

**VENTURA COUNTY TRANSPORTATION COMMISSION  
VALLEY EXPRESS TRANSIT SERVICES AGREEMENT**

This Transit Services Agreement (“Agreement”), dated as of \_\_\_\_\_, 2023 (“Effective Date”) entered into by and between the VENTURA COUNTY TRANSPORTATION COMMISSION (hereinafter “COMMISSION” and also “VCTC”) and MV TRANSPORTATION, INC., a California corporation (hereinafter “CONTRACTOR”). For the purposes of this Agreement, the COMMISSION and CONTRACTOR shall be jointly referred to as “Parties” and singularly as “Party.”

**RECITALS**

**WHEREAS** CONTRACTOR represents that it has the management and technical personnel, qualifications, expertise, skill and other assets necessary for the support of the COMMISSION’s transportation project; and

**WHEREAS** COMMISSION is party to the Heritage Valley Transit Service Cooperative Agreement, entered into between the Cities of Santa Paula, Fillmore, the County of Ventura, and COMMISSION is responsible for the administration of the transit service; and,

**WHEREAS** COMMISSION wishes to contract out daily management, operation and maintenance functions of the Heritage Valley Transit Service, which includes, Fixed-Route, Dial-a-ride and ADA Paratransit Services for the Heritage Valley (“Project”); and

**WHEREAS** COMMISSION wishes to enter into an Agreement with CONTRACTOR to provide services for this Project.

**NOW, THEREFORE**, in consideration of the foregoing recitals and mutual covenants and agreements contained herein, COMMISSION and CONTRACTOR hereto agree as follows:

1. Purpose. COMMISSION hereby contracts with CONTRACTOR to provide all necessary transportation management, personnel, equipment, materials, supplies, operations and maintenance services for the Project as set forth in Exhibit A “Scope of Work” subject to the terms and conditions of this Agreement.
2. Standard of Performance. CONTRACTOR shall perform all services required pursuant to this Agreement according to the highest standard of care observed by a competent and professional common carrier.
3. Definitions.

- i. "Transit Facility" refers to the CONTRACTOR's local base of operations for dispatch, administration, maintenance and vehicle parking operated in the performance of this Agreement.
- ii. "Revenue Vehicle(s)" or "Transit Vehicle(s)" refers to the transit buses used to operate the service, and provided to the CONTRACTOR by VCTC, as well as any transit buses that may be provided by CONTRACTOR pursuant to this Agreement.
- iii. "Vehicle Revenue Hours/Miles" refers to transit service transporting fare-paying customers. Revenue service does not include lunches/meal breaks or driver shuttle time, or time spent by driver between split shifts in the field or at the yard.
- iv. "Key Personnel" refers to the following CONTRACTOR employee positions: Project Manager (also referred to as General Manager), and Maintenance Manager.
- v. "Scheduled Time-points" are bus stops with departure times specifically noted (or for the last stop on a route, the noted arrival time) in the VCTC transit route schedules distributed for public consumption.
- vi. "Layover" refers to scheduled time for bus driver to be stopped at a bus stop or transit center when driver may be engaged with passengers. Does not include non-revenue service hours.
- vii. "Recovery" refers to the extra driver service time scheduled between trips that is not included on published schedules distributed for public consumption.
- viii. "Deadhead time/miles" as used herein, refers to the miles and hours that a revenue vehicle travels when out of revenue service. Deadhead includes revenue vehicles leaving or returning to the garage or yard facility, or when there is no expectation of carrying revenue passengers, but does NOT include any costs for providing driver reliefs, shift changes, shuttling vehicles to off-site fueling, etc. Deadhead does not include charter service, school bus service, operator training, or maintenance training. The COMMISSION shall pay contractor for approved deadhead time incurred for provision of Dial-a-ride/ADA Paratransit service. COMMISSION will approve the amount of deadhead time paid each month (reported by CONTRACTOR) based upon the existing schedule.
- ix. "Driver Break" or "10-minute break" used herein refers to the legally required paid rest breaks given to drivers while in the field.
- x. "Split Shifts" refers to a driver's daily assignment that has at least two shifts of work

(typically a morning or “A” piece and an afternoon or “B” piece) with greater than thirty-one minutes (31) of unpaid time during the course of his/her daily assignment that occurs between the two or more pieces of work/shifts.

- xi. “Duty Free Meal breaks” or “Lunches” refers to legally required driver breaks when driver is freed from all duties by employer as required by California law.
  - xii. “Dial-a-ride Service” refers to curb to curb on-demand transportation, including ADA Paratransit services.
  - xiii. “On-demand” refers to trips scheduled in advance through CONTRACTOR dispatch/reservations staff.
  - xiv. “Scheduling Database” or “CAD system” refers to computer scheduling software provided by VCTC and required for use by CONTRACTOR used to log and record all trip reservations, including pickups and drop-offs.
  - xv. “Business Day(s)” refers to days that the VCTC administrative offices are open for business, typically Monday through Friday. Does not include Saturdays and Sundays or when federally recognized holidays occur.
  - xvi. “Calendar Day(s)” all days of the week, excluding days when federally recognized holidays occur and VCTC transit service is not operated.
  - xvii. “Driver Vehicle Inspection Report” or “DVIR” or “Pre-trip Inspection Report” is the daily vehicle inspection report required by law that is completed by each transit vehicle operator prior to, and following the completion of, operation of a revenue vehicle.
  - xviii. “Spare vehicles” refers to revenue vehicles that are not in use but available for service.
4. Scope of Work: CONTRACTOR shall provide services at the time and place and in a manner specified as set forth in Exhibit “A” (Scope of Work), Exhibit “B” (Request for Proposals), Exhibit “C” (Contractor Proposal), Exhibit “D” (Vehicle Lease Agreement), and Exhibit “E” (Federal Transit Administration Requirements) all of which are attached hereto and incorporated herein by reference, which services and tasks are subject to review and approval, as required, by COMMISSION. In event of a conflict or inconsistency between this Agreement and the terms of Exhibit “B” or Exhibit “C,” this Agreement shall control.
5. Term. The term of this Agreement shall begin on March 2, 2023 and shall end on June 30, 2027 (“Initial Term”), unless the term of this Agreement is otherwise terminated or

extended in accordance with this Agreement.

The parties may, upon mutual agreement, extend this Agreement for a maximum of three (3) additional years, either as individual one (1) year extensions or a single three (3) year extension. In the event VCTC desires to extend this Agreement, VCTC will provide written notice of its request to extend for Extension Year One no later than twelve (12) months prior to the expiration of the Initial Term. For subsequent extensions (i.e., Extension Year Two and Extension Year Three), VCTC will provide written notice of its request to extend no later than six (6) months prior to the expiration of the current Extension Year term. The extension of this Agreement shall only be done upon mutual agreement of the parties and the extension for one extension period does not guaranty or mean that the succeeding extensions will be agreed; provided, however, that the subsequent extensions may not be exercised unless the immediately preceding extension period has been agreed. VCTC's written request to extend this Agreement for any renewal period does not preclude VCTC from soliciting proposals from other transportation service providers. The schedule of the Initial Term, and subsequent extension years, unless modified in writing, follows in the table below:

<b>Term</b>	<b>Start Date</b>	<b>End Date</b>
Initial Term	3/2/23	6/30/27
Extension Year One	7/1/27	6/30/28
Extension Year Two	7/1/28	6/30/29
Final Extension Year Three	7/1/29	6/30/30

6. **Effective Date of Agreement.** This Agreement shall become effective upon the Effective Date listed above. However, CONTRACTOR will not commence Revenue Services until the Start Date for the Initial Term listed above. VCTC may issue a preliminary written Notice to Proceed ("NTP") to CONTRACTOR to allow CONTRACTOR to perform only reasonably necessary start-up activities in preparation for Revenue Services.
7. **Maximum Compensation.** For the Initial Term of the Agreement, COMMISSION agrees to pay CONTRACTOR in consideration for all of its services provided as described in the Scope of Work. In no event shall the total amount of this Agreement exceed eleven million five hundred thousand (\$11,500,000), ("Maximum Compensation") for the initial term of this Agreement, notwithstanding any contrary indications that may be contained in Exhibit C. The Maximum Compensation excludes any adjustments made to compensation as a result of performance incentive payments or assessment of liquidated damages.
8. **Price Formula.** For the Initial Term, COMMISSION agrees to pay CONTRACTOR for performance of the Scope of Work set forth in this Agreement as follows:
  - i. CONTRACTOR shall be paid a fixed monthly rate plus a fixed hourly rate for billable

hours operated, as defined by service mode. VCTC shall set the total number of scheduled hours.

- a. Fixed Route Service mode: Billable time for Fixed Route Service begins when passenger service begins; that is when the transit or revenue vehicle is operating along the scheduled fixed route or engaged in revenue service, and ends when out of route or no longer engaged revenue service as identified in the Fixed Route Schedules. This billable time is also referred to as Vehicle Revenue Hours or VRH. Request for reimbursement for Fixed Route VRH operated above and beyond the scheduled times shall be reviewed on a case-by-case basis and be subject to validation and approval by VCTC staff.

Fixed Route VRH does not include deadhead, vehicle check-in/check-out time, time needed for fueling the vehicles, time when vehicle is inoperable on the road, or, duty free meal periods. Price paid per VRH shall include full compensation for furnishing all administration, management, facilities, services, maintenance, and items including labor materials, tools, equipment and incidentals as required by the Agreement for the provision of Fixed Route Services.

- b. Dial-a-ride/ADA Paratransit Service mode: Billable time for Dial-a-ride/ADA Paratransit Service begins when the Transit Vehicle is in “revenue service” (i.e., during Vehicle Revenue Hours or VRH). In addition, for Dial-a-ride and ADA Paratransit service only, CONTRACTOR shall be paid for limited deadhead time: this includes time to the first passenger pickup after leaving the Transit Facility, and until vehicle returns to the Transit Facility after dropping off the last passenger.

For the purposes of this section, “deadhead” time refers to the actual time required to travel directly from the CONTRACTOR’s transit facility to pick up the first revenue passenger, and, to travel directly to the CONTRACTOR’s transit facility after dropping off the last revenue passenger. However, reimbursement shall be based on actual deadhead time expended and limited to an average per day of thirty (30) minutes each way per vehicle. Deadhead time in excess of this amount will not be reimbursed. Deadhead travel times may be verified using the trip reservation and scheduling database.

Billable time for Dial-a-Ride/ADA Paratransit does not include vehicle check-in/check-out time at the yard, duty free meal breaks, time taken to fuel vehicles, time when vehicle is inoperable on the road or deadhead time in excess of thirty minutes each way for each vehicle when travelling from the Transit Facility to begin revenue service or to the Transit Facility when ending revenue service. Price paid per vehicle VRH and limited deadhead shall include full compensation for

furnishing all administration, management, facilities, services, maintenance, and items, including labor, materials, tools, equipment and incidentals as required by the Agreement for the provision of Dial-a-ride/ADA Paratransit Services.

- ii. Fixed Hourly Rate. CONTRACTOR shall be reimbursed according to the following rate schedule:

<b>Pricing with No Vehicle Replacement During Term</b>	<b>BASE PACKAGE</b>	<b>EXPANSION OPTION</b>
Hours	18,175	27,175
Hourly Rate Period 1	\$ 51.67	\$ 47.85
Monthly Fixed Cost Period 1	\$ 83,432.84	\$ 83,986.44
Hourly Rate Year 2	\$ 53.08	\$ 50.60
Monthly Fixed Cost Year 2	\$ 83,118.82	\$ 83,492.13
Hourly Rate Year 3	\$ 55.32	\$ 52.96
Monthly Fixed Cost Year 3	\$ 84,908.81	\$ 85,280.04
Hourly Rate Year 4	\$ 57.42	\$ 55.16
Monthly Fixed Cost Year 4	\$ 87,069.3	\$ 87,438.31

\*= hours +/- 20%

\*\* Period 1 has 24,231 base hours and 36,900 expansion options

\*\*\* Should VCTC replace revenue vehicles during the term the above rates are to be renegotiated and revised at the appropriate time. If applicable, revised rates will be memorialized in a contract addendum.

- a. Increases to the Vehicle Revenue Hours. In the event that VCTC increases the scheduled Fixed Route VRH, and/or increases the available Dial-a-Ride/ADA Paratransit VRH greater than twenty percent from the total amount of hours in the Base Package identified in the Scope of Work, VCTC shall reimburse CONTRACTOR according to the Option exercised. There is one option:

- OPTION: Fixed route expansion and/or Dial-a-Ride expansion (9,000 additional service hours)

CONTRACTOR shall be reimbursed for Expansion Options according to the following table. Expansion Option shall be determined based on the type of hours of service added to the project, i.e., Fixed Route and/or Dial-a-ride.

- b. Rates for Option Year Extension(s). Upon expiration of the Initial Term, rates for Agreement extension(s) shall be negotiated prior to the beginning of each extension

no more than thirty (30) days from the date of COMMISSION's written notice to extend the Agreement.

- c. Except as specifically provided elsewhere in this Agreement, the fixed hourly rate specified in Section 8 shall provide for all costs necessary to operate transit services for the Project as defined in this Agreement.
  - d. Except as set forth herein, CONTRACTOR shall, at its sole cost and expense, provide all facilities and equipment that may be necessary to perform the services required by this Agreement. Specifically, CONTRACTOR shall provide office, garage, bus wash, fueling and parking facilities; facility upgrade, repair and landscape maintenance; telephone and telephone maintenance, and all utilities, including high-speed internet at CONTRACTOR's proposed Transit Facility located at 918 Mission Rock Road (Building E) in Santa Paula, California 93060, pursuant to Exhibits "A", "B" and "C" of this Agreement; all fuel, oil, solvents, grease, tires, batteries; all maintenance supplies such as filters, headlamps, anti-freeze and bus washer chemicals; vehicle parts inventory; facility insurance; radios; fare revenue processing and accounting equipment; public telephone information service during specified hours; lost and found collection; and shop equipment at the bus facility.
9. Invoices and Payment. COMMISSION shall pay the CONTRACTOR based on the costs contained in the submitted cost proposal, but not to exceed the annual budget approved by COMMISSION, for the complete and satisfactory performance of the terms and conditions of this Agreement for the period agreed upon. COMMISSION shall set and monitor the annual budget. The annual budget will be approved by the COMMISSION at the June Commission meeting.
- a. Contractor Invoice: CONTRACTOR shall submit invoices for payment with documentation thereof in the form and number required by COMMISSION no later than the 5th business day of the following month. These invoices shall be based on the fixed hourly rate(s) contained in the contract and the actual amount of vehicle revenue service hours operated.

For Dial-a-ride/ADA Paratransit service, CONTRACTOR shall schedule service and complete "trip check-in" functions or "trip reconciliation" using the CAD system provided by COMMISSION.

Hourly costs shall be directly traceable by dispatcher and/or driver trip sheets which will be available for review by COMMISSION; additionally, COMMISSION may use Computer Aided Dispatch (CAD) records, Automated Vehicle Locator ("AVL") monitoring systems and/or in-field service monitoring to validate CONTRACTOR invoices. CONTRACTOR is required to utilize CAD and AVL systems and shall have

access to same systems to assist with invoice preparation and validation.

- b. Invoice Review: Upon receipt of the invoice, VCTC staff shall promptly review and approve the CONTRACTOR's request for payment and shall submit the invoice to VCTC's Accounting Department within ten (10) business days of receipt of the invoice for payment. If any further information or any corrections are required, the review period will be extended until such information has been received and VCTC has made corrections.
- c. Invoice Payment: All payments by COMMISSION shall be made in arrears after the service has been provided. COMMISSION will pay all undisputed invoices from CONTRACTOR within thirty (30) days of an approved invoice by VCTC's Accounting Department unless the monthly reporting has not been submitted. Payment may be withheld by VCTC if monthly reports have not been submitted or other disputes exist. In the event of a disputed invoice, COMMISSION shall pay any undisputed portion(s) of the invoice within thirty (30) days of receipt by VCTC's Transit Department and the Parties shall meet as soon as possible to resolve the dispute(s). Following resolution of the dispute, the resolved invoice shall be paid within thirty (30) days of receipt of the resolved portion(s) by VCTC's Accounting Department.

Any Liquidated Damages assessed against CONTRACTOR shall be deducted from the payments to CONTRACTOR. Any Liquidated Damages imposed under this Agreement shall be in accordance with the Scope of Work attached as Exhibit "A" to this Agreement.

COMMISSION has the authority to withhold funds under this Agreement pending a final determination by VCTC of questioned expenditures or indebtedness to COMMISSION arising from past or present agreements between COMMISSION and the CONTRACTOR. Upon final determination by COMMISSION of disallowed expenditures or indebtedness, COMMISSION may deduct and retain the amount of the disallowance or indebtedness from the amount of the withheld funds.

Payments to the CONTRACTOR may be withheld by COMMISSION if the CONTRACTOR fails to comply with the provisions of this Agreement. Payment of outstanding invoices from CONTRACTOR may be withheld by COMMISSION, without interest accruing to CONTRACTOR, if the monthly report is not submitted by CONTRACTOR in a timely manner and if non-performance has resulted in COMMISSION demand against CONTRACTOR's Performance Bond.

No advance payments will be permitted.



10. Cost of Living Adjustment. It is agreed that the annual adjustments to the fixed hourly rate and fixed monthly rate set forth in Section 8 of this Agreement shall be adjusted based on the same increase in the Consumer Price Index (CPI), Oxnard-Thousand Oaks-Ventura, CA area, but in no event more than 5% per year and no less than 3% per year. In the event that circumstances arise beyond the Contractor's control that significantly affect the cost of operation, VCTC will discuss, without obligation, the possibility of adjusting the rate(s) pertinent to the changed circumstances, without any commitment on the part of VCTC to make any such adjustment. VCTC's decision on any adjustment of rates is final and binding on CONTRACTOR. Requests for rate adjustment(s) must be made in writing no less than ninety days from the effective date of the requested adjustment(s).
11. Management and Overall Staffing. During the term of this Agreement, CONTRACTOR shall provide sufficient staffing necessary and required to perform its duties and obligations under the terms hereof. Staffing levels shall at a minimum, not fall below the position levels described in in Exhibit "C" and identified in section 11(a) of this agreement. These minimum staffing levels shall be maintained at all times with the exception of normal employee vacations and other excused absences. Reasonable time caused by employee turnover shall be allowed, including in the case of discharge or lack of notice by employee. Any position vacant more than fifteen (15) working days shall be filled by a temporary employee. The temporary employee may be a current CONTRACTOR employee on temporary assignment. However, in the event a position remains unfilled after thirty (30) calendar days for any reason, CONTRACTOR shall ensure timely replacement and provide reasonable assurances to COMMISSION of its efforts to fill the position. CONTRACTOR shall notify VCTC Transit Services Program Manager within forty-eight (48) hours when any Key Personnel positions become vacant. Failure to provide notice shall result in liquidated damages at a rate equal to cost to VCTC from payment owed the CONTRACTOR. CONTRACTOR shall provide monthly staffing reports indicating staffing levels and record of time and efforts for any unfilled positions in excess of thirty (30) calendar days, and may have the salary of the unfilled position deducted by the COMMISSION for key positions (Key Personnel) unfilled after sixty (60) days. Failure by the CONTRACTOR to continually maintain minimum staffing levels shall be considered failure to perform. Employee records shall be made available to COMMISSION for audit to certify validity and accuracy of monthly reports submitted.

CONTRACTOR shall assign only experienced management, maintenance and supervisory personnel to perform the services pursuant to this Agreement. Any Key Personnel assigned to this Project must remain in that position for a period of (2) years unless VCTC requests the CONTRACTOR to reassign the employee, the CONTRACTOR terminates the employee for reasonable cause, or the employee permanently separates employment from CONTRACTOR.

Irrespective of the foregoing, if for any reason a Key Personnel position (Project/General

Manager or Maintenance Manager) remains open or not permanently filled for more than sixty (60) days with a qualified, full-time employee approved by VCTC, a liquidated damage equal to the employee's monthly salary may be immediately assessed by VCTC and collected through a reduction in payment owed the CONTRACTOR in the next invoice cycle, or as otherwise agreed to at VCTC's discretion. Such liquidated damage may continue to be collected for each subsequent month in which no permanent employee is designated and assigned to this contract. The intent of this language is to provide stability and continuity of management and supervision for VCTC services. VCTC does not intend to arbitrarily or capriciously restrict anyone's career ambitions; however, CONTRACTOR and CONTRACTOR's Key Personnel candidates recognize that frequent changes of management/supervision inflict intangible costs to the quality of service provided to VCTC. Should the CONTRACTOR have Key Personnel considered for promotion or transfer, within the two-year period identified above CONTRACTOR shall request approval from VCTC prior to moving the key personnel from the project.

Contractor shall make all reasonable efforts to ensure employees having contact with the public in the course of their duties are of good moral character. Contractor will conduct individual assessments of each applicant/employee in accordance with applicable state and federal laws.

- a. Quality Control. CONTRACTOR is to immediately acknowledge receipt of any requests or complaints from VCTC in writing within twenty-four (24) hours and provide a timeline of when the request or complaint will be addressed or remedied. CONTRACTOR shall provide the performance and operations reports outlined in Exhibit F Scope of Work, Quality Control Appendix to VCTC on or before the 5<sup>th</sup> business day of every month during the term of this Agreement. In the event that a person identified as Key Personnel is not adequately performing the obligations outlined in this Agreement as determined by VCTC, then CONTRACTOR shall meet with the specific staff member and outline a plan to improve performance and notify VCTC of the outcome in accordance with Exhibit F Scope of Work, Quality Control Appendix.
  
- b. Minimum Staffing Levels: The following positions and number of employees shall be maintained at a minimum by CONTRACTOR during the term of this Agreement:

<u>Category</u>	<u>Position</u>	<u>Base Package</u> #FT / #PT Employees	<u>Option</u> #FT / #PT Employees
Key Personnel	General Manager	0.20 FT	0.20 FT
Key Personnel	Project Manager	1.0 FT	1.0FT
Operations	Operations Supervisor	1.0 FT	1.0 FT
Key Personnel	Maintenance Manager	0.75 FT	0.75 FT

Maintenance	Lead Mechanic ("A" Mechanic)	N/A	N/A
Maintenance	Mechanic (B or C)	1.0 FT	1.0 FT
Operations	Dispatcher/Reservationist	3.0 FT 2.0 PT	3.0 FT 2.0 PT
Operations	Reservationist	N/A	N/A
Operators	Drivers*	10 FT 2 PT	10 FT 2 PT
Maintenance	Utility Service Worker	1.0 FT	1.0 FT

*\* Number of drivers may vary based on service expansion, contractor's run cut, overtime and other operational needs and decisions by the contractor.*

12. Uniforms. CONTRACTOR shall purchase uniforms for employees and shall require the employees to wear them, in accordance with CONTRACTOR policy and in compliance with this Agreement. The design, type, and logo of the uniform shirt shall be subject to COMMISSION's approval.
13. Merger and Modifications of Agreement. This writing constitutes the entire Agreement between the Parties relative to the subject matter of this Agreement and no modification hereof shall be effective unless and until such modification is evidenced by a writing signed by both Parties to this Agreement.
14. Renewals. If VCTC requests to extend the Initial Term of this Agreement, the Parties shall meet prior to twelve (12) months before the expiration date of this Agreement to develop a budget for the subsequent period to consider renewal; however, COMMISSION retains the right to solicit competitive proposals for renewal at any time before the end of the Agreement period.
15. Assignment and Subcontracting. This Agreement is for the performance of transportation services for the Project and the CONTRACTOR, may not assign or subcontract its rights under this Agreement nor delegate the performance of its duties without the COMMISSION's prior written consent. The CONTRACTOR, its assigns and subcontractors will complete all obligations under this Agreement. Any subcontract, assignment or delegation without the COMMISSION's prior written consent will be void.
16. Relationship of the Parties. At all times during the term of this Agreement, CONTRACTOR shall be an independent contractor and shall not be an employee of VCTC. VCTC shall have the right to control CONTRACTOR only insofar as the results of CONTRACTOR's services rendered pursuant to this Agreement and assignment of management personnel as set forth in Section 8, and Exhibit "A"; however, VCTC shall not have the right to control the means by which CONTRACTOR accomplishes services rendered pursuant to this Agreement. Notwithstanding any other VCTC, state, or federal

policy, rule, regulation, law, or ordinance to the contrary, CONTRACTOR and any of its employees, agents, and subcontractors providing services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any and all claims to, any compensation, benefit, or any incident of employment by VCTC, including but not limited to eligibility to enroll in the California Public Employees Retirement System (PERS) as an employee of VCTC and entitlement to any contribution to be paid by VCTC for employer contributions and/or employee contributions for PERS benefits. Except as VCTC may specify in writing, CONTRACTOR shall have no authority, express or implied, to act on behalf of VCTC in any capacity whatsoever as an agent. CONTRACTOR shall have no authority, express or implied, pursuant to this Agreement to bind VCTC to any obligation whatsoever.

17. Compliance with Federal Transit Administration (FTA) Requirements. The CONTRACTOR shall comply with all of the FTA contractual provisions applicable to CONTRACTOR required for agencies that accept Federal Grant Funds and shall ensure that any subcontractors also comply therewith. The provisions contained in the FTA Requirements attached to this Agreement in Exhibit "E" are incorporated into this Agreement. If there is any conflict between the FTA terms and conditions and any other terms and conditions of this Agreement, the FTA terms and conditions shall take precedence.
18. Compliance with all Applicable Laws. CONTRACTOR shall comply with all laws applicable to the performance of the work hereunder.
19. License and Permits. CONTRACTOR represents and warrants to VCTC that CONTRACTOR and its employees, agents, and any subcontractors have all licenses, permits, qualifications, and approvals of whatsoever nature that are legally required to practice their respective professions. CONTRACTOR represents and warrants to VCTC that CONTRACTOR and its employees, agents, any subcontractors shall, at their sole cost and expense, keep in effect at all times during the term of this Agreement any licenses, permits, and approvals that are legally required to perform the services required pursuant to this Agreement.
20. Force Majeure. Neither party, VCTC or the CONTRACTOR, shall be liable for any failure or delay in performance under this Agreement (other than for delay in the payment of money due and payable hereunder) to the extent said failures or delays are proximately caused by causes beyond that Party's reasonable control and occurring without its fault or negligence, including, without limitation failure of suppliers, subcontractors, and carriers, provided that, as a condition to the claim of non-liability, the Party experiencing the difficulty shall give the other prompt written notice as soon as reasonably possible and known, with full details following the occurrence of the cause relied upon. Dates by which performance obligations are scheduled to be met will be extended for a period of time

equal to the time lost due to any delay so caused.

Such events may include, but are not restricted to, the following: 1) governmental restrictions or limitations; 2) failure or shortage of fuel, water, fuel oil or other utility or services; 3) riot, war, insurrection or other national or local emergency; 4) natural disasters; or 5) route impasses due to construction, accidents or other reasons.

In the event that circumstances arise beyond the CONTRACTOR's control that significantly affect the cost of operation, VCTC will meet and confer with CONTRACTOR to discuss, without obligation, the possibility of adjusting the hourly rate pertinent to the changed circumstances, without any commitment on the part of VCTC to make any such adjustment.

## 21. Bond and Insurance Requirements

### a. Bond Requirements:

- i. Performance Bond. Prior to February 1, 2023 and annually thereafter, CONTRACTOR shall provide VCTC with a faithful performance bonds or a letter of credit ("Bond") in the amount of seventy-five percent (75%) of Contract Price for year one, seventy-five percent (75%) for year two, and fifty percent (50%) of the annual contract price during years three through five and any subsequent option years in a form approved by VCTC, unless VCTC determines that a lesser amount would be adequate to cover damages from the contractor in failing to perform the services required and provide the equipment as contracted for. Annual surety bonds or letter of credit amount will be rounded to the nearest hundred dollars.

For the purposes of this section (Section 22.a.i) of the Agreement only, "Contract Price" shall be based on the CONTRACTOR's Cost Proposal as attached as Exhibit "C" and submitted by CONTRACTOR. If Vehicle Revenue Hours increase and new rates become effective, respective to the caused Expansion Option, the corresponding performance bond or letter of credit will be provided by CONTRACTOR upon the Bond's annual renewal.

As attached and contained in Exhibit "C," the Contract Price and subject bond amounts are as follows:

**BASE PACKAGE (Fixed and Variable)**

<b>Contract Year</b>	<b>Total Contract Price</b>	<b>Percent Applied</b>	<b>Bond Amount</b>
Period 1	\$2,586,829	75%	\$1,940,121
Year 2	\$1,962,098	75%	\$1,471,573
Year 3	\$2,024,289	50%	\$1,012,144
Year 4	2,088,450	25%	\$522,112
Year 5*	TBD	TBD	TBD

\*This percentage requirement also applies to any of the option years that VCTC may elect to exercise

\*\* Should VCTC replace revenue vehicles during the term the above bond amounts are to be revised based on new rates and contract price at the appropriate time. If applicable, revised contract price and revised bond amounts will be memorialized in a contract addendum.

- ii. Changes in this Agreement, or extensions of time, made pursuant to this Agreement, will in no way release the Bond obligation. The Performance Bond will remain in effect until the expiration of six (6) months after the period in which verified claims may be filed as provided in Section 1192.1 of the Code of Civil Procedure.

**b. Insurance Requirements:**

The CONTRACTOR shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the CONTRACTOR, his agents, representatives, employees or subcontractors.

**MINIMUM SCOPE OF INSURANCE**

Coverage should be at least as broad as:

- i. **COMMERCIAL GENERAL LIABILITY (CGL):** Insurance Services Office Form CG 00 01 covering CGL on an “occurrence” basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than \$5,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 05 09 or 25 04 05 09) or the general aggregate limit shall be twice the required occurrence limit
- ii. AUTOMOBILE LIABILITY: ISO Form Number CA 00 01 covering any auto (Code 1), or if CONTRACTOR has no owned autos, covering hired, (Code 8)

and non-owned autos (Code 9), with limit no less than \$25,000,000 per accident for bodily injury and property damage.

No later than thirty (30) business days prior to the commencement of work, the Contractor must furnish VCTC the following:

1. Certificate of insurance evidencing satisfaction of the above coverage requirements;
  2. Copies of the specified endorsements for each policy. Said endorsement copies shall be submitted no later than thirty (30) business days prior to commencement of work;
  3. Upon COMMISSION's written request, copies of insurance policies shall be provided. Said policy copies shall be submitted within thirty (30) days of COMMISSION's request.
- iii. Workers Compensation Insurance. As required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of no less than \$1,000,000 per accident for bodily injury or disease.
- iv. Comprehensive and Collision. With respect to the vehicles to be used under the terms of the Agreement, including CONTRACTOR owned or VCTC- provided vehicles, CONTRACTOR shall maintain in full force and effect vehicle physical damage coverage (Comprehensive and Collision) to include such perils as fire; lightning; explosion; theft; windstorm; hail; earthquake; flood; mischief; vandalism; and overturn or collision with another object. The most CONTRACTOR will pay for any one loss is the lesser of: 1) the actual cash value of the damaged stolen property as of the date of the loss; or 2) the cost of repairing or replacing the damaged or stolen property with other property of like kind and quality; or 3) the property's stated value of the fleet inventory. An adjustment for depreciation and physical condition will be made in determining actual cash value in the event of a "total loss". If a repair or replacement results in better than the like kind of quality, CONTRACTOR will not pay for the amount of the betterment. The vehicle physical damage coverage shall name the VCTC as a loss payee for VCTC owned/provided. CONTRACTOR shall provide the VCTC with a Certificate of Insurance showing compliance with the requirement of this paragraph. Contractor may elect to self-insure this risk instead of purchasing a comprehensive and collision insurance policy.

If the CONTRACTOR maintains broader coverage and/or higher limits than the minimums shown above, VCTC requires and shall be entitled to the broader coverage and/or higher limits maintained by the CONTRACTOR.

- v. Other Insurance Provisions. The insurance policies are to contain, or be endorsed to contain, the following provisions:
- a. Primary Coverage. For any claims related to this contract, the Contractor's insurance coverage shall be primary and non-contributory and at least as broad as ISO CG 20 01 12 19 as respects the Entity, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the Entity, its officers, officials, employees, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it. This requirement shall also apply to any Excess or Umbrella liability policies.
  - b. **Umbrella or Excess Policy:** The CONTRACTOR may use Umbrella or Excess Policies to provide the liability limits as required in this agreement. This form of insurance will be acceptable provided that all of the Primary and Umbrella or Excess Policies shall provide all of the insurance coverages herein required, including, but not limited to, primary and non-contributory, additional insured, Self-Insured Retentions (SIRs), indemnity, and defense requirements. The Umbrella or Excess policies shall be provided on a true "following form" or broader coverage basis, with coverage at least as broad as provided on the underlying Commercial General Liability insurance. No insurance policies maintained by the Additional Insureds, whether primary or excess, and which also apply to a loss covered hereunder, shall be called upon to contribute to a loss until the CONTRACTOR's primary and excess liability policies are exhausted.
  - c. VCTC, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the CONTRACTOR including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the CONTRACTOR's insurance (at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10, CG 20 26, CG 20 33, or CG 20 38; and CG 20 37 if a later edition is used).

CONTRACTOR Insurance Certificates Automobile and General Liability must contain the following coverage:

The Agencies as specified by the VCTC Agreement(s) including the Ventura County Transportation Commission, the City of Fillmore and the City of Santa Paula, and the employees, officers and agents of each of them; and the County of Ventura, are additional insureds.



The policy will not be canceled without thirty (30) days prior written notice to the COMMISSION.

- d. Notice of Cancellation. Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to VCTC.
  - e. Verification of Coverage. CONTRACTOR shall furnish VCTC with certificates and amendatory endorsements, All certificates and endorsements are to be received and approved by VCTC no later than thirty (30) business days prior to the commencement of work. However, failure to obtain the required documents prior to the work beginning shall not waive the CONTRACTOR's obligation to provide them. VCTC reserves the right to require complete, copies of all required insurance policies, including endorsements required by these specifications, at any time. VCTC reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.
  - f. Subcontractors. CONTRACTOR shall include all subcontractors as an insured (covered party) under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.
- vi. All Policies Requirements:
- a. Acceptability of Insurers. All insurance required by this section is to be placed with insurers authorized to conduct business in the state with a current A.M. Best's rating of no less than A:VII, or a qualified self-insurance program as approved by the State of California.
  - b. Self-Insured Retentions. Self-insured retentions must be declared to and approved by VCTC. Except as to any Workers' Compensation policy, any policy with a self-insured retention must include that language that provides, or is endorsed to provide, that the self-insured retention may be satisfied by either the named insured or VCTC. Any and all deductibles and SIRs shall be the sole responsibility of CONTRACTOR or subcontractor who procured such insurance and shall not apply to the Indemnified Additional Insured Parties. VCTC reserves the right to obtain a copy of any policies and endorsements for verification.
  - c. Waiver of Subrogation. CONTRACTOR hereby grants to VCTC a waiver of any right to subrogation which any insurer of said CONTRACTOR may acquire against VCTC by virtue of the payment of any loss under such insurance.

CONTRACTOR agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not VCTC has received a waiver of subrogation endorsement from the insurer.

vii. Remedies. In addition to any other remedies VCTC may have if CONTRACTOR fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, VCTC may, at its sole option exercise any of the following remedies, which are alternatives to other remedies VCTC may have and are not the exclusive remedy for CONTRACTOR's breach:

- a. Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Agreement;
- b. Order CONTRACTOR to stop work under this Agreement or withhold any payment that becomes due to Contractor hereunder, or both stop work and withhold any payment, until Contractor demonstrates compliance with the requirements hereof; and/or terminate this Agreement.

viii. Material Breach. If CONTRACTOR, for any reason, fails to maintain insurance coverage which is required pursuant to this Agreement, the same shall be deemed a material breach of Agreement. COMMISSION, at its sole option, may terminate this Agreement and obtain damages from CONTRACTOR resulting from said breach. Alternatively, COMMISSION may purchase such required Insurance coverage and, without further notice to CONTRACTOR, COMMISSION may deduct from sums due to CONTRACTOR any premium costs advanced by COMMISSION for such insurance. These remedies shall be in addition to any other remedies available to COMMISSION.

ix. Special Risks or Circumstances. VCTC reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

22. Indemnification. To the fullest extent allowed by law, CONTRACTOR shall defend, indemnify, and hold harmless the Ventura County Transportation Commission, the County of Ventura, the City of Fillmore, the City of Santa Paula, officers and agents of each of them (the "Valley Express Group") from any and all liability, costs, damages or expenses, including attorneys' fees, arising out of or incurred in connection with the CONTRACTOR and its employees', agents', and subcontractors' negligent acts, omissions, or willful misconduct in the performance of the services provided pursuant to this Agreement. The foregoing obligation of CONTRACTOR shall not apply when (1) the injury, loss of life, damage to property, or violation of law arises wholly from the gross negligence or willful misconduct of the Valley Express Group or its officers, employees, agents, or volunteers,

and (2) the actions of CONTRACTOR or its employees, subcontractor, or agents have contributed in no part to the injury, loss of life, damage to property, or violation of law.

In addition, CONTRACTOR agrees to the fullest extent allowed by law, to defend with legal counsel reasonably acceptable to VCTC and pay the cost of defending any claim or suit whenever or wherever made or brought against the Valley Express Group based upon an infringement or alleged infringement of any letters patent, or any other intellectual property claims, and to indemnify and save harmless the Valley Express Group from and against any and all liability, damage, loss or injury adjudged or sustained in any such claim or suit, or adjudged or sustained by reason of the equipment to be furnished hereunder constituting an infringement of any letters patent or adjudged or sustained by reason of inability of the Valley Express Group to use said equipment because of any infringement or alleged infringement of any letters patent.

23. Service Expansion and Reduction. VCTC may occasionally, at its sole discretion, increase or decrease scheduled vehicle revenue hours to accommodate service demands with written notification to the CONTRACTOR. These changes may occur annually, seasonally or as needed.

For increases or decreases of scheduled vehicle revenue hours or Driver service hours, CONTRACTOR will be reimbursed using the fixed hourly rate, pursuant to Section 8 of this Agreement.

24. Notice of Service Change. VCTC reserves the right to order an increase or decrease in the level of service provided, with a minimum of fifteen (15) days' notice to the CONTRACTOR. For service increases that require additional driver personnel in excess of ten percent of the driver workforce at the time of notice, VCTC will negotiate the effective date of the scheduled service increase, which in no case shall be more than thirty days from date of first notice. Service expansion in excess of the hours contained in this Agreement that require additional personnel and/or vehicles shall be subject to negotiation between VCTC and CONTRACTOR.

In the event CONTRACTOR's costs increase as a result of (i) changes to the scope of work/service hours requested by VCTC (ii) changes in laws, rules, regulations, etc. applicable to the services to be provided by CONTRACTOR, rate adjustment will be considered

25. Performance Monitoring by COMMISSION. The failure of VCTC to insist upon strict performance by the CONTRACTOR of any provision of this Agreement in any one or more instances shall not constitute a waiver of such provision by VCTC nor shall, as a result, VCTC relinquish any rights, which it may have under this Agreement.

26. No Implied Waiver of Breach. The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.

27. Termination of the Contract.

- a. Termination for Cause. VCTC may at any time prior to completion of the work, terminate the Agreement with the CONTRACTOR for any cause, upon (30) days written notice to the CONTRACTOR prior to the effective date of such termination. For cause termination includes, but is not limited to: (1) default by the CONTRACTOR, (2) CONTRACTOR'S bankruptcy, insolvency, or assignment for the benefit of creditors. Upon such notice, CONTRACTOR shall have ten (10) business days in which to cure the default alleged in the notice.

The CONTRACTOR shall promptly submit its termination claim for payment to the VCTC. If the CONTRACTOR has any property in its possession belonging to VCTC, the CONTRACTOR shall account for the same, and dispose of it in the manner VCTC directs.

Upon receiving notice of Agreement termination, the CONTRACTOR will begin transition of service and equipment back to VCTC and VCTC's designated replacement CONTRACTOR in an amount of time to be determined by VCTC.

If VCTC determines that the CONTRACTOR has not materially complied with the terms of the contract, VCTC shall notify the CONTRACTOR of such noncompliance and reserves the right to terminate this Agreement. Reasons for such termination may include but shall not be limited to the failure to provide service within agreed performance standards as evidence by VCTC inspection, through surveys, or by communications from users of a service. Termination shall be effected by giving a notice of termination to the CONTRACTOR setting forth the manner in which the CONTRACTOR is in default.

In the event of termination for default of CONTRACTOR, the CONTRACTOR shall only be paid the contract price for supplies delivered and accepted, and for services performed in accordance with the manner of performance set forth in this Agreement.

In the event of contract termination due to noncompliance, the CONTRACTOR may request a delay in such termination in order to present an appeal to VCTC board of Commissioners.

In case of default by CONTRACTOR, VCTC reserves the right to procure the articles or services from other sources and to hold the CONTRACTOR responsible for any excess costs incurred by VCTC. In addition, the CONTRACTOR will be required to

operate the services for a minimum of six (6) months from the time the first request is granted and/or until VCTC is able to place a new CONTRACTOR in place. The contract rates will not be renegotiated for the remainder of the contract, unless entering an option year of the contract in which case the rate will be increased only by CPI pursuant to this Agreement.

- b. Termination for Convenience. VCTC, by written notice, may terminate this contract, in whole or in part, for convenience when it is in VCTC's interest on sixty days (60) days' written notice to CONTRACTOR. If this contract is terminated, VCTC shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.

Similarly, VCTC retains the right to terminate the work of a subcontractor for convenience, or any cause, including but not limited to default by the subcontractor upon written notice to the CONTRACTOR at least thirty (30) days prior to the effective date of such termination. Good faith efforts will be made by both VCTC and the CONTRACTOR to correct identified problems and issues prior to contract termination.

Under no circumstances may CONTRACTOR have the right to terminate this Agreement for convenience.

28. Taxes and Other Charges: The CONTRACTOR shall pay all taxes of whatever character that may be levied or charged upon its equipment, facilities improvements, fixtures, or upon its operation hereunder. CONTRACTOR shall also pay all licenses or permit fees necessary or required by law or VCTC for the conduct of its operation hereunder.

It is expressly understood and acknowledged by the parties hereto that any amounts payable hereunder shall be paid in gross amounts, without reduction for any other governmental taxes or charges. CONTRACTOR is responsible for assuming and remitting any applicable federal or state withholding taxes, estimated tax payments, social security payments, unemployment compensation payments, or any other fees, taxes or expenses whatsoever.

29. Conflict of Interest. CONTRACTOR promises that it presently has no interest which would conflict in any manner or degree with the performance of services hereunder. CONTRACTOR further promises that in performance of this Agreement, no person having such interest shall be employed. CONTRACTOR may contract with other entities, but none whose activities within the service territory of VCTC or whose business, regardless of location, would place CONTRACTOR in a "conflict of interest," as that term is defined in the Political Reform Act, codified at California Government Code Section 81000 et seq. CONTRACTOR shall not employ any VCTC official or employee in the work performed pursuant to this Agreement. No officer or employee of VCTC shall have any financial interest in this Agreement that would violate California Government Code Sections 1090

et seq. CONTRACTOR understands that, if this Agreement is made in violation of Government Code § 1090 et seq., the entire Agreement is void and CONTRACTOR will not be entitled to any compensation for services performed pursuant to this Agreement, including reimbursement of expenses, and CONTRACTOR will be required to reimburse VCTC for any sums paid to the CONTRACTOR. CONTRACTOR understands that, in addition to the foregoing, it may be subject to criminal prosecution for a violation of Government Code § 1090 and, if applicable, will be disqualified from holding public office in the State of California.

30. Conflict of Transportation Interests. CONTRACTOR shall not divert any revenues, passengers, or other business from COMMISSION's Project to any taxi, shuttle or other transportation operation of the CONTRACTOR.
31. Marketing. VCTC has retained a consultant for marketing, public relations, and advertising; therefore, these costs shall not be included in the cost proposal. The CONTRACTOR shall cooperate with VCTC and VCTC's marketing agency in all promotional activities through VCTC in newspapers, radio, television, leaflets, and identify VCTC as the project sponsor and administrator. The CONTRACTOR shall ensure that all vehicles contain an adequate supply of service schedules, and other passenger information to be provided by VCTC. The CONTRACTOR shall also put up, maintain, and remove Car Cards, Rider Alerts, etc., on all vehicles as required by VCTC.
32. Promotional Use of Vehicles. The CONTRACTOR shall provide such buses as VCTC may, from time to time, specify for promotional appearances, uses, and photographs at no additional cost to VCTC if the request for a vehicle operator is for three hours or less. If greater than three hours, reimbursement shall be at the Out of Contract Rate to be established by separate letter agreement between the Parties.
33. Contacts with Media and Contacts with Media during Major Incidents. CONTRACTOR shall refer all media requests to VCTC and shall not provide any information without prior approval by VCTC. In the event of a major incident affecting CONTRACTOR's operation of VCTC revenue service, the CONTRACTOR shall defer all media inquiries to VCTC. The CONTRACTOR shall not issue a press release or initiate other media contact regarding the VCTC project without first receiving approval from the VCTC Executive Director or his/her representative.
34. Conduct of Surveys and Data Collection. Additional documentation of the Project will be provided through passenger surveys. Authorized representatives of VCTC will administer these surveys. It is the responsibility of the CONTRACTOR to ensure the cooperation of all personnel with any operational procedures pertaining to survey work, including the distribution of survey questionnaires, etc.

35. Advertising on Vehicles. CONTRACTOR shall cause only such advertising material or audio, video, or similar devices as may be specified by VCTC from time to time to be affixed to such location or locations of the buses as VCTC shall request.

CONTRACTOR shall cooperate with the VCTC and the VCTC's transit vehicle advertising services vendor in providing access to the buses and access to the maintenance facility for the installation and removal of advertisement materials. VCTC shall bear the costs of installation and removal of advertising, including repair of any damage caused by VCTC's advertising services vendor.

No portion of any revenue or consideration received by VCTC in connection with such advertising shall be paid to the CONTRACTOR. CONTRACTOR shall not affix and shall not permit to be affixed to or distributed on any bus any other advertising, political, or other printed or published material, and shall not utilize or permit to be utilized, any loudspeaker, video, or other device for the purpose of such advertising or other communication other than as designated by VCTC. In the event that CONTRACTOR receives any payment or other consideration from VCTC's bus advertising firm or other source, paid in connection with any advertising material, said payment or consideration shall be promptly delivered to VCTC, and any and all advertising revenues shall be the property of VCTC.

36. VCTC Representative Authorization. The CONTRACTOR shall refrain from any action which would create or tend to create obligations, express or implied, on behalf of VCTC. It is understood that the CONTRACTOR is not and shall not be the legal representative or agent of VCTC and that the CONTRACTOR shall not be authorized to make any promise, warranty or representation except as specifically provided for in this agreement or as otherwise agreed to in writing between the Parties.
37. VCTC Identified Meetings and/or Training Sessions. The CONTRACTOR shall be required to attend all meetings and/or training sessions as identified by VCTC, including regular operations meetings. The CONTRACTOR may be excused from attendance only by prior written consent from VCTC.
38. Liaison with Municipal Agencies. The CONTRACTOR shall coordinate closely with affected municipal representatives on all matters that affect the daily operation of transit service, e.g., road closures, accidents, and inclement weather. CONTRACTOR shall immediately advise VCTC of all such efforts.
39. Operating During a Declared Emergency. Upon declaration of any emergency VCTC may be requested to assist with a number of transportation-related activities, including the development of emergency travel routes, and the coordination with other agencies supplying common carrier services. In the event of a declared emergency, the

CONTRACTOR shall deploy vehicles in a manner described by the VCTC Executive Director or his/her designee. VCTC shall be obligated to compensate the CONTRACTOR for Service, which exceeds the normal expense of operating the service during such period of declared emergency.

40. Operating Non-declared Emergency Service and/or Special Event. The CONTRACTOR may, from time to time, be required to provide non-declared emergency service, which does not necessarily require declaration by the local authorities. Such emergency service will require re-routing of regular service, notification of passengers, and increased road supervision and monitoring. These situations, which may be prompted by unforeseen road construction, road closures, and special events, or police incident, may require the Contractor to provide a re-route of service. In the event that such an occurrence takes place where no advance notice is given, then the CONTRACTOR shall take the responsibility to produce a re-route, which minimizes interruptions to service, immediately notify VCTC, dispatch a supervisor to monitor the area and the situation, and return to the normal route/operation as quickly as possible. When advance notice is received, the CONTRACTOR shall work with VCTC staff to develop a re-route plan, post rider alert bulletins, and in some situations pick-up and post signs provided by VCTC. The CONTRACTOR shall also be responsible for removing the rider bulletins and signs as soon as the emergency is over.
41. Audit and Inspection of Records. The CONTRACTOR agrees that VCTC or any of its duly authorized representatives, shall, for the purpose of audit and examination be permitted to inspect all work, materials, payrolls, and other data and records with regard to the project, and to audit the books, records, and accounts with regard to the project.

At any time during normal business hours and as often as VCTC may deem necessary, the CONTRACTOR shall make available to VCTC for examination, all necessary records with regard to the service provision, start-up, and capital purchase costs. VCTC shall have the authority to audit, examine and make excerpts or transcripts from records, including all contracts, invoices, materials, payrolls, records of personnel, conditions of employment, and other statistical data relating to all matters covered by this Agreement.

VCTC reserves the right to dispatch auditors of its choosing to any site where any phase of the project is being conducted, controlled, or advanced in any way, however tangible or intangible. Such sites may include the home office, any branch office, or other locations of the CONTRACTOR if such sites or the activities performed thereon have any relationship to the program covered by this Agreement. VCTC auditors shall be provided with adequate and appropriate workspace in order to conduct audits and shall be allowed to interview any employees of the CONTRACTOR. If CONTRACTOR's employees are interviewed, it will occur at such a time so as to minimize the impact to service delivery and in the presence of a CONTRACTOR manager. It is the responsibility of the



CONTRACTOR to ensure the cooperation of all employees with any procedure pertaining to the audit.

All project records prepared by the CONTRACTOR shall be owned by VCTC and be made available to VCTC at no additional charge. VCTC may elect to authorize representatives of other project funding partners to inspect, audit and analyze the records of the CONTRACTOR in operating this service, preparing the bid for this service.

VCTC shall have the authority to make physical inspections and to require such physical safeguarding devices as locks, alarms, safes, fire extinguisher, sprinkler system, etc., to safeguard property and/or equipment authorized by this Agreement.

When a fiscal or special audit determines that the CONTRACTOR has received payments from VCTC which are questionable under the criteria set forth herein, the CONTRACTOR shall be notified and given the opportunity to justify questioned items prior to VCTC's final audit report.

If such audit finds that VCTC's dollar liability for such service is less than payments made by VCTC to CONTRACTOR, then CONTRACTOR agrees that the difference shall be either:

- repaid forthwith by CONTRACTOR to VCTC by cash payment, or
- deducted against any future payments hereunder to CONTRACTOR.

If such audit finds that VCTC's dollar liability for service is more than payments hereunder to CONTRACTOR, then the difference shall be paid to CONTRACTOR by VCTC, provided that in no event shall VCTC's maximum obligation, as set forth in this Contract, be exceeded.

VCTC shall determine any amount to be paid to the CONTRACTOR during the period of audit. VCTC has the authority to withhold funds pending a final determination by VCTC of any questionable expenditure.

- a. Maintenance of Records. The CONTRACTOR shall maintain records for expenditures incurred directly or indirectly under this Agreement as it relates to the provisions of service, start-up costs, or purchase of capital equipment authorized under this Agreement. Documentation shall include, but not be limited to, time cards, driver/dispatch log sheets, vehicle maintenance records, invoices, and any other documents pertinent to the capital and/or start-up expenditures. A record of such expenditures by line item shall be maintained in a file and be made available for examination in accordance with this Agreement.

Records, in their original form, shall be maintained in accordance with requirements covered by this Agreement and in support of service provision, start-up, capital expenditure, quarterly, monthly, daily statistical and/or FTA- NTD reports. Such records shall be retained for a period of five (5) years after termination of this Agreement if all other pending matters are closed. "Pending matters" include but are not limited to an audit, litigation, or other action involving the records. VCTC may, at its discretion, take possession and retain said records.

Records in their original form pertaining to matters covered by this Agreement shall at all times be retained within Ventura County unless authorization to remove them is granted in writing by VCTC.

The cost of audits of any original documents and records maintained by the CONTRACTOR in Counties, other than Ventura and Los Angeles, shall be paid to VCTC by CONTRACTOR.

Results of record inspection may indicate the need for changes and or modifications. The CONTRACTOR shall cooperate with VCTC to establish and improve the system and maintain flexibility so the modifications may be implemented quickly.

42. Validity of Financial Documentation Submissions. Financial reports required to be prepared and submitted by the CONTRACTOR to VCTC shall be accurate and correct in all respects. Should repeated occurrences of inaccurate reports be submitted to VCTC, VCTC may require the CONTRACTOR to secure the services of an independent certified public accountant. The costs of such accounting services are to be borne by the CONTRACTOR for invoices with errors over 10%, unless specifically agreed to between the CONTRACTOR and VCTC in a written amendment.

43. Records and Audits of Subcontracts. Records shall be maintained in accordance with requirements prescribed by VCTC with respect to all matters covered by any subcontract. Such records shall be retained within Ventura County for a period of five (5) years after receipt of final payment under this Agreement, unless authorization to remove them is granted in writing by VCTC.

Expenditures pertaining to subcontracts shall be supported by properly executed documents evidencing in detail the nature of the expenses. At such time and in such forms as VCTC may require, there shall be furnished to VCTC such statements, records, report, data and information as VCTC may request pertaining to matters covered by any subcontract.

These records shall be made available to VCTC for copying, audit, and inspection at any time during normal business hours.

44. Proprietary Rights. All manuals, forms and operational documentation prepared by CONTRACTOR under this Agreement shall be made available to COMMISSION at no charge and become property of COMMISSION. Any Software code or explanation of CONTRACTOR software protected by copyright shall not become the property of the COMMISSION. The required financial and activity reports per other sections of this Agreement shall be owned by COMMISSION.

45. Notices. All notices provided pursuant to this Agreement must be in writing and sent to:

TO COMMISSION:

Martin R. Erickson, Executive Director  
Ventura County Transportation Commission  
751 East Daily Drive, Suite 420  
Camarillo, California, 93010

TO CONTRACTOR:

MV Transportation, Inc.  
2711 N. Haskell Ave., Suite 1500  
Dallas, TX 75204  
Attn: Legal Department

46. Modifications. This Agreement may not be altered, amended or modified except by written instrument signed by the duly authorized representatives of both parties.

47. Governing Law. This Agreement will be governed by and in accordance with the domestic laws of the State of California with no regard to the choice of law doctrine.

48. Miscellaneous.

i. Attorneys' Fees. If a party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.

ii. Dispute Resolution. VCTC and CONTRACTOR agree to resolve the dispute in accordance with the following process if any dispute arises between the Parties that cannot be settled after engaging in good faith negotiations:

Each party will designate a senior management or executive level representative to negotiate the dispute. Through good faith negotiations, the representatives will attempt to resolve the dispute by any means within their authority.

If the dispute remains unresolved after fifteen (15) days of good faith negotiations, the Parties shall attempt to resolve the disagreement by mediation through a disinterested third person as mediator selected by both Parties. Mediation will begin within thirty (30) days of the selection of this disinterested third party and will end fifteen (15) days

after commencement. The Parties shall equally bear the costs of any mediator and shall bear their own attorney's fees for the mediation.

The alternative dispute resolution process in this section is a material condition to this Agreement and must be exhausted as an administrative remedy prior to either party initiating legal action. This alternative dispute resolution process is not intended to nor shall be construed to change the time periods for filing a claim or action specified by Government Code Section 900, et. seq.

In the event that either party brings any action against the other under this Agreement, the parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of Ventura or in the United States District Court.

This process is not applicable to Cost-of-Living Adjustments as set forth in Section 10 and Force Majeure adjustments set forth in Section 20. VCTC's decision on any adjustment of rates is final and binding and is not subject to alternate dispute resolution.

- iii. Severability. If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.
- iv. No Implied Waiver of Breach. The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.
- v. Successors and Assigns. The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the parties.
- vi. Use of Recycled Products. CONTRACTOR shall prepare and submit all reports, written studies and other printed material on recycled paper to the extent it is available at equal or less cost than virgin paper.
- vii. Nondiscrimination and Equal Opportunity. CONTRACTOR shall not discriminate, on the basis of a person's race, religion, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, familial status, sex, gender, gender identity, gender expression, age, sexual orientation, and veteran or military status against any employee, applicant for employment, subcontractor, bidder for a subcontract, or participant in, recipient of, or applicant for any services or programs provided by CONTRACTOR under this Agreement. CONTRACTOR shall comply with all applicable federal, state, and local laws, policies, rules, and requirements

related to equal opportunity and nondiscrimination in employment, contracting, and the provision of any services that are the subject of this Agreement, including but not limited to the satisfaction of any positive obligations required of CONTRACTOR thereby.

CONTRACTOR shall include the provisions of this Subsection in any subcontract approved by the Contract Administrator or this Agreement.

- viii. Solicitation. CONTRACTOR agrees not to solicit business at any meeting, focus group, or interview related to this Agreement, either orally or through any written materials.
- ix. Survival. All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between VCTC and CONTRACTOR shall survive the termination of this Agreement. Specifically, CONTRACTOR's obligation to provide insurance and bonds and indemnification as set forth in Sections 21 and 22 shall survive termination of this Agreement. Additionally, CONTRACTOR's obligation to maintain records pursuant to Section 43 shall survive termination of this Agreement.
- x. This Agreement contains the entire understanding between the parties. Any prior Agreement, whether oral or written, shall be invalid upon execution of this Agreement.

**IN WITNESS HEREOF**, the parties hereto have caused this Agreement to be executed by their duly authorized representatives. Each party represents to the other party that this Agreement has been executed by a duly authorized agent of the party so representing.

COMMISSION:

VENTURA COUNTY  
TRANSPORTATION COMMISSION

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

CONTRACTOR:

MV TRANSPORTATION, INC.

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

ATTEST:

\_\_\_\_\_  
Roxanna Ibarra  
Clerk of the COMMISSION

APPROVED AS TO FORM:

\_\_\_\_\_  
Steven Mattas  
General Counsel of the COMMISSION

APPROVED AS TO CONTENT:

\_\_\_\_\_  
Martin R. Erickson  
Executive Director of the COMMISSION

Transit Services Agreement between  
VCTC and MV Transportation

EXHIBIT “VEHICLE LEASE”

**Ventura County Transportation Commission  
Vehicle Lease Agreement**

**THIS AGREEMENT BETWEEN** the Ventura County Transportation Commission, (hereinafter “VCTC”) and MV Transportation, Inc., a California corporation, (hereinafter referred to as Contractor) is made an entered into as of January \_\_, 2023. Within this Agreement, the term “Parties” shall mean VCTC and the Contractor.

**WHEREAS** VCTC and Contractor have entered into an Agreement for Provision of Fixed Route, Dial-a-ride and ADA Paratransit Services for the period between March 2, 2023 and June 30, 2027; and

**WHEREAS**, VCTC has purchased fifteen (15) transit buses for the provision of the Valley Express transit services (hereinafter “Vehicle(s)"); and

**WHEREAS**, VCTC agrees to make the Vehicles available for use by Contractor in providing local dial-a-ride transit services for VCTC’s Dial-a-ride transit program in the Valley Express (“VCTC Transportation Services Program(s)” herein) in accordance with and subject to the terms of the Valley Express Transit Services Agreements; and

**WHEREAS** the intent of this Agreement is solely to provide for the lease of vehicles to be used by Contractor in the performance of its obligations under the Valley Express Transit Service Agreements and is not intended to amend or modify the Valley Express Transit Service Agreements.

**NOW THEREFORE** the Parties do agree as follows:

1. Vehicle(s) Acceptance

VCTC agrees to lease fifteen (15) Vehicle(s) listed on the Vehicle Schedule (Attachment A) to Contractor in accordance with the terms set forth in this Agreement. Upon delivery of the Vehicle(s), the parties will jointly execute a vehicle acceptance document specifying the condition of the Vehicle(s). Contractor shall assume all risk and responsibility for the Vehicle(s) thereafter until returned to VCTC. Vehicle(s) shall be returned to VCTC in the same condition as originally delivered, except for ordinary wear and tear. “Ordinary wear and tear” shall be as defined in Section 18 (below) as solely determined by VCTC.

2. Use of Vehicle(s)

Contractor will operate the Vehicle(s) in compliance with all applicable laws, regulations, and government rules and directives, including traffic regulations, and municipal ordinances in effect and applicable to the VCTC Transportation Services Program within the VCTC Transportation Services Program service area. Contractor shall use or cause the Vehicle(s) to be used in performance of its obligations set forth in the Valley Express Transit Service Agreements between the Parties.



VCTC PROVIDES THE VEHICLES IN AN “AS-IS” CONDITION. VCTC MAKES NO WARRANTY OR REPRESENTATION CONCERNING THE VEHICLE(S) AND EXPRESSLY DISCLAIMS ANY EXPRESS WARRANTY, IMPLIED WARRANTY OR ANY RESPONSIBILITY RELATING TO THE FITNESS OR CONDITION OF ANY VEHICLE OR ANY VEHICLE’S FITNESS FOR ANY PURPOSE PROVIDED HEREUNDER. CONTRACTOR SHALL WORK WITH MANUFACTURER FOR ANY APPLICABLE WARRANTY.

3. Term

The term of this Agreement shall be from March 2, 2023 through the termination of the Valley Express Transit Service Agreements, or for a longer period in the event such longer period is set forth in any new agreement between the parties regarding VCTC Transportation Services Programs, unless terminated earlier in accordance with this Agreement or extended by amendment to this Agreement.

4. Assignment

Except as outlined in Section 3, this Agreement may not be assigned. Vehicle(s) may be operated only by employees of Contractor.

5. Possession of Vehicle(s)

Contractor shall not be entitled to use of the Vehicle(s) until Contractor has delivered to VCTC and VCTC has approved each of the following documents:

- a. Verification of Business Auto, General Liability, and Workers’ Compensation insurance covering all Vehicle(s) leased to Contractor, in accordance with the terms provided in the Valley Express Transit Service Agreements;
- b. a fully executed copy of this Lease Agreement with VCTC;
- c. a separate acknowledgement of the required maintenance and repair schedule and program for the vehicle(s) which, at a minimum, meet the requirements of Section 8 and Attachment D;
- d. the initial lease payment amount; and
- e. a plan and timeline for equipping all Vehicle(s) with radio and other communication devices, decaling Vehicle(s) identifying the Contractor and displaying required PUC number and placing wheelchair access decal markings on the Vehicle(s) and any other legally required signage. Such timeline shall specify that the identification shall be completed no later than 30 days following the receipt of delivery of each Vehicle.

6. Records.

Contractor shall be required to prepare and keep Vehicle files by Vehicle number documenting all Vehicle(s) maintenance including, without limitation, preventative maintenance, scheduled maintenance, inspections, parts usage, unscheduled maintenance, and accident repairs. Said files

shall be kept current throughout the duration of this Agreement and a copy thereof shall be provided to VCTC upon request and upon termination of this Agreement. VCTC shall have unrestricted access to all Vehicle maintenance records during planned or unannounced visits or inspections of the Contractor's facilities for the duration of this Agreement. Contractor shall maintain all records generated in the performance of this Lease and the VCTC Transportation Services Program for a period of at least three (3) years after the end of the lease term. Any violation of the provision of this Section will be considered a material breach of the lease and subject to Contractor to all remedies for breach available under law, including, but not limited to, termination of the Agreement.

7. Lease payments

In consideration of the terms of this Agreement and the rental of vehicle(s) hereunder, Contractor agrees to pay VCTC, an annual lease payment of \$1.00 per vehicle per year and such additional rent that may be assessed in accordance with Section 8 of this Agreement. Contractor's initial lease payment shall be made upon the effective date of this Agreement, and annually on the anniversary date of the effective date thereafter.

8. Maintenance program

Within seven (7) days of receipt of the first Vehicle, Contractor shall submit to VCTC acknowledgement of the Required Vehicle Maintenance & Repair Program requirements which will indicate Contractor's agreement to implement said comprehensive preventative maintenance (PM) program for the Vehicle(s). Failure to comply with this requirement shall be grounds for immediate termination of this Agreement and immediate repossession of the Vehicle(s). The maintenance program to be implemented by Contractor shall meet or exceed the manufacturer's recommended or specified guidelines and shall include the maintenance of all add-on equipment, if any, supplied with the Vehicle(s). When maintenance requirements are specified by the manufacturer for different service categories (such as "normal service" and "severe service"), the most stringent and severe service guidelines shall be used. Contractor and VCTC shall meet to review severe service guidelines on a component-by-component basis. Contractor shall maintain the vehicle(s) in accordance with the specified program.

All parts and materials, including lubricants and fuel, used in maintaining or operating the Vehicle(s) shall be in accordance with the Vehicle(s) manufacturer's specifications for said parts and materials.

Contractor shall provide at its sole cost:

- a. Fuel, lubricants, tires, tubes and all other operating supplies necessary for the Vehicle(s);
- b. Maintenance and repairs including all labor and parts required to keep the Vehicle(s) in good operating condition;
- c. Regular exterior and interior washing and cleaning;
- d. Road service for mechanical failures;

- e. Repair of all damages to vehicle including that caused by accidents, vandalism, etc.

All repairs and maintenance shall be performed by personnel who have demonstrated the experience and skill necessary to perform the work, which shall be performed in a workmanlike manner to the generally accepted industry standard of quality. Contractor will be solely responsible for the quality of all repairs and maintenance.

VCTC reserves the right to enter on the property of Contractor or any location where the Vehicle(s) may be parked during scheduled or unscheduled visits to inspect the Vehicle(s) and VCTC may require the immediate repair thereof if the condition of the Vehicle(s) is not satisfactory. In lieu of the above, VCTC may elect to perform, or have performed, the services and or repairs required and assess the costs thereof against Contractor as additional rent. Nothing herein shall relieve Contractor of its obligation to properly maintain the Vehicle(s).

Contractor agrees that each VCTC-owned Vehicle shall be surrendered to VCTC's authorized representative for complete mechanical/appearance inspection when requested. These inspections shall be conducted at least twice per year per Vehicle. These inspections may be in addition to any other state or federally required inspections.

In most cases, VCTC shall notify Contractor by Monday, the week prior to inspection, of the date and the Vehicle(s) to be surrendered for inspection. VCTC, with the cooperation and assistance of Contractor, shall conduct inspections at Contractor's facility. In such case, Contractor agrees to cooperate fully with VCTC and its representative and agrees to furnish necessary equipment to perform such inspection. Such equipment shall be limited to that equipment as used by Contractor to safely and effectively maintain said Vehicle(s). It is preferred to hold all inspections at Contractor's facility. In the event that Contractor's facility or the needed equipment (such as vehicle lifts) is deemed insufficient for inspections, VCTC reserves the right to hold inspections at an off-site inspection facility. In such case, Contractor shall arrange to deliver requested Vehicle(s) to VCTC's designated representative within the County of Ventura at the appointed date/time. Any off-site inspections will occur within a 30-mile radius of the Contractor's facility located within the service area. Contractor shall be called upon completion of inspection so that within 24 hours of notification, Contractor may call for Vehicle. Arrangements for delivering vehicle for inspection shall be handled by Contractor and costs associated with such shall be borne by Contractor.

Contractor agrees that failure to deliver designated Vehicle on the appointed date/time may result in the imposition of liquidated damages of \$50 per missed tripper day until Vehicle is delivered for inspection. Any damages assessed against Contractor through said method will be deducted from monies owed to Contractor from services provided under its Valley Express Transit Service Agreement with VCTC.

Upon completion of inspection, VCTC shall forward to Contractor a list of deficiencies, which may have been identified to VCTC by its inspector. Contractor agrees to correct all deficiencies within seven (7) days of notification. Contractor may request an extended timeframe to effect repairs prior to next re-inspection. Any decision to extend re-inspection(s) will be at the sole

discretion of VCTC. If, upon re-inspection deficiencies have not been corrected, Contractor agrees to pay a liquidated damage of \$50 per missed trip per day per deficiency to VCTC until said deficiencies have been corrected. Any damages assessed against Contractor through this method will be deducted from monies owed to Contractor for services provided under its Agreement for Valley Express Transit Service with VCTC.

The assessment by VCTC of any liquidated damages under the lease agreement or Agreement for Provision of Transportation Services shall not release Contractor from its responsibilities or limit VCTC's right to pursue other legal and equitable remedies for Contractor's violation of its obligations hereunder, including termination of the Agreement.

#### 9. Transfer of Vehicle

Contractor shall not transfer, lease, or otherwise dispose of the Vehicle(s) during the term of this Lease Agreement without the prior written approval of VCTC or its designee. If Contractor violates any provision of this Agreement, VCTC may terminate this Agreement as to said Vehicle(s), reclaim possession of the Vehicle, and/or transfer use of the Vehicle(s) to another Contractor.

Contractor agrees to be bound to the terms and conditions of the Vehicle Transfer Agreement, included as an attachment herein. The Vehicle Transfer Agreement shall, upon termination of this Agreement, govern the transfer of the Vehicle(s) from Contractor to another Contractor.

#### 10. Vehicle(s) Safety Inspection

Contractor shall be responsible for compliance with any state and federal vehicle inspection programs. The costs of said inspections and any maintenance or repairs required to comply with said inspections shall be the responsibility of Contractor.

#### 11. Obligations of Contractor

Contractor, in relation to the lease of the Vehicle(s), shall:

- a. For the term of the Lease Agreement, maintain and repair or cause the Vehicle(s) to be maintained and repaired as specified herein and in a manner that will assure safe and reliable transportation to VCTC passengers.
- b. Operate or cause the Vehicle(s) to be operated in a safe manner consistent with all applicable provisions of Federal, State and local laws.
- c. In writing, report to VCTC within seven (7) days any occurrence that will prevent compliance with this section (e.g., accident rendering the vehicle inoperative, mechanical deterioration to the extent that repair is not feasible).
- d. Ensure proper maintenance and repair are performed on the Vehicle(s) and that the costs of such maintenance and repairs are borne by the Contractor.
- e. Unless otherwise authorized by VCTC in writing, within five (5) days after termination of this Lease Agreement or at the end of the Lease term, return the Vehicle(s) in the same condition as received, ordinary wear and tear excepted, to

VCTC or VCTC's authorized representative at a location to be designated by VCTC (not to exceed a 40 mile radius of the Contractor's facility located at 234 Central Avenue, Fillmore, California, 93015). Contractor is responsible for all cost incurred in the relocation of the Vehicle(s) to a location identified by VCTC.

- f. Contractor agrees to fully cooperate with VCTC and any successor Contractor in the transfer of vehicles to a successor Contractor in a manner that will allow for the smooth and uninterrupted operation of VCTC's Transportation Services Program.

## 12. Default

A. Contractor shall be in immediate default of this Agreement if any of the following events occur:

- 1. Contractor or Contractor's property are the subject of a proceeding in bankruptcy, receivership or insolvency or Contractor makes an assignment for the benefit of creditors.
- 2. Contractor fails to comply with the insurance provisions of this Agreement and/ or the Current Service and Equipment Agreements.

B. Contractor shall be in default of this Agreement if any of the following events occur and remain uncured following ten (10) days written notice to Contractor:

- 1. Contractor fails to comply with any material term or condition of this Agreement, including and without limitation, the maintenance and repair requirements.
- 2. Contractor fails to answer traffic summons or pay fines when due.
- 3. Contractor fails to keep the Vehicle(s) free of liens and encumbrances.
- 4. The Vehicle(s) is used for illegal purposes or driven by a person not in possession of the proper credentials or state drivers' license.
- 5. Contractor operates the Vehicle in an unsafe and dangerous manner.

## 13. Remedies

In the event that Contractor is in breach or default of this Agreement, VCTC may at its election, enter into Contractor's premises and without further notice, take possession of some or all the Vehicle(s), and remove them from Contractor's premises without prejudice to any other remedies both parties may have under any Agreement at law or equity. Upon such repossession, VCTC shall have the right to inspect said Vehicle(s) and make any necessary repairs to said Vehicle(s) and assess the costs thereof against Contractor as additional rent.

## 14. Indemnification

In addition to the indemnification requirements of the Current Service and Equipment Agreements, to the fullest extent allowed by law, Contractor shall indemnify, defend and hold harmless VCTC and its officers, agents and employees from and against any and all suits, claims,

actions, losses, penalties, and damages of whatsoever kind or nature, (including fines for traffic and parking violations) arising out of or in any way incident to or in connection with, the use, condition or operation of the Vehicle(s) hereunder, including without limitation, damage of any kind to the Vehicle(s), to third parties, and to property during the term of this Agreement. Contractor shall defend VCTC in all legal or claim proceedings arising out of or in connection with or in any way incident to the use or operation of the Vehicle(s), pay all costs of defense including reasonable attorney's fees, witness fees, and costs incurred directly or indirectly on account of said litigation or claim and satisfy any judgment rendered in connection therewith and/or to pay the costs of settling said litigation or claim.

15. Insurance

Contractor shall, at all times maintain insurance, in such amounts and as required in the Current Service and Equipment Agreements covering the Vehicle(s) and its operation and provide proof of said insurance to VCTC including Certificates of Insurance as required therein.

16. Theft, Damage, or Destruction of Vehicle(s)

During the term of the Agreement, Contractor shall be solely responsible for and indemnify VCTC against any and all costs, liability, and loss associated with the theft, damage, or destruction of the Vehicle(s) or the rendering of the Vehicle(s) unsuitable for use (as determined by VCTC) due to fire, riot, insurrection, act of God, unlawful or wrongful acts of third-parties, accident, vandalism, or theft. In the event that a Vehicle suffers a total loss, Contractor shall pay VCTC the fair market value of said Vehicle on the date of the occurrence of the total loss as verified by Kelly Blue Book.

17. No Property Interest in Vehicle(s)

Vehicle(s) shall be titled to VCTC in VCTC's name. Contractor shall acquire no property interest in the Vehicle(s) by virtue of, or operation of, this Agreement and they shall remain the property of VCTC throughout the term of this Agreement. Contractor shall not disturb, remove or obstruct property tags or labels affixed to or on the Vehicle(s) by VCTC. After taking delivery of the Vehicle(s), Contractor shall be responsible to register the Vehicle(s) as Lessee thereof and pay all costs of registration and to comply with all official markings and decals as required by VCTC. Contractor shall be responsible for annual vehicle registration fees and costs of keeping current with Department with Motor Vehicles.

18. Ordinary Wear and Tear

Vehicle(s) shall be returned to VCTC in the same condition as originally delivered, except for ordinary wear and tear. Ordinary wear and tear is the result of normal operating conditions with routine preventative maintenance. Normal operating conditions excludes collisions with other vehicles or objects. Proper preventative maintenance must comply with vehicle manufacturer recommended guidelines and standards for the most severe or stringent level specified.

Contractor shall responsible for paying for all costs of repair of Vehicle(s) for conditions beyond ordinary wear and tear. If Contractor returns Vehicle(s) to VCTC with conditions exceeding ordinary wear and tear, VCTC may repair said conditions and charge Contractor the cost thereof. Said costs may be deducted from any amounts owed to Contractor by VCTC or may be billed to Contractor as an independent payment obligation.

The following shall not be considered ordinary wear and tear:

- Scratch(s) in excess of 4.0 inches in length that break the paint or surface of any body-panel, lens, body molding, or window trim
- Four (4) or more consecutive scratches within 1.0 inch of each occurrence of 1.0 inch length that break the paint or surface of any body-panel, lens, body molding, or window trim
- Dent(s) in excess of 4.0 inches in diameter to any body-panel or body molding
- Four (4) or more consecutive dents within 1.0 inch of each occurrence of 1.0 inch diameter or greater per body panel or bumper
- Hole(s) in frame, any sheet metal, or body panel, including holes caused by rust or unauthorized modification
- Less than 6/32 of an inch tire tread depth in any groove except the outer grooves
- Any tire with internal belts or casing showing
- Any tire with size or rating that differs from original equipment
- Mismatched, bent, cracked or broken wheels, wheel covers, or trim rings
- Tire side wall damage or repair plugs
- Any tire damage affecting the ability to recap the casing
- Elongation of any wheel lug hole
- Any missing wheel lug nut
- Stains, cuts, or tears to upholstery in excess of 0.5 inch
- Burn holes in upholstery or gouges in any interior surface in excess of 0.125 inch
- Brake wear of greater than 70% of original disk or pad depth
- Unrepaired glass chip or crack in excess of 1.0 inch in diameter or length
- Paint damage due to organic fallout (insect decomposition, bird droppings)
- Paint damage due to Contractor applied decals NOT authorized by VCTC
- Holes drilled in the vehicle body (except as authorized by VCTC)
- Stone chips of greater than 1.0 inch in diameter
- Dent(s) in excess of 4.0 inches in diameter to any bumper
- Any hole, crack, tear or damage through any bumper
- Any modification that voids the original equipment manufacturer's warranty
- Any repair or existing condition not meeting the manufacturer's specifications, for instance excessive play in the steering column
- Poor repairs or alterations that detract from the overall appearance of the vehicle
- All broken or missing parts
- Any repair or alteration that detracts from the safety of the vehicle
- Any damage or condition affecting the safe operation of the vehicle

19. Notices under this Agreement should be delivered to:

For VCTC:

Camarillo, California 93010

For MV Transportation, Inc :

Martin Erickson, Executive Director

Ventura County Transportation

Commission

751 East Daily Drive, Suite 420

MV Transportation, Inc.

California,

20. Attachments

This Agreement includes the following attachments which are incorporated as if set forth herein.

- A. Schedule of Vehicles
- B. Current Service and Equipment Agreements
- C. Required Maintenance and Repair Program: including Manufacturer's Maintenance Manual and Contractor's proposed maintenance program.

IN WITNESS HEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives this \_\_\_\_ day of \_\_\_\_\_. Each party represents to the other party that this Agreement has been executed by a duly authorized agent of the party so representing.

COMMISSION: VENTURA COUNTY TRANSPORTATION COMMISSION

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

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

CONTRACTOR: MV TRANSPORTATION, INC.

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

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

ATTEST:

\_\_\_\_\_  
Clerk of the Commission

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

APPROVED AS TO FORM:

\_\_\_\_\_  
Steven Mattas, General Counsel  
Commission

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

APPROVED AS TO CONTENT:



\_\_\_\_\_  
Martin R. Erickson, Executive Director  
Commission

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

EXHIBIT “FTA TERMS”

# **FTA Contract Clauses**

## **No Obligation by the Federal Government** *(Required for all Contracts)*

The VCTC and the Contractor acknowledge and agree that, notwithstanding any occurrence by the Federal Government in or approval of this solicitation or award of this 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 VCTC, the Contractor, or any other party (whether or not a party to this Contract) pertaining to any matter resulting from this Contract.

The Contractor agrees to include the above clause in each subcontract financed in whole or 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**

*(Required for all Contracts)*

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. Department of Transportation (DOT) regulations, "Program Fraud Civil Remedies," 49 CFR Part 31, apply to its actions pertaining to this Contract. Upon execution of this 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 this 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.

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.

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** *(Required for all Contracts)*

The Contractor agrees to provide VCTC, the FTA Administrator, the Comptroller General of the United States or of 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 and conducting audits, inspections, examinations, excerpts, and transcriptions.

The Contractor also agrees, pursuant to 49 CFR 633.1.7, to provide the FTA Administrator or his or her authorized representatives, including any Project Management Oversight (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 in 49 U.S.C. 5307, 5309 or 5311. 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.

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 the Contractor agrees to maintain such books, records, account and reports until the VCTC, 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.

#### **Federal Changes** *(Required for all Contracts)*

The Contractor shall at all times comply with all applicable Federal Transit Administration (FTA) regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the grant agreements between the Ventura County Transportation Commission (VCTC) and FTA, as they may be amended or promulgated from time to time during the term of this contract. Failure by the Contractor to so comply shall constitute a material breach of this contract. In the event any such changes significantly affect the cost or the schedule to perform the work, the Contractor shall be entitled to submit a claim for an equitable adjustment under the applicable provisions of this contract.

#### **Termination** *(Required for all projects over \$10,000)*

**Termination for Convenience** - The VCTC, 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, the Recipient shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.

**Termination for Default [Breach or Cause]** - 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, the VCTC 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 the VCTC 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, the VCTC, 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.

**Opportunity to Cure (General Provision)** - The VCTC in its sole discretion may, in the case of a termination for breach or default, allow the Contractor [an appropriately short period of time] 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 VCTC's satisfaction the breach or default or any of the terms, covenants, or conditions of this Contract within ten (10) days after receipt by Contractor or written notice from VCTC setting forth the nature of said breach or default, VCTC 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 VCTC from also pursuing all available remedies against Contractor and its sureties for said breach or default.

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

### **Title VI Of The Civil Rights Act Of 1964** *(Required for all Contracts)*

During the performance of this Contract, the Contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "Contractor"), and subcontractors agree as follows:

- A. Compliance with Regulations.** The Contractor shall comply with the Regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation (hereinafter "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
- B. Nondiscrimination.** In accordance with Title VI of the Civil Rights act, as amended, 42 U.S.C. 200d section 3 03 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 laws at 49 U.S.C. 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.
- C. Equal Employment Opportunity.** The following equal employment opportunity requirements apply to this Contract:
  - 1. Race, Color, Creed, National Origin, Sex** – In accordance with title VII of the Civil Rights Act, as amended, 42 U.S.C. 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of the U.S. Department of Labor (USDOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 CFR Parts 60 et seq., (which implement Executive Order No. 11246 Relating to Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order No. 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 for which this Contract work is being performed. 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 of 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.

2. **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 laws at 49 U.S.C. 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reasons of age. In addition, the contractor agrees to comply with any implementing requirements FTA may issue.
3. **Disabilities** – In accordance with Section 102 of the Americans with Disabilities Act of 1990, 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 CFR Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
4. **Immigration and Naturalization Act of 1986** – In connection with the execution of this Contract, the Contractor must comply with all aspects of the federal Immigration and Naturalization Act of 1986.

- D. Solicitations for Subcontractors, Including Procurement of Materials and Equipment.** In all solicitations either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurement of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the Contractor of the Contractor’s obligations under this contract and the Regulations relative to non-discrimination on the grounds of race, color, or national origin.
- E. Information and Reports.** The Contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information and its facilities as may be determined by City or the Federal Transit Administration to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish this information, the Contractor shall so certify to City or the Federal Transit Administration as appropriate, and shall set forth what efforts it has made to obtain the information.
- F. Sanctions for Noncompliance.** In the event of the Contractor’s noncompliance with nondiscrimination provisions of this contract, City shall impose contract sanctions as it or the Federal Transit Administration may determine to be appropriate, including, but not limited to:
1. withholding of payments to the Contractor under the contract until the Contractor complies; and/or
  2. cancellation, termination, or suspension of the contract, in whole or in part.

**G. Subcontracts.** 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.

**Disadvantaged Business Enterprises** *(Required for all Contracts)*

The Ventura County Transportation Commission (VCTC) has established a DBE Program pursuant to 49 C.F.R. Part 26, which applies to this Agreement. The requirements and procedures of VCTC's DBE Program are hereby incorporated by reference into this Agreement. Failure by any party to this Agreement to carry out VCTC's DBE Program procedures and requirements or applicable requirements of 49 C.F.R. Part 26 shall be considered a material breach of this Agreement, and may be grounds for termination of this Agreement, or such other appropriate administrative remedy. Each party to this Agreement shall ensure that compliance with VCTC's DBE Program shall be included in any and all sub-agreements entered into which arise out of or are related to this Agreement.

CONTRACTOR's failure to make good faith efforts to comply with VCTC's DBE Program shall be considered a material breach of this AGREEMENT and may give rise to certain administrative penalties and proceedings, including, but not limited to, those set forth in 49 C.F.R. Part 26.107.

No later than Thirty (30) working days after receiving payment of retention from City for work satisfactorily performed by any of its subcontractors for services rendered arising out of or related to this Agreement, CONTRACTOR shall make full payment to its subcontractors of all compensation due and owing under the relevant subcontract agreement, unless excused by City for good cause pursuant to provisions of Section 1.1 below.

No later than Thirty (30) days after receiving payment of retention from City for work satisfactorily performed by any of its subcontractors for services rendered arising out of or related to this Agreement, CONTRACTOR shall also make full payment to its subcontractors of all retentions withheld by it pursuant to the relevant subcontract agreement, unless excused by City for good cause pursuant to provisions of Section 5.1 below.

There shall be no substitution of any DBE subcontractors subsequent to award of this Contract without the written approval of the City's DBE Officer.

**Incorporation of Federal Transit Administration (FTA) Terms** *(Required for all Contracts)*

The Contractor shall take such action with respect to any subcontract or procurement as VCTC or the Federal Transit Administration may direct as a means of enforcing such provisions including sanctions for noncompliance: provided, however, that, in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Contractor may request VCTC, and in addition, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

**Debarment and Suspension** *(Required by all projects greater than \$25,000)*

- A.** The Contractor shall include in each subcontract exceeding \$25,000, regardless of tier, a clause requiring each lower tiered subcontractor to provide the certification set forth in paragraph B of this section. Each subcontract, regardless of tier, shall contain a provision that the subcontractor shall knowingly enter into any lower tier subcontract exceeding \$25,000 with a person who is disbarred, suspended or declared ineligible from obtaining federal assistance funds. If a proposed subcontractor is unable to certify to the statements in the following certification, the Contractor shall promptly notify VCTC and provide all applicable documentation.
- B.** Each subcontractor with a subcontract exceeding \$25,000 shall certify as follows:

**CERTIFICATION OF PRIMARY PARTICIPANT REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS**

The Primary Participant (applicant for an FTA grant or cooperative agreement, or Potential Contractor for a major third party contract), certifies to the best of its knowledge and belief, that it and its principals:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency,-
2. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction,- violation of Federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (2) of this certification; and
4. Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

(If the primary participant (applicant for an FTA grant, or cooperative agreement, or potential third party contractor) is unable to certify to any of the statements in this certification, the participant shall attach an explanation to this certification.)

THE PRIMARY PARTICIPANT (APPLICATION FOR AN FTA GRANT OR COOPERATIVE AGREEMENT, OR POTENTIAL CONTRACTOR FOR A MAJOR THIRD PARTY CONTRACT), \_\_\_\_\_  
 CERTIFIES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF THE CONTENTS OF THE STATEMENTS SUBMITTED ON OR WITH THIS CERTIFICATION AND UNDERSTANDS THAT THE PROVISIONS OF 31 U.S.C. SECTIONS 3801 ET. SEQ. ARE APPLICABLE THERETO.

\_\_\_\_\_  
 Signature of Contractor's Authorized Official

\_\_\_\_\_  
 Date

\_\_\_\_\_  
 Typed Name and Title of Contractor's Authorized Official



### **Fly America Requirements** *(Required for all Contracts)*

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

### **Davis-Bacon and Copeland Anti-Kickback Acts** *(Required for Construction Projects Greater than \$2,000)*

(1) **Minimum wages** - (i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR Part 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classifications and wage rates conformed under paragraph (1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(ii)(A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage

determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met: 1. Except with respect to helpers as defined as 29 CFR 5.2(n)(4), the work to be performed by the classification requested is not performed by a classification in the wage determination; and, 2. The classification is utilized in the area by the construction industry; and 3. The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination; and 4. With respect to helpers as defined in 29 CFR 5.2(n)(4), such a classification prevails in the area in which the work is performed.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof. (iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. (v)(A) The contracting officer shall require that any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met:

1. The work to be performed by the classification requested is not performed by a classification in the wage determination; and
2. The classification is utilized in the area by the construction industry; and
3. The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination with 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(v) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(2) **Withholding** - The [ *insert name of grantee* ] shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, the [ *insert name of grantee* ] may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) **Payrolls and basic records** - (i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or

under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the [ *insert name of grantee* ] for transmission to the Federal Transit Administration. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under section 5.5(a)(3)(i) of Regulations, 29 CFR part 5. This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal Stock Number 029-005-00014-1), U.S. Government Printing Office, Washington, DC 20402. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors.

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following: (1) That the payroll for the payroll period contains the information required to be maintained under section 5.5(a)(3)(i) of Regulations, 29 CFR part 5 and that such information is correct and complete; (2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3; (3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the Federal Transit Administration or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

**(4) Apprentices and trainees -** (i) Apprentices - Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator of the Wage and Hour Division of the U.S. Department of Labor determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) *Trainees* - Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be

greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved. (iii) *Equal employment opportunity* - The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

**(5) Compliance with Copeland Act requirements** - The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

**(6) Subcontracts** - The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the Federal Transit Administration may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

**(7) Contract termination: debarment** - A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

**(8) Compliance with Davis-Bacon and Related Act requirements** - All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

**(9) Disputes concerning labor standards** - Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

**(10) Certification of eligibility** - (i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's

firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1). (ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1). (iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

**Contract Work Hours And Safety Standards Act** *(Required for Operations/Management, Rolling Stock Purchases and Construction Projects over \$2,500)*

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

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

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

**Subcontracts.** The contractor or subcontractor shall insert in any subcontracts the clauses set forth in this section and also a clause requiring the subcontractor to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this section.

(Section 102 non-construction contracts should also have the following provision:)

**Payrolls and Basic Records.** Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the

construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions thereof of the types described in section 1(a)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(This section is applicable to construction contracts only)

The Contractor agrees to comply with section 107 of the Contract Work Hours and safety Standards Act, 40 U.S.C. section 333, and applicable DOL regulations, "Safety and Health Regulations for Construction" 29 C.F.R. Part 1926. Among other things, the Contractor agrees that it will not require any laborer or mechanic to work in unsanitary, hazardous, or dangerous surroundings or working conditions.

**Subcontracts** – The Contractor also agrees to include the requirements of this section in each subcontract. The term "subcontract" under this section is considered to refer to a person who agrees to perform any part of the labor or material requirements of a contract for construction, alteration or repair. A person who undertakes to perform a portion of a contract involving furnishing of supplies or materials will be considered a "subcontractor" under this section if the work in question involves the performance of construction work and is to be performed: (1) directly on or near the construction site, or (2) by the employer for the specific project on a customized basis. Thus, a supplier of materials which will become an integral part of the construction is a "subcontractor" if the supplier fabricates or assembles the goods or materials in question specifically for the construction project and the work involved may be said to be construction activity. If the goods or materials in question are ordinarily sold to other customers from regular inventory, the supplier is not a "subcontractor." The requirements of this section do not apply to contracts or subcontracts for the purchase of supplies or materials or articles normally available on the open market.

### **Transit Employees Protective Act** *(Required for Operations and Management Projects)*

The Contractor agrees to the comply with applicable transit employee protective requirements as follows:

1. 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 Recipient'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. The requirements of this subsection (1), however, do not apply to any contract financed with Federal assistance provided by FTA either for projects for elderly individuals and individuals with disabilities authorized by 49 U.S.C. § 5310(a)(2), or for projects for nonurbanized areas authorized by 49 U.S.C. § 5311. Alternate provisions for those projects are set forth in subsections (b) and (c) of this clause.

2. Transit Employee Protective Requirements for Projects Authorized by 49 U.S.C. § 5310(a)(2) for Elderly Individuals and Individuals with Disabilities - If the contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5310(a)(2), and if the U.S. Secretary of Transportation has determined or determines in the future that the employee protective requirements of 49 U.S.C. § 5333(b) are necessary or appropriate for the state and the public body subrecipient for which work is performed on the underlying contract, the Contractor agrees to carry out the Project in compliance with the terms and conditions determined by the U.S. Secretary of Labor to meet the requirements of 49 U.S.C. § 5333(b), U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the U.S. DOL's letter of certification to FTA, the date of which is set forth Grant Agreement or Cooperative Agreement with the state. The Contractor agrees to perform transit operations in connection with the underlying contract in compliance with the conditions stated in that U.S. DOL letter.
3. Transit Employee Protective Requirements for Projects Authorized by 49 U.S.C. § 5311 in Nonurbanized Areas - If the contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5311, the Contractor agrees to comply with the terms and conditions of the Special Warranty for the Nonurbanized Area Program agreed to by the U.S. Secretaries of Transportation and Labor, dated May 31, 1979, and the procedures implemented by U.S. DOL or any revision thereto.

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

**Federal Privacy Act** *(Required for all Contracts)*

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

The Contractor agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974,

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

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

**Energy Conservation** *(Required for all Contracts)*

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.

**Recycled Products** *(Required for Operations and Management, Construction and Materials and Supplies Projects greater than \$10,000)*

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

**National Intelligent Transportation Systems Architecture and Standards**  
*(Required for all Contracts)*

The Recipient agrees to: (1) Conform to the National Intelligent Transportation Systems (ITS) Architecture requirements of 23 U.S.C. § 517(d), as amended by MAP-21, unless it obtains an exemption from those requirements, and (2) Except as the Federal Government determines otherwise in writing, follow: (a) FTA Notice, "FTA National ITS Architecture Policy on Transit Projects," 66 *Fed. Reg.* 1455, January 8, 2001, and (b) Other applicable Federal guidance.

**Access Requirements For Persons With Disabilities (ADA)** *(required for all contracts)*

The Recipient agrees to comply with the requirements of 49 U.S.C. § 5301(d) which states the Federal policy that the elderly and persons with disabilities have the same right as other persons to use mass transportation service and facilities, and that special efforts shall be made in planning and designing those services and facilities to implement that policy. The Recipient also agrees to comply with all applicable requirements of section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of handicaps, and with the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. §§ 12101 *et seq.*, which requires that accessible facilities and services be made available to persons with disabilities, including any subsequent amendments thereto. In addition, the Recipient agrees to comply with all applicable requirements of the following regulations and any subsequent amendments thereto:

- (1) U.S. DOT regulations, "Transportation Services for Individuals with Disabilities

- (ADA)," 49 C.F.R. Part 37;
- (2) U.S. DOT regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 C.F.R. Part 27;
  - (3) Joint U.S. Architectural and Transportation Barriers Compliance Board/U.S. DOT regulations, "Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 36 C.F.R. Part 1192 and 49 C.F.R. Part 38;
  - (4) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 C.F.R. Part 35;
  - (5) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 C.F.R. Part 36;
  - (6) U.S. General Services Administration (U.S. GSA) regulations, "Accommodations for the Physically Handicapped," 41 C.F.R. Subpart 101-19;
  - (7) 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;
  - (8) U.S. Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for the Hearing and Speech Disabled," 47 C.F.R. Part 64, Subpart F; and
  - (9) FTA regulations, "Transportation for Elderly and Handicapped Persons," 49 C.F.R. Part 609; and
  - (10) Any implementing requirements FTA may issue.

**State and Local Government Laws/Regulations** *(Required for all Contracts)*

To the extent required under Federal law, the State, as the Recipient, agrees to provide the following information about FTA funding for State Programs or Projects: a. Types of Information. The State will provide information including: (1) Identification of FTA as the Federal agency providing the Federal funds for the Program or Project, (2) The Catalog of Federal Domestic Assistance Number of the Program from which the Federal funding for the Program or Project is authorized, and (3) The amount of Federal funds FTA has provided for the Program or Project, and b. Documents. The State will provide the information required under this provision in the following documents: (1) Requests for proposals, (2) Solicitations, (3) Grant or cooperative agreement applications, (4) Forms, (5) Notifications, (6) Press releases, and (7) Other publications.

**EXHIBIT “SCOPE OF WORK”**

**6. SCOPE OF WORK**  
**6.1. Route and Service Description**

**Fixed Route**

The Contractor shall operate all designated routes using VCTC-owned buses with Contractor-provided operators. Contractor shall provide at the Contractor’s expense, supplies and accessories necessary for safe operation of such vehicles. All related costs shall be included in the Contractor’s proposed hourly service rate. Proposers may choose to include the cost of fuel in there proposed hourly service rate or to pass through that cost to VCTC.

The Contractor and Contractor’s personnel shall maintain and operate said vehicles and perform the services at all times in a safe, efficient, and lawful manner, and shall comply with all state, federal and local regulations. The Contractor shall complete all scheduled route hours on a daily basis as specified by VCTC. The Contractor agrees that the vehicles used in performing the services shall, at all times, be maintained and operated in a manner satisfactory to VCTC and suitable for passenger transportation and shall comply with ADA requirements for provision of fixed route services. The Contractor shall maintain all vehicles per the standards of the manufacturer or as otherwise specified by VCTC.

**Fixed Route - General Service Framework**

	<b>Sta. Paula A&amp;B Circulators</b>	<b>Fillmore Circulator</b>	<b>Piru Shuttle</b>	<b>Seasonal Tripper Service</b>
<b>Route Cycle</b>	30 min	20 min	30 min	40 min
<b>Headways</b>	45 min (avg)	30 min (avg)	40 min (avg)	Varies (3 trips)
<b>Weekday Hours</b>	6:30am – 3:00pm	7:30am – 5:00pm	6:00am-8:00pm	7:00am-8:00am 12:00pm-3:30pm
<b>Weekend Hours</b>	10:00am – 4:30pm	N/A	8:00am-6:00pm	N/A
<b>Weekday Drivers</b>	1	2.5	2	2
<b>Weekend Drivers</b>	1	N/A	1	N/A
<b>Revenue Vehicles per day</b>	1	3	2/1 (wknd)	2
<b>Capacity Per Bus (Amb/WC)</b>	23 (17/2)	23 (17/2)	23 (17/2)	23 (17/2)
<b>Yearly Revenue Hours</b>	1,500	1,300	2,800	575

Total scheduled hours equal 6,175 revenue vehicle hours annually. VCTC may adjust routes and schedules from time to time. Actual revenue vehicle hours may be lower if schools are not in session, trips are missed or other occurrences.

**General Purpose Dial-A-Ride (DAR)**

Contractor shall provide general purpose Dial-A-Ride service for the general public within the Heritage Valley. This service is open to the general public and does not require ADA paratransit eligibility. Historically Dial-a-ride trips are generally requested (and scheduled) same-day on-demand. Depending on availability, Dial-a-ride service is expected to be scheduled for within one (1) hour of a requested pickup time.

### **Dial-A-Ride General Service Framework**

Dial-A-Ride general service weekday hours are 6:00 a.m. - 8:00 p.m. and weekend hours are 8:00a.m. –6:00 p.m. Projected yearly revenue hours are not to exceed 12,000.

**Expansion Option: During the period of this contract VCTC may consider service expansion options and may increase Valley Express transit service by up to 9,000 revenue vehicle hours annually.** As part of their cost proposal, Proposers are asked to propose a fixed hourly rate for this option in addition to their proposed hourly rate for the base level of service. (See section 7.3 - Proposal Evaluation and Criteria)

### **ADA Paratransit**

Upon request by an eligible passenger, Contractor shall provide complementary ADA paratransit service in a non-discriminatory manner in compliance with the Federal Transit Administration (FTA) regulations for the implementation of the ADA and shall strive to meet best practices for overall operational effectiveness and efficiency. This service is available to ADA paratransit certified passengers. ADA Paratransit reservations can be made one (1) day, and up to one (1) week, in advance and service is to be scheduled for within one (1) hour of a requested pickup time. Same day trip reservations are not required but may be accommodated depending on space availability.

Complementary ADA paratransit service is provided during the hours of operation set up VCTC and in the three-quarter (3/4) mile service area of the Santa Paula Commuter Bus route. Days and times of operation may be changed by VCTC to accommodate local needs.

Ridership (including PCAs) in recent years, which may not predict future ridership, is shown below.

7/1/19 to 6/30/20 – 5,176 passengers  
7/1/20 to 6/30/21 – 1,058 passengers  
7/1/21 to 6/14/22 – 1,608 passengers

If fixed route service is changed, the service area and available hours of service for complementary ADA paratransit may change as well.

### **ADA Paratransit General Service Framework**

Santa Paula and Fillmore weekdays hours are 6:00 a.m. - 8:00 p.m. and weekend hours are from 8:00 a.m. – 6:00 p.m. The Fillmore-Piru Shuttle weekday hours are 7:00 a.m. - 4:00 p.m. with no weekend hours.

### **Holidays and Special Events**

There will be no scheduled fixed route or Dial-A-Ride service on the following six (6) holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day.

In addition to regular transit service operations, Contractor may be requested by VCTC to provide special event, promotional, or other special transportation services that have been determined to be in the public interest. Do you have any idea how many hours may be requested for special services? Can you guess at a not to exceed amount?

### **Service Adjustments**

Demand for service may increase or decrease from time to time, requiring an adjustment of hours, and/or service. VCTC reserves the right to adjust service at any time plus or minus twenty percent from the projected number of hours. Modifications to services may include, but are not limited to, extending, deleting, changes to headways or adding routes, or parts of routes, and expanding or decreasing revenue hours. The Contractor must have available, or be able to acquire in a timely fashion, personnel required for the operation of the contract. Changes in revenue hours will be categorized as described below.

#### Base Service Package

Without invalidating the contract, VCTC may order additions or deletions from the work to be performed under the Base Package. VCTC will be allowed to increase or decrease Base Package annual revenue hours by 20% without affecting the rate for service.

In the event that the actual revenue hours fall below eighty percent (80%) of the total projected annual revenue hours, VCTC reserves the right to negotiate a revised fixed unit cost per revenue hour with Contractor. Such negotiations would also occur in the event that transit vehicles need to be provided by the Contractor during the term of the contract. Renegotiation of service hours may also be triggered if the service fails to achieve the State required percentage of operating costs from fare revenues.

#### Service Expansion Option

Proposers are requested to provide an hourly rate for the base service package and an option that includes all costs associated with providing up to 9,000 additional revenue service hours annually. Expansion service hours will be compensated based on the proposed expansion service rate contained in the cost proposal. If the option is implemented over time or all at once, VCTC will be allowed to increase or decrease total annual revenue hours (i.e. the base package + elected option) by 20% without affecting the hourly rate for service.

## **6.2. Fare Structure**

Fare boxes and pass card-readers will be provided by VCTC and will be maintained by Contractor. Contractor shall collect the fares and charges established by VCTC. Fare collection and all related security measures, including armored car service, shall be the responsibility of Contractor. VCTC reserves the right to approve any system implemented throughout the contract term. VCTC reserves the right to examine the books of fares collected at any time. Cash fares collected by the contractor will be deposited into a bank account held by VCTC. At all

times, passenger fares are the property of VCTC. Non-cash Fare media shall be collected and submitted to VCTC staff or disposed of in accordance with VCTC policy.

Contractor shall not issue any fare media that has not been specifically approved by the VCTC nor shall the Contractor allow sales to be “on account” or to be paid overtime. Contractor is prohibited from selling fare media at other than face value and may not charge any additional fees to process transactions other than those specifically authorized in advance by the VCTC.

Contractor shall assure each patron pays the appropriate fare prior to being provided transportation service. Cash fares are to be in the amount due for their appropriate fare classification as drivers do not make change.

Below is the proposed fare structure to be accepted on the Valley Express, the fares and fare types are subject to change:

Fixed Route Adult.....	\$1.25
Fixed Route Youth (<18) .....	\$0.60
Fixed Route Child <5.....	Free
Fixed Route Senior/Disabled.....	\$0.60
Dial-A-Ride Adult/Youth .....	\$2.00
Dial-A-Ride Child <5 .....	Free
Dial-A-Ride Senior/Disabled .....	\$2.00
ADA Paratransit .....	\$2.00

Fares will be collected, fully counted, secured and deposited by the Contractor daily. VCTC will compare farebox counts with each daily driver log or manifest, as proof that each passenger paid the fare. Any discrepancies may be offset against the Contractor's invoice for services each month.

### 6.3. Description of Fleet

VCTC will furnish fifteen (15) transit vehicles required for the Valley Express Service. Contractor provides required drivers, dispatch, on-going maintenance, storage, heavy repairs, running repair work, supervisory/management services, and all other goods and services needed to provide the operating transit services described in this Scope of Services unless expressly stated that such goods and services will be provided by VCTC. The vehicles will be stored and regular maintenance will be performed within the service area.

See below for fleet information:

Vehicle Type	QTY	Ambulatory Capacity	Wheelchair Capacity	Manf. / Chassis	Engine	Fuel
Cutaway Bus (23' L)	5	12 Passengers	2 WC Users	Glaval	6.0 V8	Gasoline
Cutaway Bus (25' L)	5	16 Passengers	2 WC Users	Glaval	6.0 V8	Gasoline

Cutaway Bus (26'L) Low floor	5	23 Passengers	2 WC Users	ARBOC	6.0 V8	Gasoline
---------------------------------	---	---------------	------------	-------	--------	----------

VCTC reserves the right to furnish substitute or expansion vehicles should the requirement arise during the term of the Contract. Contractor shall comply with all California and federal requirements and regulations regarding inspections of transit and ADA paratransit vehicles.

#### 6.4. Marketing And Public Relations

VCTC shall be responsible for all marketing and public relations activities. VCTC shall furnish all schedules, maps, tickets, transfers, passes, and other printed materials required for marketing the service. Contractor shall distribute (and if appropriate collect) surveys, as well as passenger notices. Contractor will cooperate and participate in marketing, promotion, advertising, public relations, and public education programs undertaken by VCTC from time to time.

VCTC shall be the exclusive public media spokesperson in connection with transit service. Under no circumstance shall Contractor or its employees be permitted to distribute any unauthorized printed or written materials pertaining to the transit service without permission from VCTC.

#### **Vehicle Signage**

Contractor shall display required head signage, in plain view, in all vehicles while in revenue service.

#### 6.5. Medical Assistance to Passengers

Contractor employees will not be required by VCTC to perform any medical or quasi-medical functions for passengers. In the event of illness on board a vehicle, the driver shall advise the dispatcher by radio or other means and may proceed immediately to a medical facility for help.

#### 6.6. Operation of Services

The services to be performed by the Contractor pursuant to this proposal are: (1) Actual dispatch and operation of the Fixed Route community circulators and Dial-A-Ride/ADA Paratransit buses and, (2) submission of reports and other materials to VCTC as specified within this RFP.

All operations will be carried out in accordance with California, DOT and FTA regulations and Title VI non-discrimination laws. Contractor will operate transit service in a safe, courteous, reliable manner as specified by VCTC and in strict accordance with the operating days and hours, routes and schedules set forth in the current VCTC brochures or any revisions thereto in writing.

Notwithstanding the above, Contractor will be authorized to deviate from established routes when necessary to avoid construction, detours, or other obstruction within the public right of way, or conditions which otherwise would cause an unsafe condition or operation of the service. Contractor shall notify VCTC of such obstruction causing deviation as soon as is practicable upon learning the deviation may become necessary.



### 6.6.1. Personnel

The Contractor shall comply with all California, FTA and DOT requirements as they relate to screening and hiring of staff, including COVID-19 reporting and tracking requirements. The Contractor shall comply with all State and Federal requirements related to non-discriminatory recruiting and hiring practices.

Contractor shall use appropriate screening and selection criteria for employing operations personnel. Those checks shall include DMV and criminal background checks, pre-employment drug screening, and physicals of all employees associated with this contract and shall undertake the steps necessary to assure all such employees perform their duties in a safe, legal, courteous, and professional manner at all time

Contractor shall make all reasonable efforts to ensure employees having contact with the public in the course of their duties are of good moral character. Any such employee who is convicted of a felony or of a crime involving moral turpitude during the time of his/her employment shall not be permitted to continue to hold a position of employment involving contact with the general public, to the extent permitted by California State law.

The retention of a well-trained, motivated, and stable workforce is a highly desired component of VCTC transit operations. As part of the Proposer's response to the RFP, Proposer shall clearly articulate specific employee retention strategies including salaries and wages, performance-based incentives, awards, special events, contests, education reimbursement and all other incentives designed to reward and retain quality staff.

Pursuant to Labor Code, Chapter 4.6, Section 1070 to Part 3 of Division 2, VCTC shall grant a ten percent (10%) bidding preference to any Contractor who agrees to retain, for a period of at least ninety (90) days, the employees of the previous Contractor. Contractor shall declare, as part of its proposal, whether or not its firm shall retain the employees of the prior Contractor for a period of at least ninety (90) days. Contractor shall ensure these transitioned employees will be utilized in similar positions and perform essentially same services as they did under the previous Contractor. "Employee" is defined as any person who works for a Contractor under the prior contract but does not include executive, administrative, or professional employees that are exempt from the payment of overtime compensation within the meaning of Subdivision (a) of Section 515 or any person who is not an employee as defined under Section 2(3) of the National Labor Relations Act (29 U.S.C. Sec. 152(3)). In accordance with Labor Code section 1070, et. seq, the following shall apply:

A successor Contractor or subcontractor who agrees to retain employees, pursuant to Labor Code section 1072, subdivision (a), shall retain employees who have been employed by the prior Contractor or subcontractors, except for reasonable and substantiated cause. That cause is limited to the particular employee's performance or conduct while working under the prior contract or the employee's failure of any controlled substances and alcohol test, physical examination, criminal background check required by law as a condition of employment, or other standard hiring qualification lawfully required by the successor Contractor or subcontractor.

If a successor Contractor determines that fewer employees are needed than under the prior contract, qualified employees shall be retained by seniority within the job classification. In determining those employees who are qualified, the successor Contractor may require an employee to possess any license that is required by law to operate the equipment that the employee shall operate as an employee of the successor Contractor.

Nothing in this section requires the successor to pay the same wages or offer the same benefits provided by the prior Contractor.

In accordance with the California Labor Code, the successful Contractor or subcontractor shall make a written offer of employment to each employee to be rehired. That offer shall state the time within which the employee must accept that offer, but in no case less than ten (10) days. An employee who has not been offered employment or who has been discharged in violation of this chapter, or his or her agent, may bring an action against the successor Contractor in any superior court having jurisdiction over the successor Contractor.

The existing service Contractor will make available the number of employees who are performing services under the service contract and the wage rates, benefits, and job classifications of those employees to proposers at least thirty (30) days before proposals are due.

VCTC reserves the right to review the resumes of management personnel assigned to this Contract. VCTC may, at its sole discretion, accept or reject any individual proposed by the Proposer during the contract start-up and for any replacement during the term of this Contract. Proposer shall not remove any management personnel without cause without the prior written consent of VCTC. VCTC may also, at its sole discretion, require the replacement of any supervisor or management staff.

Contractor shall provide customer information to the public in English and Spanish during all hours of system operation, Monday through Sunday. Bilingual personnel shall be available during operating hours to receive emails and telephone calls from the public and to provide translation for transportation system personnel and passengers. A minimum of fifty percent (50%) of operations personnel should be bilingual (English/Spanish). Contractor shall also install and maintain a TDD system for the hearing impaired. Contractor shall maintain at its own expense at least two (2) distinct telephone lines: one (1) line advertised for and dedicated to ADA Paratransit trip reservations and one (1) line dedicated to the Valley Express general customer service; the latter to include options for callers to be connected to trip reservationists for the general-purpose Dial-A-Ride service, or to a Valley Express operator for information. Each line shall rollover to at least two (2) other stations. Inbound call data to the ADA Paratransit reservation line shall be tracked and monitored for appropriate hold times. (See section 6.6.8 - Performance Measures)

### **Key Personnel**

The Contractor shall employ other persons as are necessary to enable the Contractor to perform the services of the contract. Proposers shall submit a Comprehensive Staffing Plan. The drivers, dispatchers and supervisors must be dedicated to the Valley Express. VCTC reserves the right to require immediate removal or reassignment of any Contractor employee for Valley Express it deems unfit for service for any reason, not contrary to law. The VCTC reserves the right to deduct from payments to the Contractor, the salary cost of any vacant positions, whether required herein or established by practice.

Project Manager: Contractor shall provide an on-site Project Manager to manage the day-to-day operation of the Valley Express. The Project Manager must have at least five (5) years of experience in managing transportation services similar to that provided pursuant to this RFP. The assigned Project Manager will be responsible for monitoring all aspects of the transit system

operations including, but not limited to, ridership, quality of service, customer satisfaction, fare collection, accounting in accordance with current established practices, staff motivation, and performance of all Contractor personnel. The Project Manager shall meet with VCTC staff on a regular basis to review performance and address issues on operations and maintenance, and compliance with VCTC transit operating performance criteria. In the absence of the Project Manager, a designated manager shall be fully responsible for the performance of Contractor duties and shall be authorized to take all necessary actions on behalf of the Contractor regarding management of services. The Contractor must ensure that either the Project Manager or the designated backup manager be available locally at all times. The Project Manager or designated manager will not assume other positions within the system, such as driver, but will remain available at all times as manager of the Valley Express operation.

Operations Supervisor(s): Contractor shall employ no less than one (1) full-time Operations Supervisor to provide support during accidents or incidents, including event investigation and follow-up; regular street supervision of service, including the monitoring of schedule adherence, on-street operation, and on-route compliance; and assistance with driver training.

On-street supervision will include at a minimum conducting roadside pickup and drop-off observations as well as on-board ride checks to ensure operator adherence to procedures (i.e., fare collection, ADA compliance, schedules and passenger relations). VCTC also reserves the right to perform similar investigations and adherence checks of its own, without notice, to ensure compliance with terms of the Contract. All cleaning, maintenance and other personnel that work after service hours shall be appropriately supervised.

Dispatchers & Phone Operators: Contractor shall install Contractor-furnished radios on all Valley Express revenue vehicles. Contractor shall provide the base station and accessories. Contractor shall provide adequate dispatch and radio monitoring personnel to enable effective driver/vehicle assignments and prompt responses to driver and/or vehicle problems which could impact Valley Express. Contractor should endeavor to ensure that the communication system covers the entire service area. If the Contractor identifies any "dead spots" it should notify VCTC and suggest how best to provide acceptable communications.

Dispatchers and any other personnel who may from time to time be assigned to telephone information lines shall be trained in public relations skills, proper telephone manners, conflict resolution, accident and incident procedures, radio operations, and shall be knowledgeable of local/regional transit schedules, transfer points, rates, and operating policies. Personnel shall be monitored and refresher training will be offered as necessary. Contractor shall ensure that at least one (1) dispatcher is present whenever fixed route and/or DAR/ADA paratransit operations are in service.

Both dispatchers and phone operators shall coordinate the provisions of this service such that it will optimize the number of riders carried and minimize circuitous routing of DAR/ ADA paratransit services, while maintaining on-time performance. Phone operators shall advise DAR riders to the best of their ability, approximate time of pick-up, and for ADA paratransit riders a scheduled pickup time pursuant to the negotiated pickup window. At no time shall the Contractor schedule an ADA paratransit passenger to remain on board a vehicle longer than the time it would take to do the same trip via fixed route.

Mechanics: Contractor shall provide the mechanic staff necessary to provide maintenance of VCTC vehicles under the terms of this contract. ASE certified mechanics are desired. At a

minimum, Contractor shall ensure that the Comprehensive Staffing Plan include one (1) maintenance manager. This individual may also perform hands on mechanical service.

It shall be the sole responsibility of Contractor to ensure mechanics are properly trained and certified to service components of the vehicles. Contractor shall comply with all applicable training, inspection, testing and reporting requirements of the California Air Resource Board (CARB).

The Contractor shall keep records of employee certifications of any trainings completed, including the initially required training.

**Drivers:** All drivers shall be required to have valid class B California Driver's Licenses with endorsements for operation of the vehicle to which they are assigned. All drivers must also have in their possession at all times when operating a vehicle for the Valley Express service, a valid Department of Motor Vehicles (DMV) Medical Examiner's Certificate and applicable verification of training. The Contractor shall be responsible for monitoring DMV records for drivers to ensure their continued qualification and suitability for fixed route transit and/or DAR/ ADA paratransit vehicle operations.

Contractor shall review current DMV reports of all applicants for the position of driver and shall reject any applicant with a conviction for driving under the influence in the past seven (7) years. Contractor shall join and bear full cost of the DMV Pull Notice program, whereby Contractor shall be notified of any activity on a driver's driving record. Any driver exceeding the DMV point system or with a revoked or suspended license will not be allowed to operate a Valley Express vehicle. VCTC reserves the right to require Contractor to replace any driver not acceptable to VCTC. All drivers shall comply with the CHP Driver's Log regulations.

### **Uniform Set of Policies and Procedures**

The Contractor will be required to develop a full set of policies and procedures – including issues designated by VCTC – for all staff involved in the program. These policies and procedures will:

- A. Establish and implement policies and procedures for all operations staff including drivers, office staff, managers, and mechanics.
- B. Establish and implement drug and alcohol testing procedures for the service program that are fully compatible with local, State, and Federal Transit Administration regulations. The successful bidder must submit a Substance Abuse Plan to VCTC which meets all requirements of the Federal Transit Administration and must substantiate that the plan has received FTA approval or otherwise meets FTA requirements.

These policies and procedures will be subject to VCTC's review and approval.

### Training of Drivers, Dispatchers and Supervisors

The Contractor will develop a full driver, supervisor, and dispatch training program, using generally accepted approaches used in the industry. Contractor shall maintain a record of all training programs including periodic updates and employee attendance. All drivers will be required to complete all training and one (1) week of on-board training prior to transporting

passengers. The Contractor will be responsible for paying the drivers for their time in training and ensuring that the drivers attend the training. Subject to VCTC approval, the program must provide, at a minimum, one hundred twenty (120) hours of classroom and behind-the-wheel instruction covering (but not limited to):

- Customer service & VCTC expectations
- Comprehensive public transit route detail for all routes
- Defensive driving
- Emergency procedures
- System safety and security
- First Aid and CPR Certification
- Sensitivity training
- Passenger assistance methods (including proper operation of all lifts/mobility aid tie-downs)
- On board training
- The proper operation of the two-way radio system
- Daily vehicle inspections
- Accident/incident procedures
- ADA Regulations
- Federal and State rules and regulations
- Employee work rules/ HVTs operating policies
- Use of dispatch and related software and devices

Within this required training period, Proposer shall instruct drivers in at least eight (8) hours of disability awareness sensitivity training, which includes ADA regulations and procedures; four (4) hours of sexual harassment training; eight (8) hours of passenger incident and difficult passenger training; and eight (8) hours of defensive driving training. VCTC reserves the right to review and approve all training materials, to monitor training sessions and amend training requirements during the course of the contract. At a minimum, Contractor shall provide bi-annual refresher training to all staff and shall at VCTC's direction provide additional training as determined by the VCTC. All training shall comply with applicable state and federal requirements. Contractor will also be responsible for providing remedial training for any driver who demonstrates a lack of appropriate training. A waiver of some or all of the training requirements will be permitted for all current drivers who have been trained, as described above, and in service for six (6) consecutive months. VCTC strongly encourages the hiring of current experienced drivers.

At least forty (40) hours of behind-the-wheel training, under supervision, shall be provided to all transit drivers. Such behind-the-wheel training may not occur while the vehicle is in revenue service. Additional hours of training may be required to familiarize operators with routes and with the service area. Contractor shall be required to comply with any and all State and/or Federal regulations with respect to new-driver training and licensing.

All drivers shall be trained to comply with all federal, state and local laws and regulations pertaining to the use of, or the prohibition of the use of, communication devices such as cell phones and hand-operated electronic devices. More restrictive rules and policies may be established and enforced by VCTC or Contractor.

Additionally, contractor shall comply with federal regulations relating to the Public Transportation

Agency Safety Plan (PTASP) including implementing safety committees and adhering to plan requirements.

### **Drivers Requirements/Qualifications**

The Contractor will be responsible for training all office staff and personnel who will carry out the responsibilities of operating service vehicles. All vehicles must be operated by certified, qualified, and appropriately licensed and trained drivers.

Contractor shall conduct a background check on each driver to ensure they meet the following standards and are qualified to perform the intended services:

- All operators must be employees (full or part time) of Contractor. The Contractor may not sub-contract with non-employees to execute revenue service or vehicle operations unless specifically authorized by VCTC in advance.
- Continuous possession of a valid California driver's license for the past five (5) years
- Prior to the operation of revenue service, the possession of a current Class B license with appropriate certifications and endorsements issued by the California DMV. Not more than two (2) moving violations in the past five (5) years and no DUI convictions within the last seven (7) years.
- Demonstrated command of the English language, both oral and written
- Ability to resolve complaints and problems as required
- No felony conviction history

Must pass and comply with Federal Drug and Alcohol Testing regulations

*A waiver by VCTC of certain requirements may be permitted for current drivers on a case-by-case basis who have been in service for at least six (6) consecutive months.*

The following shall be minimum service requirements and driver responsibilities. Failure to carry out these responsibilities shall result in the driver or drivers being prohibited from driving any VCTC owned or leased vehicle in revenue service. Drivers shall:

- Appear neat and clean, in approved uniform
- Be helpful and courteous to passengers at all times
- Operate the vehicle safely and legally
- Report all accidents and incident to a dispatcher or supervisor as soon as possible. Drivers are not to leave the scene of an accident without the permission of a manager, supervisor or dispatcher
- Assist elderly passengers and passengers with physical impairments
- In cases of emergency, immediately contact dispatch for direction
- Call out stops in accordance with FTA requirements
- Not deviate from route and schedule without VCTC approval
- Not smoke in vehicle and enforce no smoking rules on the bus
- Submit suggestions for service improvements to VCTC via Contractor

### **Driver Removal**

Transit Services Agreement between  
VCTC and MV Transportation

VCTC may require Contractor to immediately remove, pending investigation, any driver from transit service for any one of, but not necessarily limited to, the following:

- Committing unsafe or inappropriate acts while providing service.
- Revocation, suspension, or non-renewal of a valid California driver's license.
- Conviction of any felony criminal offense or crime of moral turpitude.
- Unacceptable customer service as reported by customers, other drivers, or as observed by VCTC staff
- Non-compliance with Contract specified appearance standards

#### *6.6.2. Americans with Disabilities Act (ADA) Requirements*

The Contractor shall comply with all ADA requirements, including, but not limited to:

- Compliant ADA paratransit trip reservation and scheduling process, and the fulfillment of operation of complementary paratransit services
- Announcing major stops and transfer points (internally and externally)
- Deploying functioning wheelchair lifts or ramps upon passenger request
- Securing passengers using wheelchairs or using seated mobility devices such as scooters
- Securing passenger mobility devices
- Picking-up passengers with disabilities
- Having a functioning wheelchair lift or ramp
- Repairing electronic destination signs for fixed route vehicles within a reasonable period, and providing clearly readable temporary paper destination signs

#### *6.6.3. Safety and Security*

Program shall conform to all DOT and FTA specification and that of any state or federal agency with jurisdiction.

Contractor shall develop, implement, and maintain a formal safety and accident prevention program, including periodic safety meetings, participation in safety organizations, safety incentives offered by Contractor to drivers and other employees, and participation in risk management activities under the auspices of Contractor's insurance carrier and the VCTC.

In the event of an emergency such as flood, fire, or earthquake, the Contractor shall deploy vehicles in a manner directed by the VCTC. Emergency service does not constitute an expansion of service. (See sections 8.8 – Force Majeure)

#### *6.6.4. Accidents and Incident Reporting*

VCTC requires Contractor to have an accident and incident notification program. Contractor shall develop, implement, and maintain formal procedures, approved by VCTC, to respond to emergencies and routine concerns that from time to time occur while providing transit service. Such occurrences to be addressed include, but are not limited to in-service vehicle failure, lift failure, passenger disturbances, passenger injuries and vehicle accidents.

All accidents must be reported to VCTC by telephone or email within 15 minutes by Contractor staff or management. In case of injury accidents, notification shall occur as soon as practicable. A complete written report on any accident will be delivered to the Transit Program Manager or designate as soon as it is practical to do so but no longer than twenty-four (24) hours or four (4) hours in the case of passenger injury. This standard applies regardless of day of week or time of day of accident or incident. Contractor must prepare and submit incident and accident investigation reports in writing as soon as practical, not to exceed five (5) business days from the date of the event Contractor shall submit all accident- related reports to the DMV as required. Contractor must assume all liability for accidents, passenger incidents and workers' compensation claims.

Contractor shall instruct operators to report public safety incidents observed by them to the dispatcher or General Manager, who in turn, shall refer all such incidents to the proper authorities. Such observed incidents shall include, but not limited to fires; criminal acts; suspicious circumstances; public right-of-way obstructions; natural disasters; signal outages or bulb out; collisions etc.

#### *6.5.5. Software and Hardware*

VCTC will furnish trip reservation and scheduling software and associated hardware for ADA paratransit and Dial-A-Ride operations, which will remain the property of VCTC upon termination of this contract. The software and/or hardware are subject to change. The Contractor shall be required to use the software and hardware purchased and assigned for use in the operation of Valley Express, including additional software or equipment products and systems that may be purchased for the full scope of operations; such as for fixed route scheduling and monitoring, farebox reconciliation, or maintenance performance. Currently, VCTC utilizes TripSpark and Mobile Data Terminals (MDTs) for its dial- a-ride and ADA paratransit operations.

#### **TripSpark and On-board MDTs**

This system shall enable Contractor to track and communicate reservations, dispatching, and scheduling. The objectives of this system are to:

- Allow service providers to enter and identify riders' information, including their specific disability related mobility aids and special needs requirements.
- Reduce time needed to receive and process individual trip requests.
- Improve the scheduling of individual trip requests, maximize vehicle productivity and minimize service cost within established service standards.
- Provide for direct electronic information transfer between VCTC and the Contractor.
- Provide for direct communication between dispatch operations and drivers.
- Streamline system operations/financial reports and invoice processing and validation.
- Enhance information database on registered users.
- Provide more timely data and comprehensive management information.

Provider shall be responsible for maintaining a data communication line for the purpose of receiving information using a computer terminal, printer and modem provided and maintained by provider.

Contractor will train and provide refresher training when necessary to all staff in positions to use



or supervise the use of the software and related devices.

### **Radio**

Contractor shall furnish and equip each transit vehicle with a two-way radio system, including frequency, to provide communications with Contractor vehicles, Contractor's operating and maintenance facilities and dispatch office. The radio equipment is to be available for normal dispatching as well as emergency situations (e.g., accidents, mechanical breakdowns), thereby enabling Contractor to immediately dispatch substitute vehicles. Contractor assumes the responsibility of all maintenance operations and maintenance costs of the radio system.

### **On-Board Cameras**

All buses used for this service are equipped with cameras. Images and recordings from the cameras will be available and used by both the contractor and the VCTC.

Contractor will maintain the cameras and related systems and train personnel on their use and maintenance as needed. VCTC should be notified immediately if cameras are damaged or malfunctioning.

## **6.6.7. Reports**

### Operating Records

The Contractor shall be responsible for providing computers and software to meet all reporting, scheduling and dispatching requirements. Contractor shall maintain complete computerized operating records for the duration of this Agreement, including, but not limited to, the following:

- A vehicle log showing vehicle pull-out and pull-in times, driver breaks, and total revenue vehicle hours, deadhead hours, fuel usage, and revenue mileage and deadhead mileage for each vehicle by day.
- A daily computerized trip sheet for each driver filled out completely and correctly.
- Complete records of passengers transported and fares collected by route, by stop, by day, by month, and by year for each service.
- A complete record of all accidents and incidents involving a revenue vehicle, or revenue service (e.g., a non-vehicle passenger incident).
- Preventative maintenance records related to the VCTC-owned fleet.
- All other reports as may be required by VCTC, including any financial reports related to the Valley Express Transit Service.
- A log of passenger complaints, with date of receipt, date of resolution, type of complaint, actions taken and additional appropriate details

All operating records shall be property of VCTC and available to VCTC or designated parties for immediate inspection upon request.

### Ridership Reports

Ridership information shall be collected on all Valley Express transit services on a daily basis. Ridership shall be separated by mode, day, and fare category. This report shall be e-mailed in

Excel format to VCTC within five (5) business days from the end of each month. Contractor shall create and send to VCTC any special reports it may request from time to time.

#### Passenger Complaints

Contractor shall conduct an investigation of each complaint to identify cause and prevent recurrence and respond with written correspondence to VCTC within five (5) business days of receipt. Any comments received by the Contractor be forwarded to VCTC within 24 hours. VCTC will respond to complainant.

#### National Transit Database Reporting

Contractor shall collect data, keep records and provide reports sufficient to enable VCTC to meet FTA National Transit Database (NTD) reporting requirements. Contractor shall ensure that all required information is collected and reported in a timely fashion. Monthly reports will be sent electronically to VCTC not later than the 5th of the following month. Annual reports must be submitted not later than 20 days into the next year. When paratransit trip survey sample data is required, Contractor will collect and report the data to VCTC.

#### Monthly Data

Contractor shall provide operation and maintenance data on transit system management on a monthly basis in format and structure to be determined by VCTC. Reservation and trip schedule information related to DAR/ADA Paratransit may be entered and transmitted using the TripSpark software. VCTC reserves the right to adjust the reporting requirements at any time during the contract.

The Contractor shall submit to VCTC on or before the fifth (5<sup>th</sup>) business day of each month, a set of reports that reflects the following:

1. Total passengers carried by passenger class (e.g. adult, senior, youth, etc.) per fixed route trip or dial-a-ride/ADA paratransit driver run, and summarized by type of day, weekdays, Saturdays and Sundays.
2. Total revenue collected by fare type (e.g. adult, senior, youth, adult monthly pass, youth monthly pass, etc.) per fixed route trip or Dial-A-Ride/ADA paratransit driver run
3. Vehicle hours of service provided by route (revenue and non-revenue), and summarized by type of day, weekdays, Saturdays and Sundays.
4. Vehicle miles of service operated by route (revenue and non-revenue), and summarized by type of day, weekdays, Saturdays and Sundays.
5. Schedule Adherence (OTP) per mode type, i.e. fixed route, Dial-A-Ride and ADA paratransit
6. Scheduled, performed, cancelled, no-showed and missed trips for Dial-A-Ride and ADA paratransit service
7. Origins and Destinations of trips (Specific to DAR and ADA paratransit)
8. Number of days operating
9. Passenger complaints
10. Fuel consumption by gallon by vehicle
11. Scheduled and Completed Preventative Maintenance Inspections –date and mileage completed reported by vehicle unit

12. In-service vehicle breakdowns
13. Fleet mileage information
14. Driver Training and Evaluation
15. Accidents and incidents

Each proposal should include a sample format for monthly reports

### 6.6.3 Contractor Non-Compliance of Scope of Work

The Contractor is required to reasonably comply with any and all sections in the Scope of Work in this RFP. If Contractor is unable or refuses to comply with the Scope of Work for any reason, VCTC reserves the right to require the Contractor to perform under the scope of work including hiring another party to perform the work at the Contractor's expense in addition to any penalties.

### 6.6.4 Performance Measures

All performance measures will be strictly adhered to in order to provide the highest level of service possible. The VCTC reserves the right to monitor Contractor in its performance of the Contract to ensure all performance measures are adhered to. VCTC also reserves the right to revise the performance measures after consulting with the Contractor. To receive full compensation, Contractor is required to meet or exceed the following standards of performance on a monthly basis.

#### Fixed Route

- Ninety-five percent (95%) of trips operating on-time; an on-time trip is defined as having time point adherence of 0 minutes early and no more than 15 minutes late.
- No more than 5 complaints per 1,000 passengers.
- No more than 2 vehicle and/or passenger accidents per 100,000 miles.
- One hundred percent (100%) preventive maintenance inspections completed as scheduled (within 500 miles of required interval).

#### Dial-A-Ride/ ADA Paratransit

- On time performance of ninety-five percent (95%) within 30 minutes of promised pickup.
- No more than 1 percent (1%) missed trips. A missed trip is one that is not completed in its entirety or is more than 60 minutes late from scheduled pickup time.
- No more than 5 complaints per 1,000 passengers.
- No more than 2 vehicle and/or passenger accidents per 100,000 miles.
- One hundred percent (100%) preventive maintenance inspections completed as scheduled (within 500 miles of required interval).
- Average call answer time by a live operator under forty-five (45) seconds; average call hold time under ninety (90) seconds.

Whenever Contractor fails to meet any performance standard, VCTC may assess a rate equal to cost to VCTC.

## 6.7 Vehicle Maintenance

Contractor will receive each VCTC-owned transit vehicle after the vehicle has been thoroughly inspected, with all apparent safety-running repairs corrected by VCTC. VCTC and Contractor will be required to sign-off a checklist for each vehicle inspected. During the Contract period, VCTC staff shall have immediate and unrestricted access to all vehicles and all maintenance records during planned or unannounced inspections of Contractor's facility. The maintenance facility and record storage will be located within the Heritage Valley. (See section 6.7.4 - Return of Vehicles)

### 6.7.1. Equipment Maintenance

The Contractor is responsible for all vehicle maintenance on VCTC vehicles and vehicle equipment including fareboxes, destination signs, Automated Passenger Counters (APC), mobile data terminals, cameras, and Automatic Vehicle Location (AVL) equipment. Contractor will be responsible for programming electronic head signs.

#### **Maintenance Responsibility**

Contractor shall be solely responsible for maintenance of the vehicles, including tires. Replacement tires are to be OEM quality or a grade better. Recaps are not permitted.

Any vehicle which sustains damage or experiences failure impairing safe mechanical operation shall be removed from service immediately and shall not be placed in revenue service until restored to safe operating condition. At no time will a vehicle with a known mechanical defect or faulty lift or ramp be placed into revenue service. Any vehicle with a faulty lift or ramp occurring in revenue service shall be immediately removed from service until repaired.

Failure by Contractor to maintain VCTC-owned transit vehicles to maintenance standards as defined by the manufacturer's technical manual for Severe Operating Conditions (i.e., extensive periods of stop-and-go driving) may result in the vehicles being repaired by VCTC at Contractor's expense. Contractor shall perform all routine preventive maintenance, heavy repair, and running repairs necessary to keep VCTC-furnished vehicles in a safe, reliable and well-maintained condition.

#### **Repairs**

Contractor shall be responsible for all repairs and shall keep detailed repair records. Work shall be performed to industry best standards.

- Routine inspections - VCTC's Program manager or his/her designee will schedule routine vehicle inspections with Contractor. All vehicle inspections will be completed by representatives of both agencies. At the time of the inspection, all deficiencies shall be scheduled to be corrected within fourteen (14) calendar days of the joint inspection. At the end of the fourteen (14) days, VCTC shall schedule a follow up joint inspection to ensure all items identified are repaired. If repairs are not completed, VCTC will assess liquidated damages in the amount of \$250.00 per affected transit vehicle per calendar day until all the repairs are completed satisfactorily.
- Major Repairs - Contractor shall be responsible for all major repairs. Major repair work must be scheduled to begin no later than seven (7) working days from the time it is listed on the daily fleet status report. In addition, any heavy maintenance repair work shall be completed ten (10) working days from the time it is scheduled for heavy repair

work. Failure to have major repair work completed as scheduled will result in liquidated damages of \$250.00 per affected transit vehicle per calendar day until all repairs are completed satisfactorily. Major repairs shall be defined as follows: rebuilding/replacement of engines, transmissions, running gear, lifts, suspension components and brakes.

- Contractor shall pay for any repairs arising from Contractor negligence or abuse of VCTC-owned vehicles and shall be responsible for all repairs required as a result of collision or accident regardless of fault. VCTC shall determine what repairs are due to negligence and abuse. Contractor shall immediately report all body damage to VCTC owned vehicles regardless of the nature of the damage. Contractor, at no cost to VCTC, shall provide all vehicle body repair work and painting. All bodywork and painting shall be performed to industry best standards, or VCTC specifications.

## **Warranty**

The Contractor will be responsible for fully exercising and processing warranty claims and ensuring that all vehicle warranty work is performed in accordance with the warranty provisions.

Contractor shall warrant all components and parts installed by Contractor or subcontractor, with the same warranty as is provided by manufacturers or certified rebuilders in the area. If it becomes necessary for VCTC to make any repairs, Contractor shall be billed back for all charges for parts and for labor. VCTC reserves the right to outsource the required repairs and, as the result of Contractor non-compliance, Contractor shall be responsible for any associated expense.

## **Fleet Maintenance Reports**

All maintenance must be performed in accordance with industry accepted procedures and the manufacturer's recommendations. Preventive maintenance efforts will be monitored by VCTC and must adhere to the manufacturer's requirements. Specific emphasis on safety is required. Maintenance is the sole responsibility of the Contractor and will be performed by mechanics licensed under all applicable state and local standards at a local facility in the service area. The Contractor will provide monthly reports on each vehicle, detailing at what mileage preventive maintenance is due for each vehicle, the vehicle's current mileage, and when preventive maintenance was last completed (date and mileage). The Contractor will also provide the following fleet maintenance reports monthly for all vehicles that includes (but is not limited to):

1. Road call reports
2. Preventative Maintenance reports
3. Fleet inventory
4. Warranty reports
5. Mileage reports

The Contractor will develop all forms and procedures to properly track maintenance and files for each vehicle. At a minimum the file for each vehicle will include:

1. Vehicle identification number, license number, and funding source.
2. Vehicle maintenance and repair history, including description of maintenance and repair performance, all work orders for each vehicle, vendor or facility doing the work, cost, date, and mileage.

3. Vehicle equipment check log verifying that special equipment has been checked according to the manufacturer's suggested schedule or semi-annually, whichever comes first (this includes but is not limited to wheelchair ramps or lifts).
4. Documentation that preventative maintenance was performed according to the schedule established by the Contractor and approved by VCTC.
5. Vehicle maintenance requests submitted by drivers, including what action taken and when.
6. Vehicle pre-trip inspection log, signed by driver.
7. Fuel and fluid usage by month.
8. Current condition.

### Maintenance Records

Contractor shall maintain a permanent maintenance records file for each vehicle used in furnishing transit services to Valley Express. Such records shall include, but are not limited to, the following:

- A. Preventative and scheduled maintenance work, including parts and labor utilized
  1. Copies of work orders for all repairs and maintenance activities
  2. Reports indicating a vehicle defect
  3. Reports of road-call maintenance
  4. Warranty work
  5. Wheelchair lift inspections, routine service, and repairs

### Service Records

Contractor shall maintain accurate records of all service calls, whether the vehicle is changed-out or repaired upon return, using a daily service call log sheet. For any vehicle that is changed-out or repaired on the road, a service call form must be filled out. A repair order shall be made for every service call, whether a defect is found or not.

Whenever a maintenance person makes a transit vehicle change out, that person is to perform a pre-trip inspection, including the cycling of the wheelchair lift, to ensure that the vehicle is clean and safe prior to placing the vehicle in revenue service.

All maintenance records maintained by Contractor during the term of the Contract shall become the property of, and be furnished to, VCTC at the end of the Contract term.

### **Annual Terminal Inspections**

The Contractor shall be responsible for arranging annual terminal inspections by the California Highway Patrol (CHP) and shall also maintain a satisfactory CHP rating throughout the life of this contract. Copies of all CHP inspection documents shall be promptly transmitted to the City within five (5) working days of such inspection.

#### **6.7.1 Bus Conditions**

Contractor shall maintain VCTC-owned buses in clean and neat condition at all times.

#### **Interior**

Contractor shall ensure all corners and seams are securely fastened to the floor at all times, and

the doors, stop notification devices, public address system, lighting, fareboxes, headway signs, MDTs, cameras and all other electronic devices work properly. Wheelchair securement devices shall be inspected for function and adequate quantity.

The driver's area shall be clean at all times. Driver's personal property shall be kept in a secure area and out of sight. Driver seats shall be maintained in accordance with the OEM standards and as stated below for passenger seats. Contractor shall check interior for damage and clear of trash or graffiti at the conclusion of each shift or service day. Contractor shall not attach or place any markings on the interior of the vehicle without written permission from VCTC.

Contractor shall perform basic cleaning daily and the following maintenance at least weekly:

- Sweep, mop, clean, and remove all trash, gum, sticky substances, foreign objects, vermin, dirt, and dust from vehicle floors.
- Clean driver area, including but not limited to, dash controls, dashboards, above the driver area and along the front dashboard; so as to be free of dust, stains, or grease.
- Clean passenger seats to the extent they are dust free and free of all foreign substances.
- Clean all ledges, stanchions, handrails, modesty panels, passenger signal strip and remove dust, grease, gum, or sticky substances.
- Replenish system map and route schedule brochure inventory.
- Remove graffiti.

### **Exterior**

Drivers shall inspect exterior of the bus and note any new cracks, dents, scrapes, graffiti, and any other markings. Driver shall make a report and notify Fleet staff of significant damage immediately.

Contractor may not attach or place any markings on the exterior of the vehicle without prior written permission of VCTC.

Each bus, at Contractor's sole expense, at least once every 90 days or as deemed necessary by VCTC, will receive a full exterior detail including wheels and tires that will consist of hand wash and wax. All exterior decals and vehicle identifications shall be maintained in like new condition and replaced as required at Contractor's expenses

### **Pre-trip Inspection & Daily Servicing**

Contractor will require each driver inspect each vehicle regarding safety, function, and appearance of the vehicle prior to the placement in revenue service. A daily pre-trip inspection form shall be completed and submitted for all vehicles prior to the start of service. The checklist will be utilized and kept on file for the VCTC and California Highway Patrol review. This checklist requirement may incorporate, or supplement CHP required driver's pre-trip safety inspections. Mileage must be taken daily. Defective odometers must be replaced immediately.

Daily servicing will include, but not be limited to, fueling; engine oil, transmission fluid, windshield washer fluid and coolant check/add; wheelchair ramp/lift check; brake check; light and flasher check; interior sweeping and dusting; graffiti removal, brochure inventory, exterior and interior visual inspection; and driver's report of vehicle safety, reliability, or performance defects,

including climate control mechanisms. Contractor must keep accurate fluid records for each vehicle.

### 6.7.2 Facilities

The Contractor will be required to procure its own office workspace and maintenance facilities within the Heritage Valley. Site location will be evaluated as to its overall functionality for administration, operations, and maintenance. All facilities included in the proposal will be subject to inspection and approval by VCTC prior to their use for service operation. The proposal should indicate if the facility is owned or leased currently by the contractor. If not, please advise how VCTC can be sure that the facility will be available if the firm is the successful bidder.

The facility shall have space suitable to accommodate the personnel necessary for operating the service and to maintain and keep all necessary data and records. Contractor shall provide all furniture, furnishings and equipment including but not limited to telephones and telephone service, high-speed internet access line dedicated to data transmissions, cyber equipment such as but not limited to server(s), router(s), desktop and lap top computers to operate out of the office space.

If vehicles will not be fueled in the facility, indicate where the fueling will take place.

#### Functional areas include:

- A. Dispatch Areas: Suitable office space shall be dedicated and functionally organized to accommodate the dispatch staffs required by Valley Express. These areas must include a pass-through window to permit effective interchange between dispatchers and operators as well as enough area to enable dispatchers to assign runs and vehicles to drivers.
- B. Parking Facilities: The Contractor shall provide a facility that will have a secured, well-lit, paved, and striped parking lot that shall be kept clean of buildup of oil, grease and standing water. The paved lot shall be of sufficient size to accommodate the fixed route and demand response revenue fleet vehicles, as well as non-revenue support vehicles utilized in overall operations of the contract. The facility should be of sufficient size to accommodate the current fleet of 15 vehicles, five (5) potential expansion vehicles as well as the non-revenue support vehicles. The facility shall provide dedicated parking as well as efficient and safe staging of Valley Express vehicles. Should the Contractor provide on-site parking for their personnel or operate other vehicles from their facility, these vehicles shall be kept separate from those of the Valley Express. The parking, access and egress areas shall be free of debris and trash.
- C. Maintenance Facilities & Tire Shop Area: The facility must have a maintenance area that provides an adequate number of covered working bays for performing Preventive Maintenance Inspections (PMIs), installation of advertising and all mechanical repairs on revenue vehicles. Working bays shall accommodate the entire vehicle within the bay out of direct contact with the elements (wind, rain, etc.) to allow quality maintenance to continue without regard to inclement weather. The current maximum length for a Valley Express revenue service vehicle is twenty-six (26) feet. A wash bay is preferred on-site; however, the Contractor may propose outsourcing bus-washing functions, subject to the approval of VCTC. The maintenance area shall be equipped with power lifts and/or maintenance pits as to adequately repair vehicles and preferably within the maintenance garage bays. The



facility should be free of debris and trash and meet or exceed OSHA (Occupational Safety & Health Administration) and industry standards for maintenance and facility safety.

- The Contractor shall comply with all Federal and State OSHA regulations. The Contractor will be responsible for disposal of any hazardous waste generated by its operation in compliance with all Environmental Protection Agency (E.P.A.) and all State of California Health Department regulations. The Contractor shall comply with all state requirements under the Federal Clean Water Runoff Act.
  - Contractor is required to provide adequate and appropriate shop equipment and special tools as needed to perform the necessary maintenance tasks required to meet VCTC's standards and requirements as described herein (opacity meter, electronic testing equipment, torque wrenches, alignment equipment, etc.). Said tools must be calibrated and maintained to equipment manufacturers' specifications.
- D. Revenue Storage and Count Room: The Contractor will be responsible to provide for a secured area adequate for the storage of fare boxes, storage bins, counting equipment, where Contractor staff will be able to perform revenue processing and deposit duties. The room must be equipped with surveillance cameras. The area will be periodically inspected to ensure that proper securement and safety of Valley Express staff is being provided.
- E. Contractor shall ensure that all facilities provided in conjunction with this contract are maintained on a regular basis to ensure a safe, professional, hygienic, and attractive working environment that is in compliance with all federal, state and local regulations. Janitorial service shall be provided for all office, administrative, bathroom and public areas at a minimum frequency of three (3) times per week.
- F. Pass sales and Lost and Found. The Contractor will provide a public customer service counter to provide for bus pass and ticket sales and to allow public the ability to recover lost items recovered on the buses.

### **6.7.3 Return of Vehicles**

Upon termination or completion of the contract term, the Contractor will be responsible for returning all vehicles and equipment to VCTC in the condition in which they were received (with the exception of normal wear and tear), including (but not limited to) body condition, system(s) condition and function, all ancillary equipment (intact and functional), and overall vehicle operation and performance. In addition to vehicles this requirement also applies to: bicycle racks; fareboxes (installed units, spare units, and parts inventory); farebox portable data unit and audit unit; and any other VCTC provided equipment.

VCTC may contract with a qualified, third-party vehicle inspection firm to assist in the vehicle turnover inspection process. The third-party inspector will conduct individual inspections on each vehicle (within its last preventive maintenance cycle) prior to the return of the vehicle to VCTC. Such inspections will ensure that any necessary repairs are completed and will require the Contractor to conduct any needed repairs. Once the Contractor is notified of any deficiencies requiring repair, the Contractor will have seven (7) days in which to complete those repairs. If said repairs are not completed during that time frame, VCTC or the successor contractor may option to complete those repairs and charge the contractor for cost of repair work.

### **6.7.4 Applicable Codes and Regulations**

All vehicles required to be utilized for this proposal will be safe for operation on public streets

and freeways over the term of the contract and meet all requirements in the California Vehicle Code for a bus. All parts of the vehicle (and all equipment mounted on or in the vehicle) will conform to the Federal Motor Vehicle Safety Standards and the California Administrative Code, Title 13 on Motor Vehicles. Particular attention will be directed to compliance with California Highway Patrol Motor Carrier Safety Regulations within Title 13 and approved updates to these regulations. The service vehicles operated under this contract are subject to random periodic inspection by the California Highway Patrol (CHP), California Air Resources Board (CARB), and Federal Transit Administration (FTA), as well as VCTC staff. Contractor will notify VCTC of inspections performed by a governmental agency other than VCTC. The results of those inspections will be transmitted to VCTC immediately and any applicable signed certification will be displayed or carried on the vehicles.

## 6.2 Implementation Plan

Critical to the success of Valley Express is a smooth transition that minimizes the negative impact on passenger services. Without an effective well-planned transition and startup, the service could deteriorate prior to implementation. In the Technical Submittal, the Proposer will be required to detail their transition plan including, if necessary, transition from the current contractor.

## QUALITY CONTROL APPENDIX TO SCOPE OF WORK

### 1. Quality Control in Reporting to VCTC

- MV shall leverage data from its various systems (TripSpark, Syncromatics, Cardquest, Trapeze EAM, Infor, PowerBI). While much of this data generation is automated (i.e., AVL data, timing, etc.), all employees shall be trained to enter data into these platforms completely and accurately.
- The reporting process shall follow a stringent trip-edit process, where MV dispatchers shall validate system data against driver trip sheets. All discrepancies shall be investigated and resolved.
- Once the reports are generated, they shall be visually inspected by the Project Manager, who shall confirm the accuracy of the data. This includes confirming:
  - o total passengers carried by passenger class (e.g., adult, senior, youth, etc.) per fixed route trip or dial-a-ride/ADA paratransit driver run and summarized by type of day, weekdays, Saturdays, and Sundays
  - o Total revenue collected by fare type (e.g., adult, senior, youth, adult monthly pass, monthly youth pass, etc.) per fixed route trip or Dial-A-Ride/ADA paratransit driver run
  - o Vehicle hours of service provided by route (revenue and non-revenue) and summarized by type of day, weekdays, Saturdays, and Sundays
  - o Vehicle miles of service operated by route (revenue and non-revenue) and summarized by type of day, weekdays, Saturdays, and Sundays
  - o Schedule Adherence (OTP) per mode type, i.e., fixed route, Dial-A-Ride, and ADA paratransit.
  - o Scheduled, performed, canceled, no-showed, and missed trips for Dial-A-Ride and ADA paratransit service
  - o Origins and Destinations of trips (Specific to DAR and ADA paratransit)
  - o Number of days operating
  - o Passenger complaints
  - o Fuel consumption by the gallon by vehicle
  - o Scheduled and Completed Preventative Maintenance Inspections – date and mileage completed reported by vehicle unit

- o In-service vehicle breakdowns
  - o Fleet mileage information
  - o Driver Training and Evaluation
  - o Accidents and incidents
  - o Vehicle log showing vehicle pull-out and pull-in times, driver breaks, and total revenue vehicle hours, deadhead hours, fuel usage, and revenue mileage and deadhead mileage for each vehicle by day.
- The Project Manager shall update the VCTC Invoice and Reporting Workbook based on the review of the reports.
  - General Manager Tom Conlon or successor shall audit the invoice and all backup reports. In this process, he shall examine the consistency of data, spot-check specific data points, and review the workbook formulas.
  - MV shall email the report to VCTC on or before the 5th business day of the month.
  - Director of Finance, Kendall Prather or successor, shall audit all MV reports quarterly.
  - MV shall make annual NTD reports available when requested.
  - All employees involved in data generation, data collection, report compilation, and reporting audits/review shall be trained in the report contents, the various data sources, the Vehicle log showing vehicle pull-out and pull-in times, driver breaks, and total revenue vehicle hours, deadhead hours, fuel usage, and revenue mileage and deadhead mileage for each vehicle by day methodology for documenting performance, and the required timelines. MV shall ensure that this quality control approach will yield timely and accurate reporting.

## 2. Responding to VCTC Requests or Complaints

MV shall acknowledge any requests or complaints from VCTC within twenty-four hours and provide a timeline of when the request or complaint will be addressed or remedied.

All MV team members shall be trained to acknowledge inquiries or requests upon receipt; depending on the nature of the request, MV must provide a timeline for responding in full to the request. MV shall provide shared email inbox for the local team so that no messages are missed. All pertinent staff members will have appropriate access to these requests. This will ensure visibility for the local relevant staff, including the General Manager. When employees are out of the office, MV will ensure a backup for each position and that all communications are transparent.

MV shall continually monitor its team's responsiveness, both internal and external, to our location, thereby ensuring that MV is compliant with both timing and clarity in its communications.

### 3. Staff Performance Deficiencies

In the event that MV staff does meet the standards outlined in this Appendix, MV will meet with the specific staff member and develop an improvement plan. The staff member will be coached and mentored to ensure they fully understand the standards and comply with and follow the expectations outlined in this Agreement. If needed, retraining will occur. Coaching, mentoring, and retraining will be documented and acknowledged by the specific staff member. As necessary, MV will follow progressive disciplinary guidelines in MV's employee handbook. This includes developing a Performance Improvement Plan, regular check-ins with the employee, and deciding whether the employee has overcome the deficiency or should otherwise be removed from employment. In the event that a person identified as Key Personnel is not meeting performance expectations, VCTC shall be notified of MV's plans to improve performance in accordance with this section.