOR** acknowledges that this Contract is effective only after approval by the Carson City Regional Transportation Commission and only for the period of time specified in this Contract. Any SERVICES performed by **CONTRACTOR** before this Contract is effective or after it ceases to be effective is performed at the sole risk of **CONTRACTOR**.

27. GOVERNING LAW / JURISDICTION:

This Contract and the rights and obligations of the parties hereto shall be governed by, and construed according to, the laws of the State of Nevada, without giving effect to any principle of conflict-of-law that would require the application of the law of any other jurisdiction. **CONTRACTOR** consents and agrees to the jurisdiction of the courts of the State of Nevada located in Carson City, Nevada for enforcement of this Contract.

28. ENTIRE CONTRACT AND MODIFICATION:

This Contract and its integrated attachment(s) constitute the entire Contract of the parties and such are intended as a complete and exclusive statement of the promises, representations, negotiations, discussions, and other Contracts that may have been made in connection with the subject matter hereof. Unless an integrated attachment to this Contract specifically displays a mutual intent to amend a particular part of this Contract, general conflicts in language between any such attachment and this Contract shall be construed consistent with the terms of this Contract. Unless otherwise expressly authorized by the terms of this Contract, no modification or amendment to this Contract shall be binding upon the parties unless the same is in writing and signed by the respective parties hereto and approved by the Carson City Regional Transportation Commission. Conflicts in language between this Contract and any other agreement between **CITY** and **CONTRACTOR** on this same matter shall be construed consistent with the terms of this Contract. The parties agree that each has had their respective counsel review this Contract which shall be construed as if it was jointly drafted.

INDEPENDENT CONTRACTOR AGREEMENT

Contract No. 19300178

Title: Jump Around Carson (JAC) Public Transportation Operating Service

28. ACKNOWLEDGMENT AND EXECUTION:

This Contract may be executed in counterparts. The parties hereto have caused this Contract to be signed and intend to be legally bound thereby as follows:

CITY

Executive Office
Attn: Carol Akers, Purchasing & Contracts Administrator
Purchasing and Contracts Department
201 North Carson Street, Suite 2
Carson City, Nevada 89701
Telephone: 775-283-7362
Fax: 775-887-2286
CAkers@carson.org

CITY'S LEGAL COUNSEL

Carson City District Attorney

I have reviewed this Contract and approve as to its legal form.

By: _____
Sheri Russell, Chief Financial Officer

By: _____
Deputy District Attorney

Dated _____

Dated _____

CONTRACTOR will not be given authorization to begin work until this Contract has been signed by Purchasing and Contracts

BY: Carol Akers
Purchasing & Contracts Administrator

Acct# 2253026 500309

By: _____

Dated _____

INDEPENDENT CONTRACTOR AGREEMENT

Contract No. 19300178

Title: Jump Around Carson (JAC) Public Transportation Operating Service

Undersigned deposes and says under penalty of perjury: That he/she is **CONTRACTOR** or authorized agent of **CONTRACTOR**; that he/she has read the foregoing Contract; and that he/she understands the terms, conditions and requirements thereof.

CONTRACTOR

BY: Bradley A. Thomas

TITLE: President

FIRM: First Transit, Inc.

CARSON CITY BUSINESS LICENSE #: _____

Address: 600 Vine Street, Suite 1400

City: Cincinnati **State:** OH **Zip Code:** 45202

Telephone: 513-241-2200/Fax 513-684-8852

E-mail Address: James.coffman@firstgroup.com

(Signature of Contractor)

DATED _____

STATE OF _____)

)ss

County of _____)

Signed and sworn (or affirmed before me on this _____ day of _____, 20____.

(Signature of Notary)

(Notary Stamp)

INDEPENDENT CONTRACTOR AGREEMENT

Contract No. 19300178

Title: Jump Around Carson (JAC) Public Transportation Operating Service

CONTRACT ACCEPTANCE AND EXECUTION:

The Regional Transportation Commission for Carson City, Nevada at their publicly noticed meeting of August 5, 2020 approved the acceptance of the attached Contract hereinbefore identified as **CONTRACT No. 19300178**. Further, the Regional Transportation Commission authorizes the Chairperson to set his hand to this document and record his signature for the execution of this Contract in accordance with the action taken.

CARSON CITY, NEVADA

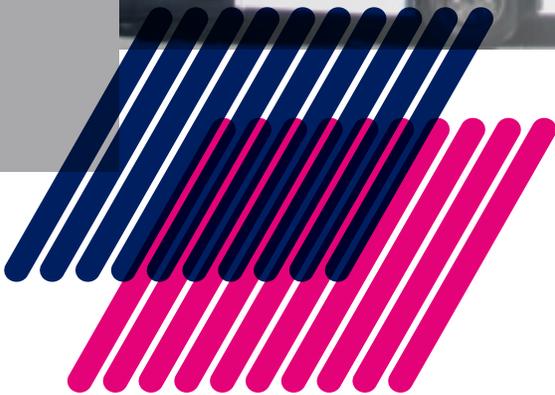
BRAD BONKOWSKI, CHAIRPERSON

DATED this 5th day of August 2020.

ATTEST:

AUBREY ROWLATT, CLERK-RECORDER

DATED this 5th day of August 2020.



CARSON CITY PURCHASING AND CONTRACTS

Public Transportation Operating Service

ADVERTISED PROPOSAL #19300178

June 2020





CARSON CITY PURCHASING AND CONTRACTS

**ADVERTISED PROPOSAL #19300178
BID TITLE "Public Transportation Operating Service"**

First Transit

**600 Vine Street, Suite 1400
Cincinnati, OH 45202**

Primary Contact: Jim Coffman, Manager of Business Development

Phone: Cell: 513-335-8069

Email: James.coffman@firstgroup.com



June 23, 2020

Ms. Akers,

As you may know, FirstGroup, First Transit's UK-based parent company, announced that it has engaged independent advisers to formally explore strategic options for First Transit, which could include a potential sale. This is because there are limited synergies between FirstGroup's UK and North American businesses. In fact, in many ways the operations already function independently.

If a sale of First Transit does occur, it will have no impact on First Transit's current or future contractual commitments. Upon execution of an operations contract with a customer, should First Transit be sold, the sale would not affect or hinder in any way First Transit in operating the Carson City transportation services.

Further, any buyer of First Transit would assume all obligations and rights under the contract. Additionally, any sale of First Transit will not affect the First Transit team operating your contract. This means First Transit would continue to provide service under the terms of your contract.

The process of exploring FirstGroup's strategic options is likely to take some time. Regardless of how long it may take, this news has no bearing on our day-to-day operations and our commitment to our customers. We'll continue to invest in our people, innovation and cutting-edge technologies. As we do, our communities and customers will be at the heart of everything we do.

Sincerely,

A handwritten signature in blue ink, appearing to read "Bradley A. Thomas".

Bradley A. Thomas
President
First Transit

**Attachment D -Variable and Fixed Costs
Proposal From**

Instructions: Complete a cost proposal, below, for each of the distinct services identified in the Scope of Service, for each year of the contract period. Three additional one-year options will be exercised at City's discretion, the price of which will be negotiated prior to contract renewal. Cost proposal shall be stated in dollars per revenue service hour.

Place this cost proposal page in a separate, sealed envelope. Proposals will be reviewed to determine if all requirements have been met. If not all requirements have been met, the separate cost proposals will not be opened.

Note: All proposals, including the unit rate of cost, become public information when the award is made. However, City will keep the supporting financial information of each proposal confidential.

Addendum Received:

	<u>X</u> #1	<u>X</u> #2	___ #3	___ #4
<u>Service</u>	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>	
JAC	<u>\$23.46</u>	<u>\$24.48</u>	<u>\$25.69</u>	
JAC Assist	<u>\$23.46</u>	<u>\$24.48</u>	<u>\$25.69</u>	
Monthly Fixed Cost	<u>\$42,440.57</u>	<u>\$43,975.66</u>	<u>\$45,675.89</u>	

Projected Maximum Billable Hours:
JAC Fixed Route Service – 16,275 revenue service hours
JAC Assist – 9,870 revenue service hours
Miscellaneous (to be charged at the rate of which the hours relate) – 500 revenue service hours

Proposer FIRST TRANSIT, INC.

Signature of Authorized Official  _____

Name and Title of Authorized Official Bradley A. Thomas, President, First Transit, Inc.

Date 07/02/2020

**Line Item Operating and Maintenance Budget
Fixed Route and Complementary ADA Paratransit**

	FY 2020/2021	FY 2021/2022	FY 2022/2023
FIXED OVERHEAD EXPENSES			
Management Wages	\$143,000	\$146,575	\$150,239
Management Benefits	\$36,914	\$38,395	\$39,942
Administrative Wages			
Administrative Benefits			
Office Expense & Supplies	\$4,911	\$5,034	\$5,164
General Liability Insurance	\$74,050	\$75,398	\$77,495
Workers Compensation	\$28,020	\$29,835	\$32,210
Fidelity Bond/Crime Insurance	\$0	\$0	\$0
Insurance Deductible Expense	\$0	\$0	\$0
Performance Bond	\$0	\$0	\$0
Communications	\$2,400	\$2,460	\$2,522
ADA Certification	\$0	\$0	\$0
Start-Up	\$24,065	\$24,065	\$24,065
Other Expenses (Specify)*	\$61,548	\$63,696	\$66,129
Other Expenses			
Profit	\$44,909	\$46,713	\$48,794
TOTAL FIXED EXPENSE	\$419,817	\$432,170	\$446,560
HOURLY EXPENSES			
Driver/Fueler Wages	\$499,122	\$533,665	\$560,228
Driver/Fueler Benefits	\$60,153	\$62,460	\$65,558
Sched/Disp Wages	\$81,510	\$86,944	\$92,378
Sched/Disp Benefits	\$21,432	\$22,608	\$23,811
Mechanic/Helper Wages			
Mechanic/Helper Benefits			
Uniforms	\$2,500	\$5,638	\$5,800
Hiring/Training/Safety	\$38,201	\$24,332	\$25,506
Other Expenses (Specify)			
TOTAL HOURLY EXPENSE	\$702,919	\$735,647	\$773,282
Hiring/Training Expenses			
Maintenance Supplies			
Maintenance Parts			
Other Expenses (Bus Washing)			
TOTAL MILEAGE EXPENSE			
TOTAL OPERATING EXPENSE	\$702,919	\$735,647	\$773,282
Expense/Revenue Vehicle Hour	\$0	\$0	\$0
GRAND TOTAL	\$1,122,736	\$1,167,816	\$1,219,841

Itemized Budget Detail
Fixed Route and ADA Paratransit

	FY 2020/2021	FY 2021/2022	FY 2022/2023
MANAGEMENT WAGES			
General Manager	\$77,000	\$78,925	\$80,898
Operations Manager	\$66,000	\$67,650	\$69,341
TOTAL	\$143,000	\$146,575	\$150,239
MANAGEMENT BENEFITS			
Vacation Holiday PTO			
Medical/Dental Insurance	\$22,422	\$23,543	\$24,720
Life Insurance 401 (k)	\$3,273	\$3,356	\$3,441
Payroll Taxes	\$11,219	\$11,496	\$11,780
Workers' Compensation	\$872	\$921	\$972
TOTAL	\$37,786	\$39,316	\$40,914
ADMINISTRATIVE WAGES			
Road Supervisor			
Accounting Manager			
Vault Clerk			
BTW Trainer			
Farebox Clerk			
TOTAL			
ADMINISTRATIVE BENEFITS			
Vacation			
Holiday			
PTO			
Medical/Dental Insurance			
Life Insurance			
401 (k)			
Payroll Taxes			
Workers' Compensation			
TOTAL			
OFFICE EXPENSES & SUPPLIES			
Copier Toner & Paper	\$3,000	\$3,075	\$3,152
Postage	\$300	\$308	\$315
Office Furniture	\$0	\$0	\$0
Misc. Office Supplies	\$1,200	\$1,230	\$1,265
TOTAL	\$4,500	\$4,613	\$4,732
INSURANCE			
General Liability	\$741	\$754	\$775
Automobile Liability	\$73,310	\$74,644	\$76,720
Fidelity Bond/Crime Insurance			
Property Insurance			
Crime Insurance			
TOTAL	\$74,050	\$75,398	\$77,495

	FY 2020/2021	FY 2021/2022	FY 2022/2023
OTHER INSURANCE EXPENSES			
Deductibles			
Claim Payments			
Accident Investigations			
Misc. Expenses			
Performance Bonds			
TOTAL			
DRIVER WAGES			
Revenue Service	\$473,014	\$505,430	\$530,423
New Hire Training	\$26,855	\$16,015	\$14,583
Retraining & Safety Meetings	\$3,921	\$4,137	\$4,351
TOTAL	\$503,789	\$525,582	\$549,357
DRIVER BENEFITS			
Vacation	\$17,545	\$17,541	\$18,033
Holiday	\$8,563	\$10,693	\$11,772
PTO	\$0	\$0	\$0
Medical/Dental Insurance	\$15,164	\$15,922	\$16,798
Life Insurance	\$2,417	\$2,576	\$2,742
401 (k)	\$1,088	\$1,143	\$1,197
Payroll Taxes	\$41,484	\$42,819	\$44,821
Workers' Compensation	\$26,650	\$28,368	\$30,640
TOTAL	\$112,912	\$119,063	\$126,002
SCHED/DISP WAGES			
Lead Dispatcher	\$32,604	\$34,778	\$36,951
Dispatchers	\$48,906	\$52,166	\$55,427
TOTAL	\$81,510	\$86,944	\$92,378
SCHED/DISP BENEFITS			
Vacation			
Holiday			
PTO			
Medical/Dental Insurance	\$14,745	\$15,482	\$16,256
Life Insurance	\$30	\$33	\$36
401 (k)	\$351	\$374	\$398
Payroll Taxes	\$6,306	\$6,718	\$7,121
Workers' Compensation	\$497	\$546	\$598
TOTAL	\$21,930	\$23,154	\$24,409
COMMUNICATIONS			
Cell Phone	\$2,400	\$2,460	\$2,522
Misc.			
TOTAL	\$2,400	\$2,460	\$2,522
PROFIT	\$44,909	\$46,713	\$48,794
UNIFORMS	\$2,500	\$5,638	\$5,800

	FY 2020/2021	FY 2021/2022	FY 2022/2023
HIRING/TRAINING SAFETY			
Recruiting	\$1,200	\$1,230	\$1,261
Background Checks	\$1,360	\$871	\$714
Pull Notice Program	\$0	\$0	\$0
Safety & Training Program	\$2,990	\$789	\$3,452
Drug & Alcohol Program	\$836	\$623	\$599
Physicals TOTAL	\$1,040	\$666	\$546
TOTAL	\$7,426	\$4,180	\$6,572
START-UP EXPENSES	\$24,065	\$24,065	\$24,065
OTHER			
Business License			
Vehicle Cleaning Supplies	\$0	\$0	\$0
Equipment Depreciation	\$2,868	\$2,868	\$2,868
Misc.	\$59,091	\$61,249	\$63,693
TOTAL	\$61,959	\$64,117	\$66,561
GRAND TOTAL	\$1,122,736	\$1,167,816	\$1,219,841

	FY 2020/2021	FY 2021/2022	FY 2022/2023
Other Expenses (Specify)*	\$61,548	\$63,696	\$66,129
Detail :			
Depreciation	\$2,868	\$2,868	\$2,868
Payroll Processing	\$2,449	\$2,510	\$2,573
Strata Environmental Fee	\$665	\$682	\$699
Software	\$10,656	\$10,922	\$11,195
Managment Oversight	\$44,909	\$46,713	\$48,794

**Staffing Levels & Wages/Salaries (Full-Time)
Fixed Route and ADA Paratransit**

CONTRACTOR definition of **full-time employee**: _____

Employees whose regular scheduled bid is at least thirty-five (35) hours in a workweek shall be classified as Regular Full-time Full-time Employees

Job Classifications	FY 2020/21		FY 2021/22		FY 2022/23	
	No.	Scale	No.	Scale	No.	Scale
Drivers	5	\$14.00	3	\$15.00	2	\$16.00
Drivers	0	\$14.50	2	\$15.50	2	\$16.50
Drivers	0	\$14.77	0	\$15.77	2	\$16.77
Drivers	0	\$15.02	0	\$16.02	0	\$17.02
Drivers	1	\$15.28	0	\$16.28	0	\$17.28
Drivers	0	\$15.53	1	\$16.53	0	\$17.53
Drivers	1	\$15.79	0	\$16.79	1	\$17.79
Drivers	0	\$16.04	1	\$17.04	0	\$18.04
Drivers	0	\$16.30	0	\$17.30	1	\$18.30
Drivers	4	\$16.56	4	\$17.56	3	\$18.56
Dispatchers	2	\$ 15.00	2	\$ 16.00	2	\$ 17.00
Office/Clerical Staff	2	\$ 34.38	2	\$ 35.23	2	\$ 36.12
Trainers						
Mechanics/Helpers						

Please list all benefits a full-time employee will be eligible to receive based on the terms of your price proposal. Include the time frame at which an employee is eligible to receive such benefits. Health Insurance, Dental, Vision, 401k, Holiday Pay, Vacation based on years of service.

	FY 2020/21	FY 2021/22	FY 2022/23
No. FTE/full-time employees:	15.0	15.0	15.0

Definitions: **Full-time** Equivalent (FTE) is calculated by dividing the total number of person hours by 2,080. Wage "Scale" should either be the hourly wage or monthly salary. In the case of drivers, please indicate the number of drivers at differing hourly wage rates.

**Staffing Levels & Wages/Salaries (Part-Time)
Fixed Route and ADA Paratransit**

CONTRACTOR definition of **part-time** employee:

Employees whose regular scheduled bid is less than thirty-five (35) hours in a workweek shall be classified as Regular Part-time
Part-Time Employees

Job Classifications	FY 2020/21		FY 2021/22		1	
	No.	Scale	No.	Scale	No.	Scale
Drivers	2	\$ 14.00	2	\$ 14.35	2	\$ 14.71
Drivers	1	\$ 14.50	1	\$ 14.86	0	\$ 15.23
Drivers	0	\$ 14.77	1	\$ 15.14	1	\$ 15.52
Drivers	3	\$ 15.02	0	\$ 15.40	1	\$ 15.78
Drivers	0	\$ 15.28	2	\$ 15.66	0	\$ 16.05
Drivers	0	\$ 15.53	0	\$ 15.92	2	\$ 16.32
Drivers	0	\$ 15.79	0	\$ 16.18	0	\$ 16.59
Drivers	0	\$ 16.04	0	\$ 16.44	0	\$ 16.85
Drivers	0	\$ 16.30	0	\$ 16.71	0	\$ 17.13
Drivers	2	\$ 16.56	2	\$ 16.97	2	\$ 17.40
Dispatchers	1	\$ 15.00	1	\$ 16.00	1	\$ 17.00
Office/Clerical Staff						
Trainers						
Mechanics/Helpers						

Please list all benefits a **part-time** employee will be eligible to receive based on the terms of your price proposal. Include the time frame at which an employee is eligible to receive such benefits. Health Insurance, Dental, Vision, 401k, Holiday Pay, Vacation based on years of service.

	FY 2020/21	FY 2021/22	FY 2022/23
No. FTE/part-time employees:	9.0	9.0	9.0

Definitions: Wage "Scale" should either be the hourly wage or monthly salary. In the case of drivers, please indicate the number of drivers at differing hourly wage rates.

Attachment F Required Federal Clauses

By submitting a proposal, the Proposer agrees to comply with the following Federal certifications and clauses for third-party contracts.

NOTE: *The Lobbying certification must be signed by an Authorized Official of the Proposer and returned with the proposal.*

NO GOVERNMENT OBLIGATION TO THIRD PARTIES

(1) The Purchaser 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 contract and shall not be subject to any obligations or liabilities to the Purchaser, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

(2) The 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.

PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS

(1) The 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, the 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 contract work is being performed. In addition to other penalties that may be applicable, the 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 the Contractor to the extent the Federal Government deems appropriate.

(2) The 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 the Contractor, to the extent the Federal Government deems appropriate.

(3) The 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.

ACCESS TO RECORDS AND REPORTS

The following access to records requirements apply to this Contract:

1. Where the Purchaser is not a State but a local government and is the FTA City or a subgrantee of the FTA City in accordance with 49 C. F. R. 18.36(i), the 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 the Contractor which are directly pertinent to this contract 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.
2. Where the Purchaser is a State and is the FTA City or a subgrantee of the FTA City 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 the 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.
3. 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 City or a subgrantee of the FTA City 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 the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.
4. Where any Purchaser which is the FTA City or a subgrantee of the FTA City 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, the 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.
5. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
6. The Contractor agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than three years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, 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 18.39(i)(11).

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

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 referenced in the Master Agreement between Purchaser and FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

TERMINATION

a. Termination for Convenience (General Provision) City may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in the Government's best interest. The Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The Contractor shall promptly submit its termination claim to City to be paid the Contractor. If the Contractor has any property in its possession belonging to City, the Contractor will account for the same, and dispose of it in the manner City directs.

b. Termination for Default [Breach or Cause] (General Provision) If the Contractor does not deliver supplies in accordance with the contract delivery schedule, or, if the contract is for services, the Contractor fails to perform in the manner called for in the contract, or if the Contractor fails to comply with any other provisions of the contract, City may terminate this contract for default. Termination shall be effected by serving a notice of termination on the contractor setting forth the manner in which the Contractor is in default. The contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract.

If it is later determined by City that the Contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of the Contractor, City, after setting up a new delivery of performance schedule, may allow the Contractor to continue work, or treat the termination as a termination for convenience.

c. Opportunity to Cure (General Provision) City in its sole discretion may, in the case of a termination for breach or default, allow the Contractor an appropriate number of days in which to cure the defect. In such case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions.

If Contractor fails to remedy to City's satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within the time period specified after receipt by Contractor of written notice from City setting forth the nature of said breach or default, City shall have the right to terminate the Contract without any further obligation to Contractor. Any such termination for default shall not in any way operate to preclude City from also pursuing all available remedies against Contractor and its sureties for said breach or default.

d. Waiver of Remedies for any Breach In the event that City elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this Contract, such waiver by City shall not limit City's remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.

e. Termination for Convenience (Professional or Transit Service Contracts) City, by written notice, may terminate this contract, in whole or in part, when it is in the Government's interest. If this contract is terminated, City shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.

f. Termination for Default (Supplies and Service) If the Contractor fails to deliver supplies or to perform the services within the time specified in this contract or any extension or if the Contractor fails to comply with any other provisions of this contract, City may terminate this contract for default. City shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. The Contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner or performance set forth in this contract.

If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of City.

g. Termination for Default (Transportation Services) If the Contractor fails to pick up the commodities or to perform the services, including delivery services, within the time specified in this contract or any extension or if the Contractor fails to comply with any other provisions of this contract, City may terminate this contract for default. City shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of default. The Contractor will only be paid the contract price for services performed in accordance with the manner of performance set forth in this contract.

If this contract is terminated while the Contractor has possession of City goods, the Contractor shall, upon direction of City, protect and preserve the goods until surrendered to City or its agent. The Contractor and City shall agree on payment for the preservation and protection of goods. Failure to agree on an amount will be resolved under the Dispute clause.

If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of City.

CIVIL RIGHTS REQUIREMENTS

The following requirements apply to the underlying contract:

(1) **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, the contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as CAMPO and/or RTC deems appropriate. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

(2) Equal Employment Opportunity - The following equal employment opportunity requirements apply to the underlying contract:

(a) 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, the 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. The 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, the Contractor agrees to comply with any implementing requirements FTA may issue.

(b) 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, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(c) Disabilities - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the 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, the Contractor agrees to comply with any implementing requirements FTA may issue.

(3) The 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.

ADA ACCESS REQUIREMENTS

The Consultant shall comply with 49 USC 5301(d), stating Federal policy that the elderly and persons with disabilities have the same rights as other persons to use mass transportation services and facilities and that special efforts shall be made in planning and designing those services and facilities to implement that policy. Consultant shall also comply with all applicable requirements of Sec. 504 of the Rehabilitation Act (1973), as amended, 29 USC 794, which prohibits discrimination on the basis of handicaps, and the Americans with Disabilities Act of 1990 (ADA), as amended, 42 USC 12101 et seq., which requires that accessible facilities and services be made available to persons with disabilities, including any subsequent amendments thereto.

DISADVANTAGED BUSINESS ENTERPRISE (DBE)

- a. This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, *Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs*. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. The agency's overall goal for DBE participation is 0%. A separate contract goal has not been established for this procurement.
- b. The contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this DOT-assisted contract. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as City deems appropriate. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).
- c. The successful bidder/Proposer will be required to report its DBE participation obtained through race-neutral means throughout the period of performance.
- d. The prime contractor must pay subcontractors for satisfactory performance of their contracts no later than 30 days from the receipt of payment made to the prime by CAMPO and/or RTC. Prompt return of retainage payments from the prime contractor to the subcontractor will be made within 30 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment among the parties may take place only for good cause and with CAMPO and/or RTC's prior written approval. If the prime contractor determines the work of the subcontractor to be unsatisfactory, it must notify CAMPO and/or RTC's project manager and DBE Liaison Officer immediately in writing and state the reasons. The contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of City. Failure by the prime contractor to comply with this requirement will be construed to be a breach of contract and may be subject to sanctions as specified in the contract or any other options listed in 49 CFR Part 26, §26.29.

INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS

The preceding provisions include, in part, certain Standard Terms and Conditions required by 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 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. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any City requests which would cause City to be in violation of the FTA terms and conditions.

GOVERNMENT-WIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)

This contract is a covered transaction for purposes of 49 CFR Part 29. As such, the contractor is required to verify that neither the contractor, its principals, as defined at 49 CFR 29.995, nor affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

The contractor is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into.

By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by City. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to City, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

BREACHES AND DISPUTE RESOLUTION

Disputes - Disputes arising in the performance of this Contract which are not resolved by agreement of the parties shall be decided in writing by the authorized representative of City (Transportation Manager). This decision shall be final and conclusive unless within ten (10) days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the Transportation Manager. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the Transportation Manager shall be binding upon the Contractor and the Contractor shall abide by the decision.

Performance During Dispute - Unless otherwise directed by City, Contractor shall continue performance under this Contract while matters in dispute are being resolved.

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

Remedies - Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between City and the Contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State in which City is located.

Rights and Remedies - The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by City or Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any

breach thereunder, except as may be specifically agreed in writing.

CLEAN AIR REQUIREMENTS

(1) The 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. The 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.

(2) The 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.

CLEAN WATER REQUIREMENTS

(1) The 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. The 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.

(2) The 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.

TRANSIT EMPLOYEE PROTECTIVE AGREEMENTS

(1) The Contractor agrees to comply with applicable transit employee protective requirements as follows:

(a) General Transit Employee Protective Requirements - To the extent that FTA determines that transit operations are involved, the 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 contract 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 City's project from which Federal assistance is provided to support work on the underlying contract. The Contractor agrees to carry out that work in compliance with the conditions stated in that U.S. DOL letter.

(2) Transit Employee Protective Requirements for Projects Authorized by 49 USC 5310(a)(2) for Elderly Individuals & Individuals with Disabilities - If the contract involves transit operations financed in whole or in part with FTA assistance authorized by 49 USC 5310(a)(2), and if USDOT has determined or determines in the future that the employee protective requirements of 49 USC 5333(b) are necessary or appropriate for the state and the public body subrecipient for which work is performed on the underlying contract, contractor shall carry out the Project in compliance with the terms and conditions determined by USDOL to meet the requirements of 49 USC 5333(b), USDOL guidelines at 29 CFR 215, and any amendments thereto. These terms and conditions are identified in USDOL's letter of certification to FTA, the date of which is set forth in the Grant

Agreement or Cooperative Agreement with the state. Contractor shall perform transit operations in connection with the underlying contract in compliance with the conditions stated in that USDOL letter.

(3) The Contractor also agrees to include any applicable requirements in each subcontract involving transit operations financed in whole or in part with Federal assistance provided by FTA.

CHARTER BUS REQUIREMENTS

The 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.

SCHOOL BUS REQUIREMENTS

Pursuant to 49 U.S.C. 5323(f) and 49 CFR Part 605, recipients 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.

DRUG AND ALCOHOL TESTING

The contractor agrees to establish and implement a drug and alcohol testing program that complies with 49 CFR Part 655, produce any documentation necessary to establish its compliance with Part 655, and permit any authorized representative of the United States Department of Transportation or its operating administrations, the State Oversight Agency of City, or City, to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 CFR Part 655 and review the testing process. The contractor agrees further to certify annually its compliance with Part 655 before January 1 and to submit the Management Information System (MIS) reports before March 1 to the Nevada Department of Transportation. To certify compliance the 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.

ENERGY CONSERVATION REQUIREMENTS

The 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.

CONTRACT WORK HOURS & SAFETY STANDARDS ACT (CONTRACTS OVER \$100K)

(1) 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 40 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 40 hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages - In the event of any violation of the clause set forth in para. (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 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 para. (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 para. (1) of this section.

(3) Withholding for unpaid wages and liquidated damages - the recipient shall upon its own action or upon written request of USDOL 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 & 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 para. (2) of this section.

(4) 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. Prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this section.

PRIVACY ACT REQUIREMENTS

(1) Applicability to Contracts: When CAMPO and/or RTC maintains files on drug and alcohol enforcement activities for FTA, and those files are organized so that information could be retrieved by personal identifier, the Privacy Act requirements apply to all contracts.

(2) Flow down Requirements: The Federal Privacy Act requirements flow down to each third party consultant and their contracts at every tier.

(3) Contracts Involving Federal Privacy Act Requirements: The following requirements apply to the Consultant and its employees that administer any system of records on behalf of the Federal Government under any contract:

(a) The Consultant 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, the Consultant agrees to obtain the express consent of the Federal Government before the Consultant or its employees operate a system of records on behalf of the Federal Government. The Consultant 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.

LOBBYING

Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR Part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to City.

APPENDIX A, 49 CFR PART 20--CERTIFICATION REGARDING LOBBYING**Certification for Contracts, Grants, Loans, and Cooperative Agreements**

(To be submitted with each bid or offer exceeding \$100,000)

The undersigned [Contractor] certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form--LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, *et seq.*)]

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

[Note: Pursuant to 31 U.S.C. § 1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure or failure.]

The Contractor, First Transit, Inc., certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. A 3801, *et seq.*, apply to this certification and disclosure, if any.

 Signature of Contractor's Authorized Official

Bradley A. Thomas,
President, First Transit, Inc. Name and Title of Contractor's Authorized Official

05/29/2020 Date

CARSON CITY DISCLOSURE OF INTERESTS

Carson City requires all persons or firms seeking to do Business with the City to provide the following information. Every question must be answered. If the question is not applicable, answer with "NA." Corporations whose shares are publicly traded and listed on national or regional stock exchanges or over-the-counter markets may file a current Securities and Exchange Commission Form 10-K with the City in lieu of answering the questions below.

FIRM NAME: First Transit, Inc.

ADDRESS: 600 Vine Street, Suite 1400, Cincinnati, OH 45202

FIRM is: 1. Corporation 2. Partnership () 3. Sole Owner ()
 4. Association () 5. Other () _____

DISCLOSURE QUESTIONS

The following definitions of terms should be used in answering the questions set forth below:

- a. **"Board member."** A member of any Board, Committee, or Commission appointed by the City.
- b. **"Employee."** Any person employed by the City either on a full or part-time basis, but not as an independent contractor.
- c. **"Firm."** Any entity operated for economic gain, whether professional, industrial or commercial, and whether established to produce or deal with a product or service, including but not limited to, entities operated in the form of sole proprietorship, as self-employed person, partnership, corporation, joint stock company, joint venture, receivership or trust, and entities which for purposes of taxation are treated as non-profit organizations.
- d. **"Official."** The Mayor, members of the City Boards, Committees or Commissions, City Manager, Assistant City Managers, Department and Division Heads, and Municipal Court Judge of the City.
- e. **"Ownership interest."** Legal or equitable interest, whether actually or constructively held, in a firm, including when such interest is held through an agent, trust, estate or holding entity. "Constructively held" refers to holdings or control established through voting trusts, proxies, or special terms of venture of partnership agreements."

If additional space is necessary, please use the reverse side of this page or attach separate sheet.

1. State the names of each "employee" of the City having an "ownership interest constituting 10% or more of the voting stock or shares of the business entity or ownership of \$2,500 or more of the fair market value of the business entity or employed by the above named "firm."

Name	Title	Department
One hundred percent of the shares of First Transit are owned by FirstGroup America Holdings, Inc.		

2. State the name of each "official" of the City having an "ownership interest" constituting 10% or more of the ownership in the above named "firm", or employed by the above named "firm."

Name	Title	Department
One hundred percent of the shares of First Transit are owned by FirstGroup America Holdings, Inc.		

3. State the names of each “board member” of the City Boards, Committees or Commissions having an “ownership interest” constituting 10% or more of the ownership in the above named “firm”, or employed by the above named “firm.”

Name	Board, Commission, or Committee
One hundred percent of the shares of First Transit are owned by FirstGroup American Holdings, Inc.	

CARSON CITY STATEMENT OF NON-COLLUSION

The undersigned affirms that they are dully authorized to execute this contract, that this company, corporation, firm, partnership or individual has not prepared this proposal in collusion with any other proposer, and that the contents of this proposal as to prices, terms or conditions of said proposal have not been communicated by the undersigned nor by any employee or agent to any other person engaged in this type of business prior to the official opening of this proposal.

Date 05/29/2020

Company First Transit, Inc.

Address 600 Vine Street, Suite 1400, Cincinnati, OH 45202

Phone Primary Contact: Jim Coffman: 513.335.8069; Main Office: 513.241.2200

Fax Number 513.684.8852

Proposer
(Signature) 

Proposer
(Print Name) Bradley A. Thomas

Position
with Company President, First Transit, Inc.

Note: This form must be filled in and submitted with the sealed proposal.

CITY OF CARSON CITY, NEVADA – BID BOND

KNOW ALL MEN BY THESE PRESENTS: That we the undersigned First Transit, as "Principal," and Federal Insurance Company, as "Surety," are hereby held and firmly bound unto the City of Carson City, Nevada, as "Obligee," in the penal sum of Five Percent of Amount Bid dollars (\$5% of Amount Bid) for the payment of which, well and truly to be made, the Principal and Surety bind themselves, their heirs, executors, and administrators, successors and assigns, jointly and severally, by this instrument. The condition of the obligation of this bid bond is as follows:

WHEREAS, NRS 332.105 authorizes local governments to require bid bonds to insure execution and proper performance of the Contract and the Bonding Company has an "A" or better rating with Moody's or A.M. Best and T-Listed with the U.S. Treasury Department;

AND, WHEREAS, the Principal has submitted a proposal for RFP# **19300178**, for the Project Title: **Public Transportation Operating Services**.

NOW, THEREFORE,

- (a) If said Bid shall be rejected; or
- (b) If said Bid shall be accepted and the Principal shall execute and deliver the contract in the bid documents ("Contract") to Obligee in accordance with the terms of the bid documents, and give such bond or bonds as may be specified in the bid or contract documents with good and sufficient surety for the faithful performance of such Contract and for the prompt payment of labor and material furnished in the prosecution thereof; or
- (c) If the Principal shall pay to the Obligee the full amount of the bid bond as a penalty irrespective of the Obligee's actual damages in the event of the failure of the Principal to enter into such Contract and give such bond or bonds,

then, this obligation shall be null and void. Otherwise it shall remain in full force and effect, it being expressly understood and agreed that the liability of the Surety (but not of the Principal) for any and all claims hereunder shall, in no event, exceed the penal amount of the obligation as herein stated.

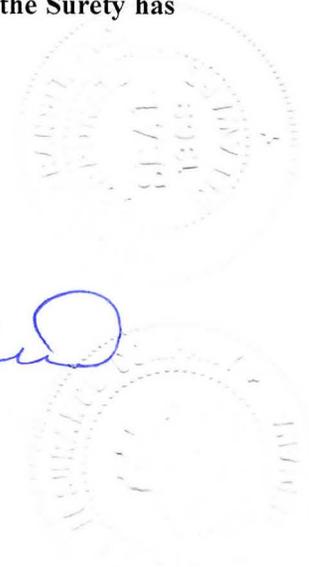
The Surety, for the consideration for which this bond was executed, hereby stipulates and agrees that the obligations of said Surety and its bond shall be in no way impaired or affected by any extension of the time within which the Obligee may accept such bid, and hereby waives notice of any such extension.

IN WITNESS WHEREOF, the Principal and the Surety have hereunto set their hands and the Surety has caused their seal to be hereto affixed and these present to be signed by their proper officers.

Signed, Sealed and dated: 05/11/2020

First Transit
Principal
By: Susan A. Welsh
Susan A. Welsh, Attorney-In-Fact

Federal Insurance Company
Surety
By: Sandra M. Winsted
Sandra M. Winsted, Attorney-In-Fact



Power of Attorney

Federal Insurance Company | Vigilant Insurance Company | Pacific Indemnity Company
Westchester Fire Insurance Company | ACE American Insurance Company

Know All by These Presents, that FEDERAL INSURANCE COMPANY, an Indiana corporation, VIGILANT INSURANCE COMPANY, a New York corporation, PACIFIC INDEMNITY COMPANY, a Wisconsin corporation, WESTCHESTER FIRE INSURANCE COMPANY and ACE AMERICAN INSURANCE COMPANY corporations of the Commonwealth of Pennsylvania, do each hereby constitute and appoint Samantha Chierici, Jessica B. Dempsey, Debra J. Doyle, Derek J. Elston, Kristin L. Hannigan, Jennifer L. Jakaitis, Andrew Marks, James B. McTaggart, Judith A. Lucky-Eftimov, Sandra M. Nowak, Diane M. O'Leary, Nicholas Pantazis, Christina L. Sandoval, Bartlomiej Siepierski, Christopher P. Troha, Aerie Walton, Susan A. Welsh and Sandra M. Winsted of Chicago, Illinois

each as their true and lawful Attorney-in-Fact to execute under such designation in their names and to affix their corporate seals to and deliver for and on their behalf as surety thereon or otherwise, bonds and undertakings and other writings obligatory in the nature thereof (other than bail bonds) given or executed in the course of business, and any instruments amending or altering the same, and consents to the modification or alteration of any instrument referred to in said bonds or obligations.

In Witness Whereof, said FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, PACIFIC INDEMNITY COMPANY, WESTCHESTER FIRE INSURANCE COMPANY and ACE AMERICAN INSURANCE COMPANY have each executed and attested these presents and affixed their corporate seals on this 16th day of January, 2020.

Dawn M. Chloros

Dawn M. Chloros, Assistant Secretary

Stephen M. Haney

Stephen M. Haney, Vice President



STATE OF NEW JERSEY
County of Hunterdon

ss.

On this 16th day of January, 2020 before me, a Notary Public of New Jersey, personally came Dawn M. Chloros and Stephen M. Haney, to me known to be Assistant Secretary and Vice President, respectively, of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, PACIFIC INDEMNITY COMPANY, WESTCHESTER FIRE INSURANCE COMPANY and ACE AMERICAN INSURANCE COMPANY, the companies which executed the foregoing Power of Attorney, and the said Dawn M. Chloros and Stephen M. Haney, being by me duly sworn, severally and each for herself and himself did depose and say that they are Assistant Secretary and Vice President, respectively, of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, PACIFIC INDEMNITY COMPANY, WESTCHESTER FIRE INSURANCE COMPANY and ACE AMERICAN INSURANCE COMPANY and know the corporate seals thereof, that the seals affixed to the foregoing Power of Attorney are such corporate seals and were thereto affixed by authority of said Companies; and that their signatures as such officers were duly affixed and subscribed by like authority.

Notarial Seal



KATHERINE J. ADELAAR
NOTARY PUBLIC OF NEW JERSEY
No. 2316685
Commission Expires July 16, 2024

[Signature]
Notary Public

CERTIFICATION

Resolutions adopted by the Boards of Directors of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, and PACIFIC INDEMNITY COMPANY on August 30, 2016; WESTCHESTER FIRE INSURANCE COMPANY on December 11, 2006; and ACE AMERICAN INSURANCE COMPANY on March 20, 2009:

"RESOLVED, that the following authorizations relate to the execution, for and on behalf of the Company, of bonds, undertakings, recognizances, contracts and other written commitments of the Company entered into in the ordinary course of business (each a "Written Commitment"):

- (1) Each of the Chairman, the President and the Vice Presidents of the Company is hereby authorized to execute any Written Commitment for and on behalf of the Company, under the seal of the Company or otherwise.
(2) Each duly appointed attorney-in-fact of the Company is hereby authorized to execute any Written Commitment for and on behalf of the Company, under the seal of the Company or otherwise, to the extent that such action is authorized by the grant of powers provided for in such person's written appointment as such attorney-in-fact.
(3) Each of the Chairman, the President and the Vice Presidents of the Company is hereby authorized, for and on behalf of the Company, to appoint in writing any person the attorney-in-fact of the Company with full power and authority to execute, for and on behalf of the Company, under the seal of the Company or otherwise, such Written Commitments of the Company as may be specified in such written appointment, which specification may be by general type or class of Written Commitments or by specification of one or more particular Written Commitments.
(4) Each of the Chairman, the President and the Vice Presidents of the Company is hereby authorized, for and on behalf of the Company, to delegate in writing to any other officer of the Company the authority to execute, for and on behalf of the Company, under the Company's seal or otherwise, such Written Commitments of the Company as are specified in such written delegation, which specification may be by general type or class of Written Commitments or by specification of one or more particular Written Commitments.
(5) The signature of any officer or other person executing any Written Commitment or appointment or delegation pursuant to this Resolution, and the seal of the Company, may be affixed by facsimile on such Written Commitment or written appointment or delegation.

FURTHER RESOLVED, that the foregoing Resolution shall not be deemed to be an exclusive statement of the powers and authority of officers, employees and other persons to act for and on behalf of the Company, and such Resolution shall not limit or otherwise affect the exercise of any such power or authority otherwise validly granted or vested."

I, Dawn M. Chloros, Assistant Secretary of FEDERAL INSURANCE COMPANY, VIGILANT INSURANCE COMPANY, PACIFIC INDEMNITY COMPANY, WESTCHESTER FIRE INSURANCE COMPANY and ACE AMERICAN INSURANCE COMPANY (the "Companies") do hereby certify that

- (i) the foregoing Resolutions adopted by the Board of Directors of the Companies are true, correct and in full force and effect,
(ii) the foregoing Power of Attorney is true, correct and in full force and effect.

Given under my hand and seals of said Companies at Whitehouse Station, NJ, this 5/11/20



Dawn M. Chloros

Dawn M. Chloros, Assistant Secretary

IN THE EVENT YOU WISH TO VERIFY THE AUTHENTICITY OF THIS BOND OR NOTIFY US OF ANY OTHER MATTER, PLEASE CONTACT US AT:
Telephone (908) 903-3493 Fax (908) 903-3656 e-mail: surety@chubb.com

Special Power of Attorney

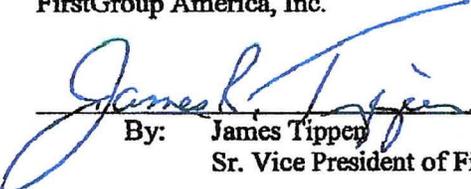
KNOW ALL MEN BY THESE PRESENTS that FirstGroup America, Inc. a (Delaware) corporation (collectively the "Company"), has made, constituted and appointed and by these presents does make, constitute and appoint *Susan A. Welsh, Sandra M. Winsted, Christina L. Sandoval, Kristin Hannigan, Judith A. Lucky-Estimov, Sandra M. Nowak, Debra J. Doyle, Diane M. O'Leary, Derek J. Elston, Bartlomiej Stepierski, Aerie Walton, Jennifer Williams, Salena Wood, Barbara Pannier, Michelle D. Krebs*, on Power, all of the City of Chicago, State of Illinois as its true and lawful attorneys in fact with full power to execute, seal and deliver on its behalf, or any of its direct or indirect subsidiaries, surety bonds and other documents of similar character issued in the course of its business and to bind the Company thereby as if such writings had been duly executed and acknowledged by its officers.

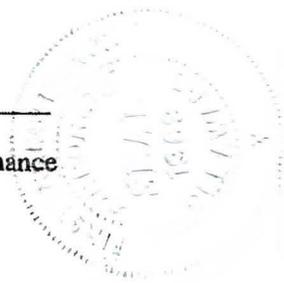
IN WITNESS WHEREOF, FirstGroup America, Inc. has caused its name to be subscribed by James Tippen, its SVP of Finance, and its corporate seal to be affixed and attested by its Secretary on this 3rd day of October, 2019.

Attest:

FirstGroup America, Inc.


By: Michael Petrucci
Secretary


By: James Tippen
Sr. Vice President of Finance



State of Ohio
County of Hamilton

On this October 3, 2019 personally appeared before me, a Notary Public for the State of Ohio James Tippen, Sr. Vice President of Finance of FirstGroup America, Inc. who acknowledged that the foregoing is his free and voluntary act and deed on behalf of said corporation.



Notary Public, State of Ohio
My Commission Expires: 3-12-24



GAYLA S. MAXWELL
Notary Public, State of Ohio
My Commission Expires 03-12-2024

ACKNOWLEDGMENT AND EXECUTION:

STATE OF Hamilton)
) SS
COUNTY OF Ohio)

I Bradley A. Thomas (Name of party signing this Proposal), do depose and say: That I am the Proposer or authorized agent of the Proposer; and that I have read and agree to abide by this Request For Proposal which includes the following documents: Notice to Proposers, Attachments, and Proposal Response.

PROPOSER:

PRINTED NAME OF PROPOSER: Bradley A. Thomas

TITLE: President, First Transit, Inc.

FIRM: First Transit, Inc.

Address: 600 Vine Street, Suite 1400

City, State, Zip: Cincinnati, Ohio 45202

Telephone: Primary Contact Jim Coffman: 513-335-8069; Main - 513-241-2200

E-mail Address: James.Coffman@firstgroup.com



(Signature of Proposer)

DATED: 05/29/2020

Signed and sworn (or affirmed) before me on this 29th day of May, 2020, by



(Signature of Notary)

(Notary Stamp)



Channelle Johnson
NOTARY PUBLIC
STATE OF OHIO
My Commission Expires
June 30, 2025

Office Use Only: Contract #: _____

****Disadvantaged Business Enterprise (DBE) Race Neutral Goal 2.00%****

To be filled out by contractor:

Title of Project: Carson City Public Transportation Operating Service Advertised Bid #: 19300178

Base Bid/Proposal Amount: \$ 3,510,394

 06/1/2020
Contractor's Signature Date

DBE Firm Name: JCM & Associates, Inc. (Blue Goose)

Confirmation of DBE Participation: _____
(signature can be obtained after bid award is determined)

% of Base Bid: .52% % Approximate Amount of DBE's Portion: \$ 18,188

Firm Address: 5443 E Washington Blvd, Commerce, CA 90040

DBE Certification # & Expiration: Cert. #: NV20043167NUCP / Exp: 7/30/2020

Contact Person: Richard Crady - VP Phone #: 800-543-3732

Scope of work: Provision of Employee Uniforms

Office Use Only

Site Monitor: _____ Site Monitor Initials: _____

Site Visit Date (s): _____

DBE Certification Verified: Yes or No

1. Does it appear the DBE firm is performing described scope the work?
Yes _____ No _____

2. Does it appear the DBE contractor is managing their scope of the project & using their employees?
Yes _____ No _____

3. Does it appear the DBE contractor is providing the equipment for their scope of work?
Yes _____ No _____

Duplicate form for additional DBE Firms

INDEPENDENT CONTRACTOR AGREEMENT**Contract No. 19300178****Title: Jump Around Carson (JAC) Public Transportation Operating Service**

THIS CONTRACT is made and entered into this day(s) of , 2018 the date of the last authorized signature below, by and between Carson City, a consolidated municipality, a political subdivision of the State of Nevada, hereinafter referred to as "CITY", and First Transit, hereinafter referred to as "CONTRACTOR". CITY and CONTRACTOR may be individually referred to as "Party" and collectively referred to as "Parties."

WITNESSETH:

WHEREAS, the Purchasing and Contracts Administrator for CITY is authorized pursuant to Nevada Revised Statutes (hereinafter referred to as "NRS") 332 and Carson City Purchasing Resolution #1990-R71, to approve and accept this Contract as set forth in and by the following provisions; and

WHEREAS, CONTRACTOR'S compensation under this agreement (does X) (does not) utilize in whole or in part money derived from one or more federal grant funding source(s); as set forth in Exhibit B; and

WHEREAS, it is deemed necessary that the services of CONTRACTOR for **CONTRACT No. 19300178** (hereinafter referred to as "Contract") are both necessary and in the best interest of CITY; and

NOW, THEREFORE, in consideration of the aforesaid premises, and the following terms, conditions and other valuable consideration, the parties mutually agree as follows:

1. REQUIRED APPROVAL:

This Contract shall not become effective until and unless approved by the Carson City ~~Board of Supervisors~~ Regional Transportation Commission and all required documents are received and signed by all parties.

2. SCOPE OF WORK (Incorporated Contract Documents):

2.1 **CONTRACTOR** shall provide and perform the following services set forth in Exhibit A, which shall all be attached hereto and incorporated herein by reference for and on behalf of CITY and hereinafter referred to as the "SERVICES".

2.2 **CONTRACTOR** represents that it is duly licensed by CITY for the purposes of performing the SERVICES.

2.3 **CONTRACTOR** represents that it is duly qualified and licensed in the State of Nevada for the purposes of performing the SERVICES.

2.4 **CONTRACTOR** represents that it and/or the persons it may employ possess all skills and training necessary to perform the SERVICES described herein and required hereunder. **CONTRACTOR** shall perform the SERVICES faithfully, diligently, in a timely and professional manner, to the best of its ability, and in such a manner as is customarily performed by a person who is in the business of providing such services in similar circumstances. **CONTRACTOR** shall be responsible for the professional quality and technical accuracy of all SERVICES furnished by **CONTRACTOR** to CITY.

INDEPENDENT CONTRACTOR AGREEMENT

Contract No. 19300178

Title: Jump Around Carson (JAC) Public Transportation Operating Service

For P&C Use Only
CCBL expires _____
NVCL expires _____
GL expires _____
AL expires _____
WC expires _____

2.5 **CONTRACTOR** represents that neither the execution of this Contract nor the rendering of services by **CONTRACTOR** hereunder will violate the provisions of or constitute a default under any other contract or agreement to which **CONTRACTOR** is a party or by which **CONTRACTOR** is bound, or which would preclude **CONTRACTOR** from performing the SERVICES required of **CONTRACTOR** hereunder, or which would impose any liability or obligation upon **CITY** for accepting such SERVICES.

2.6 Before commencing with the performance of any SERVICES under this Contract, **CONTRACTOR** shall obtain all necessary permits and licenses as may be necessary. Before and during the progress of work under this Contract, **CONTRACTOR** shall give all notice and comply with all the laws, ordinances, rules and regulations of every kind and nature now or hereafter in effect promulgated by any Federal, State, County, or other Governmental Authority, relating to the performance of work under this Contract. If **CONTRACTOR** performs any work that is contrary to any such law, ordinance, rule or regulation, it shall bear all the costs arising therefrom.

2.7 It is expressly understood and agreed that all SERVICES done by **CONTRACTOR** shall be subject to inspection and acceptance by **CITY** and approval of SERVICES shall not forfeit the right of **CITY** to require correction, and nothing contained herein shall relieve **CONTRACTOR** of the responsibility of the SERVICES required under the terms of this Contract until all SERVICES have been completed and accepted by **CITY**.

3. CONTRACT TERM:

3.1 ~~This~~The initial term of this Contract shall be effective from August 10, 2020, subject to Carson City Regional Transportation Commission approval (anticipated to be August 5, 2020) to August 31, 2023, unless sooner terminated by either party as specified in **Section 7** (CONTRACT TERMINATION).

3.2 This Contract may be extended for an additional three one-year terms. These options shall be exercised by mutual written agreement between the Parties and approved by the Carson City Regional Transportation Commission no fewer than 60 days prior to the end of the then-current term.

4. NOTICE:

4.1 Except any applicable bid and award process where notices may be limited to postings by **CITY** on its Bid Opportunities website (www.carson.org), all notices or other communications required or permitted to be given under this Contract shall be in writing and shall be deemed to have been duly given if delivered personally in hand, by e-mail, by regular mail, by telephonic facsimile with simultaneous regular mail, or by certified mail, return receipt requested, postage prepaid on the date posted, and addressed to the other party at the address specified below.

4.2 Notice to **CONTRACTOR** shall be addressed to:

Bradley Thomas, President

INDEPENDENT CONTRACTOR AGREEMENT

Contract No. 19300178

Title: Jump Around Carson (JAC) Public Transportation Operating Service

First Transit
600 Vine Street, Suite 1400
Cincinnati, OH 45202
PHONE: 513-241-2200
James.Coffman@firstgroup.com

4.3 Notice to **CITY** shall be addressed to:

Carson City Purchasing and Contracts Department
Carol Akers, Purchasing & Contracts Administrator
201 North Carson Street, Suite 2
Carson City, NV 89701
775-283-7362 / FAX 775-887-2286
CAkers@carson.org

5. COMPENSATION:

5.1 The parties agree that **CONTRACTOR** will provide the SERVICES specified in **Section 2** (SCOPE OF WORK) and **CITY** agrees to pay **CONTRACTOR** the Contract's compensation based upon Time and Materials and the Scope of Work Fee Schedule for a not to exceed maximum amount of One Million One Hundred Twenty Two Thousand Seven Hundred Thirty Six Dollars and 00/100 (\$1,122,736) for year one, including transition activities (August 10, 2020 – August 31, 2021); One Million One Hundred Sixty Seven Thousand Eight Hundred Sixteen Dollars and 00/100 (\$1,167,816) for year two (September 1, 2021 – August 31, 2022); and One Million Two Hundred Nineteen Thousand Eight Hundred Forty One Dollars and 00/100 (\$1,219,841) for year three (September 1, 2022 – August 31, 2023) for a total contract amount of Three Million Five Hundred Ten Thousand Three Hundred Ninety Three Dollars and 00/100 (\$3,510,393), hereinafter referred to as the "Contract Sum".

5.2 Contract Sum represents full and adequate compensation for the completed SERVICES, and includes the furnishing of all materials; all labor, equipment, tools, and appliances; and all expenses, direct or indirect, connected with the proper execution of the SERVICES.

5.35.3 Compensation shall be provided for both Monthly Fixed Costs and Variable Costs stated as dollars per revenue service hour, as provided in Exhibit A. To ensure that the fixed cost reimbursement portion of the contract is fair and equitable, should First Transit have any of the following staff positions vacant for more than 45 days, the actual cost of that position's monthly salary will be reimbursed to the City on the next, subsequent invoice. The positions covered under the fixed cost reimbursement are Two (2) full time Dispatchers, One (1) Operations/Safety manager and One (1) General Manager. If the **CONTRACTOR** can show that they have made every reasonable effort to fill the vacancy or they have provided staffing coverage from other sources, the City may waive this penalty by giving prior, written approval.

5.4 **CITY** does not agree to reimburse **CONTRACTOR** for expenses unless otherwise specified.

6. TIMELINESS OF BILLING SUBMISSION:

INDEPENDENT CONTRACTOR AGREEMENT

Contract No. 19300178

Title: Jump Around Carson (JAC) Public Transportation Operating Service

6.1 The parties agree that timeliness of billing is of the essence to this Contract and recognize that **CITY** is on a fiscal year which is defined as the period beginning July 1 and ending June 30 of the following year. All billings for dates of service prior to July 1 must be submitted to **CITY** no later than the first Friday in August of the same year. A billing submitted after the first Friday in August will subject **CONTRACTOR** to an administrative fee not to exceed \$100.00. The parties hereby agree this is a reasonable estimate of the additional costs to **CITY** of processing the billing as a stale claim and that this amount will be deducted from the stale claim payment due to **CONTRACTOR**.

7. CONTRACT TERMINATION:

7.1 Termination Without Cause:

7.1.1 Any discretionary or vested right of renewal notwithstanding, ~~either party may terminate this Contract may be terminated contract upon 45 days' prior written notice by mutual consent of both parties or unilaterally by either party without cause to the other party.~~

7.1.2 **CITY** reserves the right to terminate this Contract for convenience whenever it considers termination, in its sole and unfettered discretion, to be in the public interest. In the event that the Contract is terminated in this manner, payment will be made for SERVICES actually completed. If termination occurs under this provision, in no event shall **CONTRACTOR** be entitled to anticipated profits on items of SERVICES not performed as of the effective date of the termination or compensation for any other item, including but not limited to, unabsorbed overhead. **CONTRACTOR** shall require that all subcontracts which it enters related to this Contract likewise contain a termination for convenience clause which precludes the ability of any subcontractor to make claims against **CONTRACTOR** for damages due to breach of contract, lost profit on items of SERVICES not performed, or unabsorbed overhead, in the event of a convenience termination.

7.2 Termination for Nonappropriation:

7.2.1 All payments and SERVICES provided under this Contract are contingent upon the availability of the necessary public funding, which may include various internal and external sources. In the event that Carson City does not acquire and appropriate the funding necessary to perform in accordance with the terms of the Contract, the Contract shall automatically terminate upon **CITY'S** notice to **CONTRACTOR** of such nonappropriation, and no claim or cause of action may be based upon any such nonappropriation.

7.3 Cause Termination for Default or Breach:

7.3.1 A default or breach may be declared with or without termination.

7.3.2 This Contract may be terminated by either party upon written notice of default or breach to the other party as follows:

7.3.2.1 If **CONTRACTOR** fails to provide or satisfactorily perform any of the conditions, work, deliverables, goods, or any SERVICES called for by this Contract within the time requirements specified in this Contract or within any granted extension of those time requirements; or

7.3.2.2 If any state, county, city or federal license, authorization, waiver, permit, qualification or certification required by statute, ordinance, law, or regulation to be held by **CONTRACTOR** to provide the goods or SERVICES or any services required by this

INDEPENDENT CONTRACTOR AGREEMENT

Contract No. 19300178

Title: Jump Around Carson (JAC) Public Transportation Operating Service

Contract is for any reason denied, revoked, debarred, excluded, terminated, suspended, lapsed, or not renewed; or

7.3.2.3 If **CONTRACTOR** becomes insolvent, subject to receivership, or becomes voluntarily or involuntarily subject to the jurisdiction of the bankruptcy court; or

7.3.2.4 If **CITY** materially breaches any material duty under this Contract and any such breach impairs **CONTRACTOR'S** ability to perform; or

7.3.2.5 If it is found by **CITY** that any quid pro quo or gratuities in the form of money, services, entertainment, gifts, or otherwise were offered or given by **CONTRACTOR**, or any agent or representative of **CONTRACTOR**, to any officer or employee of **CITY** with a view toward securing a contract or securing favorable treatment with respect to awarding, extending, amending, or making any determination with respect to the performing of such contract; or

7.3.2.6 If it is found by **CITY** that **CONTRACTOR** has failed to disclose any material conflict of interest relative to the performance of this Contract.

7.4 Time to Correct (Declared Default or Breach):

7.4.1 Termination upon a declared default or breach may be exercised only after providing seven (7) calendar days written notice of default or breach, and the subsequent failure of the defaulting or breaching party, within five (5) calendar days of providing that default or breach notice, to provide evidence satisfactory to the aggrieved party demonstrating that the declared default or breach has been corrected. Time to correct shall run concurrently with any notice of default or breach and such time to correct is not subject to any stay with respect to the nonexistence of any Notice of Termination. Untimely correction shall not void the right to termination otherwise properly noticed unless waiver of the noticed default or breach is expressly provided in writing by the aggrieved party. There shall be no time to correct with respect to any notice of termination without cause or termination for nonappropriation.

7.4.2 The Parties shall negotiate in good faith in an attempt to resolve any dispute that may arise under this Agreement. Disputes that cannot be resolved by negotiation shall be submitted to mediation using a mutually agreed upon mediator. In the absence of an agreement on a mediator, each party shall select a temporary mediator and those mediators shall jointly select the permanent mediator. If mediation is not successful, the parties may pursue their remedies as they choose.

7.5 Winding Up Affairs Upon Termination:

7.5.1 In the event of termination of this Contract for any reason, the parties agree that the provisions of this **Subsection 7.5** survive termination:

7.5.1.1 The parties shall account for and properly present to each other all claims for fees and expenses and pay those which are undisputed and otherwise not subject to set off under this Contract. Neither party may withhold performance of winding up provisions solely based on nonpayment of fees or expenses accrued up to the time of termination; and

7.5.1.2 **CONTRACTOR** shall satisfactorily complete SERVICES in progress at the agreed rate (or a pro rata basis if necessary) if so requested by **CITY**; and

INDEPENDENT CONTRACTOR AGREEMENT

Contract No. 19300178

Title: Jump Around Carson (JAC) Public Transportation Operating Service

7.5.1.3 **CONTRACTOR** shall execute any documents and take any actions necessary to effectuate an assignment of this Contract if so requested by **CITY**; and

7.5.1.4 **CONTRACTOR** shall preserve, protect, and promptly deliver into **CITY** possession all proprietary information in accordance with "**Section 19**".

7.6 Notice of Termination:

7.6.1 Unless otherwise specified in this Contract, termination shall not be effective until seven (7) calendar days after a party has provided written notice of default or breach, or notice of without cause termination. Notice of Termination may be given at the time of notice of default or breach, or notice of without cause termination. Notice of Termination may be provided separately at any time after the running of the 7-day notice period, and such termination shall be effective on the date the Notice of Termination is provided to the party unless a specific effective date is otherwise set forth therein. Any delay in providing a Notice of Termination after the 7-day notice period has run without a timely correction by the defaulting or breaching party shall not constitute any waiver of the right to terminate under the existing notice(s).

8. REMEDIES:

Except as otherwise provided for by law or this Contract, the rights and remedies of the parties shall not be exclusive and are in addition to any other rights and remedies provided by law or equity, including, without limitation, actual damages, and to a prevailing party reasonable attorney's fees and costs. The parties agree that, in the event a lawsuit is filed and a party is awarded attorney's fees by the court, for any reason, the amount of recoverable attorney's fees shall not exceed the rate of \$125 per hour. **CITY** may set off consideration against any unpaid obligation of **CONTRACTOR** to **CITY**.

9. LIMITED LIABILITY:

CITY will not waive and intends to assert available NRS Chapter 41 liability limitations in all cases. Contract liability of both parties shall not be subject to punitive damages. Liquidated damages shall not apply unless otherwise expressly provided for elsewhere in this Contract. Damages for any **CITY** breach shall never exceed the amount of funds appropriated for payment under this Contract, but not yet paid to **CONTRACTOR**, for the fiscal year budget in existence at the time of the breach. **CONTRACTOR'S** tort liability shall not be limited.

10. FORCE MAJEURE:

Neither party shall be deemed to be in violation of this Contract if it is prevented from performing any of its obligations hereunder due to strikes, picketing, labor disputes, labor shortages, failure of public transportation, civil or military authority, government action, act of public enemy, accidents, fires, explosions, civil disturbance, riots, war, terrorism, or acts of God, including, without limitation, earthquakes, floods, winds, storms, pandemics and/or stormsepidemics. In such-anthe event theCONTRACTOR is unable to provide the transportation services as specified in this Agreement due to aforementioned causes, County shall excuse CONTRACTOR from performance under this Agreement. The intervening cause must not be through the fault of the party asserting such an excuse, and the excused party is obligated to promptly perform in accordance with the terms of this Contract after the intervening cause ceases.

11. INDEMNIFICATION:

11.1 To the extent permitted by law, including, but not limited to, the provisions of NRS Chapter 41, each party shall indemnify, hold harmless and defend, not excluding the other's right to participate, the other party from and against all liability, claims, actions, damages, losses, and expenses, including but not limited to reasonable attorney's fees and costs, arising out of any alleged negligent or willful acts or omissions of the indemnifying party, its officers, employees and agents. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of the indemnity which

INDEPENDENT CONTRACTOR AGREEMENT

Contract No. 19300178

Title: Jump Around Carson (JAC) Public Transportation Operating Service

would otherwise exist as to any party or person described in this Section.

11.2 Except as otherwise provided in **Subsection 11.4** below, the indemnifying party shall not be obligated to provide a legal defense to the indemnified party, nor reimburse the indemnified party for the same, for any period occurring before the indemnified party provides written notice of the pending claim(s) or cause(s) of action to the indemnifying party, along with:

11.2.1 a written request for a legal defense for such pending claim(s) or cause(s) of action; and

11.2.2 a detailed explanation of the basis upon which the indemnified party believes that the claim or cause of action asserted against the indemnified party implicates the culpable conduct of the indemnifying party, its officers, employees, and/or agents.

11.3 After the indemnifying party has begun to provide a legal defense for the indemnified party, the indemnifying party shall not be obligated to fund or reimburse any fees or costs provided by any additional counsel for the indemnified party, including counsel through which the indemnified party might voluntarily choose to participate in its defense of the same matter.

11.4 After the indemnifying party has begun to provide a legal defense for the indemnified party, the indemnifying party shall be obligated to reimburse the reasonable attorney's fees and costs incurred by the indemnified party during the initial thirty (30) day period of the claim or cause of action, if any, incurred by separate counsel.

12. **INDEPENDENT CONTRACTOR:**

12.1 **CONTRACTOR**, as an independent contractor, is a natural person, firm or corporation who agrees to perform SERVICES for a fixed price according to his or its own methods and without subjection to the supervision or control of the **CITY**, except as to the results of the SERVICES, and not as to the means by which the SERVICES are accomplished.

12.2 It is mutually agreed that **CONTRACTOR** is associated with **CITY** only for the purposes and to the extent specified in this Contract, and in respect to performance of the contracted SERVICES pursuant to this Contract. **CONTRACTOR** is and shall be an independent contractor and, subject only to the terms of this Contract, shall have the sole right to supervise, manage, operate, control, and direct performance of the details incident to its duties under this Contract.

12.3 Nothing contained in this Contract shall be deemed or construed to create a partnership or joint venture, to create relationships of an employer-employee or principal-agent, or to otherwise create any liability for **CITY** whatsoever with respect to the indebtedness, liabilities, and obligations of **CONTRACTOR** or any other party.

12.4 **CONTRACTOR**, in addition to **Section 11** (INDEMNIFICATION), shall indemnify and hold **CITY** harmless from, and defend **CITY** against, any and all losses, damages, claims, costs, penalties, liabilities, expenses arising out of or incurred in any way because of, but not limited to, **CONTRACTOR'S** obligations or legal duties regarding any taxes, fees, assessments, benefits, entitlements, notice of benefits, employee's eligibility to work, to any third party, subcontractor, employee, state, local or federal governmental entity.

12.5 Neither **CONTRACTOR** nor its employees, agents, or representatives shall be considered employees, agents, or representatives of **CITY**.

13. **INSURANCE REQUIREMENTS (GENERAL):**

13.1 **NOTICE: The following general insurance requirements shall apply unless these general requirements are altered by any specific requirements set forth in CITY'S solicitation for bid document, the adopted bid or other document incorporated into this Contract by the parties.**

13.2 **CONTRACTOR**, as an independent contractor and not an employee of **CITY**, must carry policies of insurance in amounts specified and pay all taxes and fees incident hereunto. **CITY** shall have no

INDEPENDENT CONTRACTOR AGREEMENT

Contract No. 19300178

Title: Jump Around Carson (JAC) Public Transportation Operating Service

liability except as specifically provided in this Contract. CITY or CITY's insurance shall insure the JAC vehicles while the JAC vehicles are being operated or maintenance by CITY employees.

13.3 **CONTRACTOR** shall not commence work before: (1) **CONTRACTOR** has provided the required evidence of insurance to **CITY** Purchasing and Contracts, and (2) **CITY** has approved the insurance policies provided by **CONTRACTOR**.

13.4 Prior approval of the insurance policies by **CITY** shall be a condition precedent to any payment of consideration under this Contract and **CITY'S** approval of any changes to insurance coverage during the course of performance shall constitute an ongoing condition subsequent this Contract. Any failure of **CITY** to timely approve shall not constitute a waiver of the condition.

13.5 *Insurance Coverage (13.6 through 13.23):*

13.6 **CONTRACTOR** shall, at **CONTRACTOR'S** sole expense, procure, maintain and keep in force for the duration of this Contract the following insurance conforming to the minimum requirements specified below. Unless specifically specified herein or otherwise agreed to by **CITY**, the required insurance shall be in effect prior to the commencement of work by **CONTRACTOR** and shall continue in force as appropriate until the later of:

13.6.1 Final acceptance by **CITY** of the completion of this Contract; or

13.6.2 Such time as the insurance is no longer required by **CITY** under the terms of this Contract.

13.6.3 Any insurance or self-insurance available to **CITY** under its coverage(s) shall be in excess of and non-contributing with any insurance required from **CONTRACTOR**. **CONTRACTOR'S** insurance policies shall apply on a primary basis. Until such time as the insurance is no longer required by **CITY**, **CONTRACTOR** shall provide **CITY** with renewal or replacement evidence of insurance no less than thirty (30) calendar days before the expiration or replacement of the required insurance. If at any time during the period when insurance is required by this Contract, an insurer or surety shall fail to comply with the requirements of this Contract, as soon as **CONTRACTOR** has knowledge of any such failure, **CONTRACTOR** shall immediately notify **CITY** and immediately replace such insurance or bond with an insurer meeting the requirements.

13.7 *General Insurance Requirements (13.8 through 13.23):*

13.8 **Certificate Holder:** Each certificate shall list Carson City c/o Carson City Purchasing and Contracts, 201 N. Carson Street, Suite 2, Carson City, NV 89701 as a certificate holder.

13.9 **Additional Insured:** By endorsement to the general liability insurance policy evidenced by **CONTRACTOR**, The City and County of Carson City, Nevada, its officers, employees and immune contractors shall be named as additional insureds for all liability arising from this Contract.

13.10 **Waiver of Subrogation:** Each liability insurance policy, except for professional liability, shall provide for a waiver of subrogation in favor of City.

13.11 **Cross-Liability:** All required liability policies shall provide cross-liability coverage as would be achieved under the standard ISO separation of insureds clause.

13.12 **Deductibles and Self-Insured Retentions:** Insurance maintained by **CONTRACTOR** shall apply on a first dollar basis without application of a deductible or self-insured retention unless otherwise specifically agreed to by **CITY**. Such approval shall not relieve **CONTRACTOR** from the obligation to pay any deductible or self-insured retention. Any deductible or self-insured retention shall not exceed \$5,000.00 per occurrence, unless otherwise approved by **CITY**.

13.13 **Policy Cancellation:** Except for ten (10) calendar days' notice for non-payment of premium, premium, **CONTRACTOR** or its insurers must provide thirty (30) calendar days prior written notice to Carson City Purchasing and Contracts if any policy will be canceled, non-renewed or if required coverage

INDEPENDENT CONTRACTOR AGREEMENT

Contract No. 19300178

Title: Jump Around Carson (JAC) Public Transportation Operating Service

and /or limits reduced or materially altered, and shall provide that notices required by this paragraph shall be sent by mail to Carson City Purchasing and Contracts, 201 N. Carson Street, Suite 2, Carson City, NV 89701. When available, each insurance policy shall be endorsed to provide thirty (30) days' notice of cancellation, except for ten (10) days' notice for non-payment of premium, to City.

13.14 **Approved Insurer:** Each insurance policy shall be issued by insurance companies authorized to do business in the State of Nevada or eligible surplus lines insurers under federal and Nevada law and having agents in Nevada upon whom service of process may be made, and currently rated by A.M. Best as "A-VII" or better.

13.15 **Evidence of Insurance:** Prior to commencement of work, **CONTRACTOR** must provide the following documents to Carson City Purchasing and Contracts, 201 North Carson Street, Suite 3, Carson City, NV 89701:

13.16 **Certificate of Insurance:** **CONTRACTOR** shall furnish City with a certificate(s) of insurance, executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements set forth herein. The Acord 25 Certificate of Insurance form or a form substantially similar must be submitted to Carson City Purchasing and Contracts to evidence the insurance policies and coverages required of **CONTRACTOR**.

13.17 **Additional Insured Endorsement:** An Additional Insured Endorsement (CG20 10 or C20 26), signed by an authorized insurance company representative, must be submitted to Carson City Purchasing and Contracts to evidence the endorsement of **CITY** as an additional insured per **Subsection 13.9** (Additional Insured).

13.18 **Schedule of Underlying Insurance Policies:** If Umbrella or Excess policy is evidenced to comply with minimum limits, a copy of the Underlying Schedule from the Umbrella or Excess insurance policy may be required.

13.19 **Review and Approval:** Documents specified above must be submitted for review and approval by **CITY** Purchasing and Contracts prior to the commencement of work by **CONTRACTOR**. Neither approval by **CITY** nor failure to disapprove the insurance furnished by **CONTRACTOR** shall relieve **CONTRACTOR** of **CONTRACTOR'S** full responsibility to provide the insurance required by this Contract. Compliance with the insurance requirements of this Contract shall not limit the liability of **CONTRACTOR** or its sub-contractors, employees or agents to **CITY** or others, and shall be in addition to and not in lieu of any other remedy available to **CITY** under this Contract or otherwise. **CITY** reserves the right to request and review a copy of any required insurance policy or endorsement to assure compliance with these requirements.

13.20 **COMMERCIAL GENERAL LIABILITY INSURANCE:**

CONTRACTOR shall maintain commercial general liability (CGL) and, if necessary, commercial umbrella insurance with a limit of not less than \$1,000,000 each occurrence.

13.20.1 *Minimum Limits required:*

13.20.2 Two Million Dollars (\$2,000,000.00) - General Aggregate.

13.20.3 Two Million Dollars (\$2,000,000.00) - Products & Completed Operations Aggregate.

13.20.4 One Million Dollars (\$1,000,000.00) - Each Occurrence.

13.20.5 CGL insurance shall be written on ISO occurrence form CG 00 01 04 13 (or a substitute form providing equivalent coverage) and shall cover liability arising from premises, operations, products-completed operations, personal and advertising injury, and liability assumed under an insured contract [(including the tort liability of another assumed in a business contract)].

INDEPENDENT CONTRACTOR AGREEMENT

Contract No. 19300178

Title: Jump Around Carson (JAC) Public Transportation Operating Service

- 13.20.6 Carson City, its officers, employees and immune contractors shall be included as an insured under the CGL, using ISO additional insured endorsement CG 20 10 or CG 20 26, or a substitute providing equivalent coverage, and under the commercial umbrella, if any.
- 13.20.7 This insurance shall apply as primary insurance with respect to any other insurance or self-insurance programs afforded to City There shall be no endorsement or modification of the CGL to make it excess over other available insurance; alternatively, if the CGL states that it is excess or pro rata, the policy shall be endorsed to be primary with respect to the additional insured.
- 13.20.8 There shall be no endorsement or modification of the CGL limiting the scope of coverage for liability assumed under a contract.
- 13.20.9 **CONTRACTOR** waives all rights against **CITY** and its agents, officers, directors and employees for recovery of damages to the extent these damages are covered by the commercial general liability or commercial umbrella liability insurance maintained pursuant to this Contract. Insurer shall endorse CGL policy as required to waive subrogation against **CITY** with respect to any loss paid under the policy.
- 13.21 **BUSINESS AUTOMOBILE LIABILITY INSURANCE:**
- 13.21.1 *Minimum Limit required:*
- 13.21.2 **CONTRACTOR** shall maintain automobile liability and, if necessary, commercial umbrella liability insurance with a limit of not less than \$1,000,000 each accident for bodily injury and property damage.
- 13.21.3 Such insurance shall cover liability arising out of owned, hired, and non-owned autos (as applicable). Coverage as required above shall be written on ISO form CA 00 01, CA 00 05, CA 00 25, or a substitute form providing equivalent liability coverage.
- 13.21.4 **CONTRACTOR** waives all rights against **CITY** and its agents, officers, directors and employees for recovery of damages to the extent these damages are covered by the automobile liability or other liability insurance obtained by **CONTRACTOR** pursuant this Contract.
- 13.22 **PROFESSIONAL LIABILITY INSURANCE**
- 13.22.1 *Minimum Limit required:*
- 13.22.2 **CONTRACTOR** shall maintain professional liability insurance applying to all activities performed under this Contract with limits not less than One Million Dollars (\$1,000,000.00) and Two Million Dollars (\$2,000,000) in the aggregate.
- 13.22.3 Retroactive date: Prior to commencement of the performance of this Contract.
- 13.22.4 **CONTRACTOR** will maintain professional liability insurance during the term of this Contract and for a period of three (3) years after termination of this Contract unless waived by the **CITY**. In the event of non-renewal or other lapse in coverage during the term of this Contract or the three (3) year period described above, **CONTRACTOR** shall purchase Extended Reporting Period coverage for claims arising out of **CONTRACTOR's** negligence acts, errors and omissions committed during the term of the Professional Liability Policy. The Extended

INDEPENDENT CONTRACTOR AGREEMENT

Contract No. 19300178

Title: Jump Around Carson (JAC) Public Transportation Operating Service

Reporting Period shall continue through a minimum of three (3) years after termination date of this Contract.

13.22.5 A certified copy of this policy may be required.

13.23 WORKERS' COMPENSATION AND EMPLOYER'S LIABILITY INSURANCE:

13.23.1 **CONTRACTOR** shall provide workers' compensation insurance as required by NRS Chapters 616A through 616D inclusive and Employer's Liability insurance with a minimum limit not less than \$1,000,000 each accident for bodily injury by accident or \$1,000,000 each employee for bodily injury by disease.

13.23.2 **CONTRACTOR** may, in lieu of furnishing a certificate of an insurer, provide an affidavit indicating that **CONTRACTOR** is a sole proprietor; that **CONTRACTOR** will not use the services of any employees in the performance of this Contract; that **CONTRACTOR** has elected to not be included in the terms, conditions, and provisions of NRS Chapters 616A-616D, inclusive; and that **CONTRACTOR** is otherwise in compliance with the terms, conditions, and provisions of NRS Chapters 616A-616D, inclusive.

13.23.3 **CONTRACTOR** waives all rights against **CITY** and its agents, officers, directors, and employees for recovery of damages to the extent these damages are covered by the workers' compensation and employer's liability or commercial umbrella liability insurance obtained by Contractor pursuant to this Contract. Contractor shall obtain an endorsement equivalent to WC 00 03 13 to affect this waiver.

14. BUSINESS LICENSE:

14.1 **CONTRACTOR** shall not commence work before **CONTRACTOR** has provided a copy of his Carson City business license to Carson City Purchasing and Contracts.

14.2 The Carson City business license shall continue in force until the later of: (1) final acceptance by **CITY** of the completion of this Contract; or (2) such time as the Carson City business license is no longer required by **CITY** under the terms of this Contract.

15. COMPLIANCE WITH LEGAL OBLIGATIONS:

CONTRACTOR shall procure and maintain for the duration of this Contract any state, county, city, or federal license, authorization, waiver, permit, qualification or certification required by statute, ordinance, law, or regulation to be held by **CONTRACTOR** to provide the goods or SERVICES or any services of this Contract.

CONTRACTOR will be responsible to pay all government obligations, including, but not limited to, all taxes, assessments, fees, fines, judgments, premiums, permits, and licenses required or imposed by law or a court. Real property and personal property taxes are the responsibility of **CONTRACTOR** in accordance with NRS Chapter 361 generally and NRS 361.157 and 361.159, specifically regarding for profit activity. **CONTRACTOR** agrees to be responsible for payment of any such government obligations not paid by its subcontractors during performance of this Contract. **CITY** may set-off against consideration due any delinquent government obligation.

If the **CITY** was required by NRS 332.039(1) to advertise or request a proposal for this Agreement, by signing this Agreement, the **CONTRACTOR** provides a written certification that the **CONTRACTOR** is not currently engaged in, and during the Term shall not engage in, a Boycott of Israel. The term "Boycott of Israel" has the meaning ascribed to that term in Section 3 of Nevada Senate Bill 26 (2017). The **CONTRACTOR** shall be responsible for fines, penalties, and payment of any State of Nevada or federal funds that may arise (including those that the **CITY** pays, becomes liable to pay, or becomes liable to repay) as a direct result of the **CONTRACTOR's** non-compliance with this Section.

16. WAIVER OF BREACH:

INDEPENDENT CONTRACTOR AGREEMENT

Contract No. 19300178

Title: Jump Around Carson (JAC) Public Transportation Operating Service

Failure to declare a breach or the actual waiver of any particular breach of this Contract or its material or nonmaterial terms by either party shall not operate as a waiver by such party of any of its rights or remedies as to any other breach.

17. **SEVERABILITY:**

If any provision contained in this Contract is held to be unenforceable by a court of law or equity, this Contract shall be construed as if such provision did not exist and the nonenforceability of such provision shall not be held to render any other provision or provisions of this Contract unenforceable.

18. **ASSIGNMENT / DELEGATION:**

To the extent that any assignment of any right under this Contract changes the duty of either party, increases the burden or risk involved, impairs the chances of obtaining the performance of this Contract, attempts to operate as a novation, or includes a waiver or abrogation of any defense to payment by **CITY**, such offending portion of the assignment shall be void, and shall be a breach of this Contract. **CONTRACTOR** shall neither assign, transfer nor delegate any rights, obligations or duties under this Contract without the prior written approval of **CITY**; provided, however, that **CONTRACTOR** may assign or sublet its rights under this agreement to a parent, subsidiary, related or affiliated company. Further **CONTRACTOR** may, without approval, assign or otherwise transfer this Agreement in connection with a merger, acquisition, corporate reorganization public stock offering, or sale of all or substantially all of its assets with reasonable notice to the **CITY**. The parties do not intend to benefit any third party beneficiary regarding their respective performance under this Contract.

19. **CITY OWNERSHIP OF PROPRIETARY INFORMATION:**

Any files, reports, histories, studies, tests, manuals, instructions, photographs, negatives, blue prints, plans, maps, data, system designs, computer programs, computer codes, and computer records (which are intended to be consideration under this Contract), or any other documents or drawings, prepared or in the course of preparation by **CONTRACTOR** (or its subcontractors) in performance of its obligations under this Contract shall be the exclusive property of **CITY** and all such materials shall be delivered into **CITY** possession by **CONTRACTOR** upon completion, termination, or cancellation of this Contract. **CONTRACTOR** shall not use, willingly allow, or cause to have such materials used for any purpose other than performance of **CONTRACTOR'S** obligations under this Contract without the prior written consent of **CITY**. Notwithstanding the foregoing, **CITY** shall have no proprietary interest in any materials licensed for use by **CITY** that are subject to patent, trademark or copyright protection.

20. **PUBLIC RECORDS:**

Pursuant to NRS 239.010, information or documents received from **CONTRACTOR** may be open to public inspection and copying. **CITY** will have the duty to disclose unless a particular record is made confidential by law or a common law balancing of interests. **CONTRACTOR** may clearly label specific parts of an individual document as a "trade secret" or "confidential" in accordance with NRS 332.061, provided that **CONTRACTOR** thereby agrees to indemnify and defend **CITY** for honoring such a designation. The failure to so label any document that is released by **CITY** shall constitute a complete waiver of any and all claims for damages caused by any release of the records.

21. **CONFIDENTIALITY:**

CONTRACTOR shall keep confidential all information, in whatever form, produced, prepared, observed or received by **CONTRACTOR** to the extent that such information is confidential by law or otherwise required by this Contract.

22. **FEDERAL FUNDING:**

22.1 *In the event federal grant funds are used for payment of all or part of this Contract:*

22.1.1 **CONTRACTOR** certifies, by signing this Contract, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from

INDEPENDENT CONTRACTOR AGREEMENT

Contract No. 19300178

Title: Jump Around Carson (JAC) Public Transportation Operating Service

participation in this transaction by any federal department or agency. This certification is made pursuant to the regulations implementing Executive Order 12549, Debarment and Suspension, 28 C.F.R. pt. 67, § 67.510, as published as pt. VII of the May 26, 1988, Federal Register (pp. 19160-19211), and any relevant program-specific regulations. This provision shall be required of every subcontractor receiving any payment in whole or in part from federal funds.

22.1.2 **CONTRACTOR** and its subcontractors must be registered in the US Government System for Award Management (SAM) for verification on projects with federal funding.

22.1.22.1.3 **CONTRACTOR** and its subcontractors shall comply with all terms, conditions, and requirements of the Americans with Disabilities Act of 1990 (P.L. 101-136), 42 U.S.C. 12101, as amended, and regulations adopted thereunder contained in 28 C.F.R. 26.101-36.999, inclusive, and any relevant program-specific regulations.

22.1.322.1.4 **CONTRACTOR** and its subcontractors shall comply with the requirements of the Civil Rights Act of 1964, as amended, the Rehabilitation Act of 1973, P.L. 93-112, as amended, and any relevant program-specific regulations, and Executive Order 11478 (July 21, 2014) and shall not discriminate against any employee or offeror for employment because of race, national origin, creed, color, sex, sexual orientation, gender identity, religion, age, disability or handicap condition (including AIDS and AIDS-related conditions).

22.1.422.1.5 If and when applicable to the particular federal funding and the Scope of Work under this Contract, **CONTRACTOR** and its subcontractors shall comply with: American Iron and Steel (AIS) provisions of P.L. 113- 76, Consolidated Appropriations Act, 2014, Section 1605 – Buy American (100% Domestic Content of iron, steel and manufactured goods); Federal Highway Administration (FHWA) 23 U.S.C. § 313 – Buy America, 23 C.F.R. §635.410 (100% Domestic Content of steel, iron and manufactured products); Federal Transit Administration (FTA) 49 U.S.C. § 5323(j), 49 C.F.R. Part 661 – Buy America Requirements (See 60% Domestic Content for buses and other Rolling Stock).

23. **LOBBYING:**

23.1 The parties agree, whether expressly prohibited by federal law, or otherwise, that no funding associated with this Contract will be used for any purpose associated with or related to lobbying or influencing or attempting to lobby or influence for any purpose the following:

23.1.1 Any federal, state, county or local agency, legislature, commission, council or board;

23.1.2 Any federal, state, county or local legislator, commission member, council member, board member, or other elected official; or

23.1.3 Any officer or employee of any federal, state, county or local agency; legislature, commission, council or board.

24. **OTHER TERMS:**

24.1 Change in Laws, Specifications, or Other Conditions: In the event of changes in state or federal taxes, laws or specifications, increased insurance or surety premiums, or any other condition which causes any of CONTRACTOR's operating costs hereunder to increase at a rate in excess of any negotiated escalation (e.g., changes in the Affordable Care Act or the Minimum Wage Laws), the parties shall meet to determine a reasonable and just amount to cover such increases. After such amount is approved by the Regional Transportation Commission, the rates of CONTRACTOR compensation shall be adjusted to reflect such

INDEPENDENT CONTRACTOR AGREEMENT

Contract No. 19300178

Title: Jump Around Carson (JAC) Public Transportation Operating Service

increases.

24.2 Trigger for Renegotiation: CITY and CONTRACTOR will consult on a regular basis concerning the service requirements under this Contract. In the event of increases or decreases in the number of passengers requiring transportation or in routes or schedules, the number of vehicles, revenue service hours will be adjusted accordingly. CITY may increase or decrease services to be provided by CONTRACTOR under this RFP ("Schedule Readjustments"). However, where Schedule Readjustments impact by 15% or more, the service levels or equipment levels required, the parties agree to renegotiate the contracted fixed costs and revisit the need to add/remove fixed support such as dispatchers and road supervisors. This ensures minimized risk for both the CITY and CONTRACTOR in the event that service levels change.

24.3 Minimum Number of CDL Drivers with Passenger and/or Airbrake Endorsement: CONTRACTOR is required to provide a sufficient amount of CDL Drivers with Passenger and/or Airbrake endorsements to operate transportation services under this contract.

24.4 Installation of Chains or Other Traction Devices: CONTRACTOR will be responsible for the proper installation of chains or other traction devices, as needed, for the safe operation of vehicles and services under this Agreement.

24.5 Vehicle Washing: CONTRACTOR will meet or exceed the vehicle cleaning standards as outlined in Section 4.12 of RFP Advertised Proposal #19300178 Public Transportation Operating Service.

25. GENERAL WARRANTY:

CONTRACTOR warrants that it will perform all SERVICES required hereunder in accordance with the prevailing standard of care by exercising the skill and care normally required of individuals performing the same or similar SERVICES, under the same or similar circumstances, in the State of Nevada.

2526. PROPER AUTHORITY:

The parties hereto represent and warrant that the person executing this Contract on behalf of each party has full power and authority to enter into this Contract. **CONTRACTOR** acknowledges that this Contract is effective only after approval by the Carson City Regional Transportation Commission and only for the period of time specified in this Contract. Any SERVICES performed by **CONTRACTOR** before this Contract is effective or after it ceases to be effective is performed at the sole risk of **CONTRACTOR**.

2627. GOVERNING LAW / JURISDICTION:

This Contract and the rights and obligations of the parties hereto shall be governed by, and construed according to, the laws of the State of Nevada, without giving effect to any principle of conflict-of-law that would require the application of the law of any other jurisdiction. **CONTRACTOR** consents and agrees to the jurisdiction of the courts of the State of Nevada located in Carson City, Nevada for enforcement of this Contract.

2728. ENTIRE CONTRACT AND MODIFICATION:

This Contract and its integrated attachment(s) constitute the entire Contract of the parties and such are intended as a complete and exclusive statement of the promises, representations, negotiations, discussions, and other Contracts that may have been made in connection with the subject matter hereof. Unless an integrated attachment to this Contract specifically displays a mutual intent to amend a particular part of this Contract, general conflicts in language between any such attachment and this Contract shall be construed consistent with the terms of this Contract. Unless otherwise expressly authorized by the terms of this Contract, no modification or amendment to this Contract shall be binding upon the parties unless the same is in writing and signed by the respective parties hereto and approved by the Carson City Regional Transportation Commission. Conflicts in language between this Contract and any other agreement between **CITY** and **CONTRACTOR** on this same matter shall be construed consistent with the terms of this Contract. The parties agree that each has had their respective counsel review this Contract which shall be construed as if it was jointly drafted.

INDEPENDENT CONTRACTOR AGREEMENT

Contract No. 19300178

Title: Jump Around Carson (JAC) Public Transportation Operating Service

28. ACKNOWLEDGMENT AND EXECUTION:

This Contract may be executed in counterparts. The parties hereto have caused this Contract to be signed and intend to be legally bound thereby as follows:

CITY

Executive Office

Attn: Carol Akers, Purchasing & Contracts Administrator

Purchasing and Contracts Department

201 North Carson Street, Suite 2

Carson City, Nevada 89701

Telephone: 775-283-7362

Fax: 775-887-2286

CAkers@carson.org

CITY'S LEGAL COUNSEL

Carson City District Attorney

I have reviewed this Contract and approve as to its legal form.

By: _____
Sheri Russell, Chief Financial Officer

By: _____
Deputy District Attorney

Dated _____

Dated _____

CONTRACTOR will not be given authorization to begin work until this Contract has been signed by Purchasing and Contracts

BY: Carol Akers
Purchasing & Contracts Administrator

Acct# 2253026 500309

By: _____

Dated _____

INDEPENDENT CONTRACTOR AGREEMENT

Contract No. 19300178

Title: Jump Around Carson (JAC) Public Transportation Operating Service

Undersigned deposes and says under penalty of perjury: That he/she is **CONTRACTOR** or authorized agent of **CONTRACTOR**; that he/she has read the foregoing Contract; and that he/she understands the terms, conditions and requirements thereof.

CONTRACTOR

BY: Bradley A. Thomas

TITLE: President

FIRM: First Transit, Inc.

CARSON CITY BUSINESS LICENSE #: _____

Address: 600 Vine Street, Suite 1400

City: Cincinnati **State:** OH **Zip Code:** 45202

Telephone: 513-241-2200/Fax 513-684-8852

E-mail Address: James.coffman@firstgroup.com

(Signature of Contractor)

DATED _____

STATE OF _____)

)ss

County of _____)

Signed and sworn (or affirmed before me on this _____ day of _____, 20____.

(Signature of Notary)

(Notary Stamp)

INDEPENDENT CONTRACTOR AGREEMENT

Contract No. 19300178

Title: Jump Around Carson (JAC) Public Transportation Operating Service

CONTRACT ACCEPTANCE AND EXECUTION:

The Regional Transportation Commission for Carson City, Nevada at their publicly noticed meeting of August 5, 2020 approved the acceptance of the attached Contract hereinbefore identified as **CONTRACT No. 19300178**. Further, the Regional Transportation Commission authorizes the Chairperson to set his hand to this document and record his signature for the execution of this Contract in accordance with the action taken.

CARSON CITY, NEVADA

BRAD BONKOWSKI, CHAIRPERSON

DATED this 5th day of August 2020.

ATTEST:

AUBREY ROWLATT, CLERK-RECORDER

DATED this 5th day of August 2020.

This page intentionally left blank.



July 21, 2020

Via USPS & Email (CAkers@carson.org)

Carson City Purchasing and Contracts Department
Carol Akers, Purchasing & Contracts Administrator
201 North Carson Street, Suite 2
Carson City, Nevada 89701

Re: Independent Contractor Agreement, Contract No. 1516-129, Public Transportation
Operating Services

Dear Ms. Akers:

MV Contract Transportation, Inc. (“**MV**”) and Carson City, Nevada (“**City**”) are parties to that certain Independent Contractor Agreement, Contract No. 1516-129, Public Transportation Operating Services, dated effective as of October 1, 2016, pursuant to which MV provides certain transportation services for the City (the “**Agreement**”). Capitalized terms used in this letter and not otherwise defined shall have the meanings given such terms in the Agreement.

Pursuant to Sections 7.1 and 7.6 of the Agreement, either party may terminate the Agreement at any time, with or without cause, upon 30 days’ prior written notice to the other party. While MV is grateful for the opportunity to provide services to the City, we regret to inform you that we have decided to terminate the Agreement. Accordingly, this letter shall serve as the MV’s formal notice of termination of the Agreement in accordance with Sections 7.1 and 7.6 of the Agreement, to be effective as of August 30, 2020.

Thank you for your time and consideration. Please feel free to contact me if you have any questions regarding this letter.

Sincerely,

A handwritten signature in black ink that reads "Jeffery D. Bane". The signature is written in a cursive style.

Jeff Bane
Regional Vice President
MV Transportation, Inc.

This page intentionally left blank.

Exhibit-4: Proposal Price Comparison

Year	MV-JAC Contract 1516-129			MV Proposal			First Transit Proposal		
	Year 2	Year 3	Year 4 (Option)	Year 1	Year 2	Year 3	Year 1	Year 2	Year 3
	2017-2018	2018-2019	2019-2020	2020-2021	2021-2022	2022-2023	2020-2021	2021-2022	2022-2023
Contract Value	\$768,654.84	\$792,961.45	\$844,898.00	\$1,582,713.00	\$1,612,555.40	\$1,652,522.90	\$1,144,136.30	\$1,190,232.15	\$1,243,255.70
Rate per Revenue Hour	\$30.21	\$31.88	\$35.81	\$59.40	\$60.52	\$62.02	\$42.94	\$44.67	\$46.66
Maximum Hours (Calculated)	25,444	24,873	23,594	26,645	26,645	26,645	26,645	26,645	26,645

	Year 4 (Option)	MV Proposal	First Transit Proposal
	2019-2020	2020-2021	2020-2021
FIXED OVERHEAD EXPENSES			
Management Wages	\$114,762	\$125,557	\$143,000
Management Benefits	\$20,173	\$15,876	\$36,914
Administrative Wages	\$0	\$107,131	
Administrative Benefits	\$0	\$16,689	
Office Expense and Supplies	\$2,740	\$1,298	\$4,911
General Liability Insurance	\$58,148	\$81,785	\$74,050
Workers Compensation Insurance	\$31,113	\$0	\$28,020
Fidelity Bond/Crime Insurance	\$0	\$0	\$0
Insurance Deductible Expense	\$0	\$0	\$0
Performance Bond	\$0	\$0	\$0
Communications	\$1,489	\$18,969	\$2,400
ADA Certification	\$0	\$0	\$0
Start-Up	\$0	\$0	\$24,065
Other Expenses	\$58,339	\$124,505	\$61,548
Other Expenses (Specify)	\$0	\$0	\$0
Profit	\$19,164	\$98,914	\$44,909
TOTAL FIXED EXPENSE	\$305,929	\$590,724	\$419,817
HOURLY EXPENSES			
Driver/Fueler Wages	\$401,916	\$675,241	\$499,122
Driver/Fueler Benefits	\$60,691	\$174,903	\$60,153
Sched/Disp Wages	\$56,625	\$94,193	\$81,510
Sched/Disp Benefits	\$5,590	\$15,270	\$21,432
Uniforms	\$1,700	\$11,400	\$2,500
Hiring/Training/Safety	\$12,448	\$18,354	\$38,201
Other Expenses (Specify)	\$0	\$0	\$0
TOTAL HOURLY EXPENSES	\$538,970	\$989,361	\$702,919
Hiring/Training Expenses	\$0	\$0	\$0
Maintenance Supplies	\$0	\$0	\$0
Maintenance Parts	\$0	\$0	\$0
Other Expenses (Facility Repairs)	\$0	\$2,534	\$0
TOTAL MILEAGE EXPENSE	\$0	\$2,534	\$0
TOTAL OPERATING EXPENSE	\$538,970	\$991,895	\$702,919
Expense/Revenue Vehicle Hour	\$0	\$0	\$0
GRAND TOTAL	\$844,899	\$1,582,618	\$1,122,736
ITEMIZED BUDGET DETAIL			
MANAGEMENT WAGES			
General Manager	\$63,039	\$74,963	\$77,000
Operations Manager	\$51,723	\$50,621	\$66,000
Total	\$114,762	\$125,557	\$143,000
MANAGEMENT BENEFITS			
Medical/Dental Insurance	\$9,726	\$4,800	\$22,422

Life Insurance	\$23	\$20	\$3,273
Payroll Taxes	\$10,424	\$1,507	\$11,219
Workers Compensation	\$2,313	\$924	\$872
Total	\$22,486	\$15,876	\$37,786
ADMINISTRATIVE WAGES			
Road Supervisor	\$0	\$51,806	\$0
Utility	\$0	\$43,670	\$0
BTW Trainer	\$0	\$11,656	\$0
TOTAL	\$0	\$107,131	\$0
ADMINISTRATIVE BENEFITS			
Medical/Dental Insurance	\$0	\$6,000	\$0
Life Insurance	\$0	\$20	\$0
401(k)	\$0	\$1,286	\$0
Payroll Taxes	\$0	\$7,310	\$0
Workers Compensation	\$0	\$2,074	\$0
TOTAL	\$0	\$16,689	\$0
OFFICE EXPENSES & SUPPLIES			
Copier Toner & Paper	\$0	\$0	\$3,000
Postage	\$63	\$0	\$300
Mis. Office Supplies	\$2,678	\$1,298	\$1,200
TOTAL	\$2,740	\$1,298	\$4,500
INSURANCE			
General Liability	\$609	\$7,395	\$741
Automobile Liability	\$57,539	\$74,390	\$73,310
TOTAL	\$58,148	\$81,785	\$74,050
DRIVER WAGES			
Revenue Service	\$390,247	\$631,090	\$473,014
New Hire Training	\$8,620	\$38,939	\$26,855
Retraining & Safety Meetings	\$3,049	\$5,212	\$3,921
TOTAL	\$401,916	\$675,241	\$503,789
DRIVER BENEFITS			
Vacation	\$3,684	\$10,188	\$17,545
Holiday	\$3,324	\$7,947	\$8,563
PTO		\$7,132	\$0
Medical/Dental Insurance	\$10,163	\$40,625	\$15,164
Life Insurance	\$97	\$190	\$2,417
401(k)	\$0	\$8,103	\$1,088
Payroll Taxes	\$43,295	\$58,644	\$41,484
Workers Compensation	\$27,664	\$42,075	\$26,650
TOTAL	\$88,326	\$174,903	\$112,912
SCHED/DISP WAGES			
Lead Dispatcher	\$27,760	\$47,096	\$32,604
Dispatchers	\$28,865	\$47,096	\$48,906
TOTAL	\$56,625	\$94,193	\$81,510
SCHED/DISP BENEFITS			
Medical/Dental Insurance	\$0	\$6,000	\$14,745
Life Insurance	\$23	\$20	\$30

401(k)	\$0	\$1,130	\$351
Payroll Taxes	\$5,596	\$7,367	\$6,306
Workers Compensation	\$1,136	\$754	\$497
TOTAL	\$6,754	\$15,270	\$21,930
COMMUNICATIONS			
Cell Phone	\$1,489	\$668	\$2,400
Misc Zonar inc Initial set-up	\$0	\$18,301	\$0
TOTAL	\$1,489	\$18,969	\$2,400
PROFIT	\$19,164	\$98,914	\$44,909
UNIFORMS	\$1,700	\$11,400	\$2,500
HIRING/TRAINING SAFETY			
Recruiting	\$435	\$9,828	\$1,200
Background Checks	\$1,977	\$1,877	\$1,360
Pull Notice Program	\$225	\$171	\$0
Safety & Training Program	\$4,897	\$3,550	\$2,990
Drug & Alcohol Program	\$2,430	\$1,427	\$836
Physicals	\$2,485	\$1,502	\$1,040
TOTAL	\$12,448	\$18,354	\$7,426
OTHER			
Business License	\$10,091	\$7,230	\$0
Vehicle Cleaning Supplies	\$0	\$12,905	\$0
Equipment Depreciation	\$7,217	\$11,290	\$2,868
Mis (Interest, Transit Miner, Overhead)	\$41,029	\$95,614	\$59,091
TOTAL	\$58,338	\$124,505	\$61,959
GRAND TOTAL	\$844,898	\$1,582,618	\$1,122,736

Attachment D -Variable and Fixed Costs Proposal From

Instructions: Complete a cost proposal, below, for each of the distinct services identified in the Scope of Service, for each year of the contract period. Three additional one-year options will be exercised at City's discretion, the price of which will be negotiated prior to contract renewal. Cost proposal shall be stated in dollars per revenue service hour.

Place this cost proposal page in a separate, sealed envelope. Proposals will be reviewed to determine if all requirements have been met. If not all requirements have been met, the separate cost proposals will not be opened.

Note: All proposals, including the unit rate of cost, become public information when the award is made. However, City will keep the supporting financial information of each proposal confidential.

Addendum Received:

<u>Service</u>	<u>X</u> #1	<u>X</u> #2	___ #3	___ #4
	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>	
JAC	<u>\$23.46</u>	<u>\$24.48</u>	<u>\$25.69</u>	
JAC Assist	<u>\$23.46</u>	<u>\$24.48</u>	<u>\$25.69</u>	
Monthly Fixed Cost	<u>\$42,440.57</u>	<u>\$43,975.66</u>	<u>\$45,675.89</u>	

Projected Maximum Billable Hours:
 JAC Fixed Route Service – 16,275 revenue service hours
 JAC Assist – 9,870 revenue service hours
 Miscellaneous (to be charged at the rate of which the hours relate) – 500 revenue service hours

Proposer FIRST TRANSIT, INC.

Signature of Authorized Official  _____

Name and Title of Authorized Official Bradley A. Thomas, President, First Transit, Inc.

Date 07/02/2020