

AGREEMENT

This Agreement is made as of this _____ day of _____, 2025 (“Effective Date”) by and between the Ventura County Transportation Commission hereinafter referred to as “VCTC” and Spring Bird Bus hereinafter referred to as “Contractor.” Both parties may be referred to as Parties.

RECITALS

WHEREAS, VCTC currently has Cradlepoint routers installed on each bus for internet connectivity purchased as part of the procurement of onboard bus surveillance systems; and

WHEREAS, the current Cradlepoint routers have reached the end of their useful life and need to be replaced; and

WHEREAS, VCTC intends to enter into this Agreement with Contractor to remove obsolete routers and antennas, and supply and install new routers and antennas on VCTC buses (“Project”); and

NOW THEREFORE, in consideration of the mutual covenants herein contained, it is agreed by and between the parties thereto as follows:

1. CONTRACT DOCUMENTS:

The complete Agreement between the parties shall consist of the following component parts, to wit:

1. This Agreement;
2. Exhibit A- Contractor's Proposal and Cost Estimate to remove existing networking hardware and for the supply, installation, and commissioning of new Cradlepoint R1900 routers with Panorama dome antennas. The project scope also covers activation and configuration of the NetCloud Essentials subscription.

This Agreement and the other exhibits mentioned above in this Section, which are incorporated by reference, constitute the complete Agreement between the parties and is collectively referred to as “Contract Documents.” In the event of any conflict between any of the provisions of the Contract Documents, (including Exhibits), the provision that requires the highest level of performance from Contractor for VCTC’s benefit shall prevail.

2. SCOPE OF SERVICES

A. The Scope of Services includes Contractor removal of existing networking hardware and the supply, installation, and commissioning of new Cradlepoint R1900 routers with Panorama dome antennas. The Project scope also covers activation and configuration of the NetCloud Essentials subscription.

B. The Contractor will be responsible for all work performed under the terms of this Agreement for the Project to the extent provided by law.

C. VCTC shall not be held liable or responsible for the maintenance and/or safety of the Contractor's equipment or supplies placed upon VCTC's property in accordance with this Agreement. The Contractor acknowledges that it assumes full responsibility for any loss or damage to its equipment and supplies.

D. Any materials, equipment or work found to be damaged or defective shall be repaired, replaced or corrected by the Contractor hereunder without additional cost to VCTC.

E. Contractor shall be responsible for paying any applicable sales, use, and other taxes which are applicable to services, equipment and materials associated with this Project. VCTC's financial obligation shall be limited to the Contract Price outlined in Section 4 of this Agreement.

F. Contractor shall perform all Services required pursuant to this Agreement according to the standards observed by a competent practitioner of the profession in which Contractor is engaged.

3. TERM:

This Agreement shall commence on the Effective Date and shall continue until January 31, 2026 or when VCTC issues notice of project completion, whichever is later. Contractor is responsible for commencing work on the Project no more than thirty (30) days from VCTC's "Notice of Proceed," and shall complete all work for the Project on or before the expiration of the term on January 31, 2026 all in strict accordance with the Contract Documents.

4. CONTRACT PRICE:

The amount payable to Contractor under this Agreement shall not exceed \$123,590 (One Hundred and Twenty-Three Thousand Five Hundred and Ninety Dollars) for all services, equipment, materials and supplies, inclusive of installation costs, warranties and labor.

5. PAYMENTS:

A. One hundred percent (100%) of the Contract Price set forth in Section 4 for the Project furnished and delivered pursuant to the Agreement will be paid to the Contractor within thirty (30) days after official acceptance by VCTC provided that no claims against the retained funds (i.e., stop notices) have been filed.

B. Contractor shall submit invoices to VCTC's Accounts Payable Office. Each invoice shall include the following information:

1. Invoice No.;
2. Supporting documentation;
3. Unit and total prices by line item number;
4. Current total (gross) invoice amount and current net invoice amount;
6. Certification of payments to subcontractors/suppliers as applicable;

VCTC shall remit payment within thirty (30) calendar days after acceptance and approval of invoice and supporting documentation. Payments will be based upon actual completion and VCTC's acceptance of each Project event. If VCTC determines that an invoice does not comply with the above requirements, the Contractor shall be notified of the issue(s) within seven (7) days of VCTC's receipt of the invoice.

VCTC reserves the right to withhold payments in the event of Contractor's performance being materially non-compliant with the Agreement. Contractor's final invoice shall be clearly marked "FINAL."

6. WAIVERS:

A waiver of any of the conditions or provisions of the entire Agreement between the parties hereto shall not be considered or deemed to be a waiver of any other condition or provision of said Agreement or a waiver of the same condition at a future time.

7. INSURANCE REQUIREMENTS:

A. During the term of this Agreement, Contractor shall at all times maintain, at its expense, the following coverages and requirements. The comprehensive general liability insurance shall include broad form property damage insurance.

1. Minimum Coverages (as applicable) - Insurance coverage shall be with limits not less than the following:

a. Comprehensive General Liability - \$2,000,000/occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.

b. Automobile Liability - \$2,000,000/occurrence for bodily injury and property damage (include coverage for hired and non-owned vehicles);

c. Workers' Compensation - Statutory Limits/Employers' Liability - \$1,000,000/accident for bodily injury or disease (If no employees, this requirement automatically does not apply.)

2. 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. 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 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).
3. Said policies shall remain in force through the term of this Agreement.
4. Professional Liability (Errors and Omissions): Insurance appropriate to the Contractor's profession, with limit no less than \$2,000,000 per occurrence or claim, \$2,000,000 aggregate.
5. Each insurance policy shall be endorsed to state that coverage shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to VCTC.
6. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A: VII, unless otherwise approved by VCTC's Executive Director.
7. If any of the required policies provide claims-made coverage:
 - a. The Retroactive Date must be shown and must be before the date of the contract or the beginning of contract work.
 - b. Insurance must be maintained, and evidence of insurance must be provided for at least five (5) years after completion of the contract of work.
 - c. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Contractor must purchase "extended reporting" coverage for a minimum of five (5) years after completion of work.
8. The policies shall cover all activities of Contractor, its officers, employees, agents and volunteers arising out of or in connection with this Agreement.
9. For any claims relating to this Agreement, the Contractor's insurance coverage shall be primary, with respect to VCTC, its officers, agents, employees and volunteers. Any insurance maintained by VCTC shall apply in excess of, and not contribute with, insurance provided by Contractor's liability insurance policy.
10. The insurer shall waive all rights of subrogation against VCTC, its officers, employees, agents and volunteers.

11. Prior to commencing services pursuant to this Agreement, Contractor shall furnish VCTC's original endorsements reflecting coverage required by this Agreement. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. All endorsements are to be received by, and are subject to the approval of VCTC's Executive Director before work commences. Upon VCTC's request, Contractor shall provide complete, certified copies of all required insurance policies, including endorsements reflecting the coverage required by these specifications.

12. Any deductibles or self-insured retentions must be declared to and approved by the VCTC. VCTC may require Contractor to purchase coverage with a lower deductible or retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. If any insurance policy includes a self-insured retention, nothing shall prevent any of the Parties to this Agreement from satisfying or paying the self-insured retention. If any insurance policy states that the self-insured retention must be paid by a named insured as a precondition of the insurer's liability (or which has the effect of providing that payments of the self-insured retention by others, including additional insureds or insurers, do not serve to satisfy the self-insured retention), such provisions must be modified by special endorsement so as to not apply to the additional insured coverage required by this Agreement.

13. During the term of this Agreement, Contractor shall furnish VCTC with original endorsements reflecting renewals, changes in insurance companies and any other documents reflecting the maintenance of the required coverage throughout the entire term of this Agreement. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. Upon VCTC's request, Contractor shall provide complete, certified copies of all required insurance policies, including endorsements reflecting the coverage required by these specifications.

8. SOFTWARE LICENSE AND UPDATES:

A. The hardware procured and installed hereunder may be accompanied by computer software copyrighted by the Contractor or its subcontractor(s). The Contractor or its subcontractor(s) grant VCTC a perpetual, paid-up, non-exclusive, non-transferable license to use any such software. VCTC shall be placed on the Contractor's regular mailing list to receive all announcements, including updates and upgrades to any software furnished under this Agreement; this shall include application software, system software, and software which the Contractor develops for this Project. "Updates" are those enhancements to the software that the Contractor generally makes available as part of the annual maintenance program. "Upgrades" are any new feature or major enhancement of the software that the Contractor markets and licenses for additional fees separately from the updates.

For one year or during the warranty period, whichever is longer, any software updates and/or upgrades which become available and are applicable to the functionality of the supplied software on this Project shall be provided and installed to the VCTC's system

within a mutually agreed upon timeframe. For one year or during the warranty period, whichever is longer, solutions to problems with the Contractor-supplied software hereunder, whether discovered and corrected on this Project or elsewhere, shall be documented and supplied to the VCTC without additional charge. After one year or during the warranty period, whichever is longer, the VCTC shall have the option of purchasing future upgrades at fair market price. The Contractor shall also provide announcements pertaining to Contractor-produced software ten years after Final System Acceptance and shall include announcements pertaining to software produced by third-party suppliers during the warranty period.

B. Any software provided under this Agreement is proprietary and title and ownership to the Software remains with the Contractor and its subcontractors. VCTC agrees: (1) to take reasonable steps to maintain the Contractor's rights in the Software; (2) not to sell, transfer, publish, display, disclose, or make the Software or any copies available to third parties except that VCTC may disclose the Software to designated federal representatives, under a nondisclosure agreement if requested by Contractor, (3) not to use or allow the Software to be used, either directly or indirectly, for the benefit of any other person or entity, and (4) not to use the Software on any equipment other than the designated equipment on which the Software was originally installed, or such upgrades or substitutions as the VCTC may, from time to time, install, without the Contractor's written consent.

C. In the event Contractor fails to continue support of the APC system under the provisions of this Agreement and does not provide for such support by a third party, Contractor agrees to deposit any Contractor-written application software source code in an existing third party escrow account to enable VCTC to continue operation and maintenance of the APC system. In such event, the VCTC agrees to maintain the confidentiality of the source code.

D. The Contractor shall incorporate the above provisions into all subcontracted agreements issued by Contractor to fulfill its obligations under this Agreement.

9. COMPLIANCE WITH FEDERAL REQUIREMENTS:

The Contractor shall comply with all Federal requirements described in Exhibit B or as may be amended by the Federal government from time to time.

10. TIME IS OF THE ESSENCE:

Time is of the essence on this Agreement.

11. INDEMNITY:

To the fullest extent permitted by law, Contractor shall defend, indemnify and hold harmless the Ventura County Transportation Commission, the County of Ventura, the City of Camarillo, the City of Fillmore, the City of Moorpark, the City of Oxnard, the

City of San Buenaventura, the City of Santa Paula, the City of Simi Valley, the City of Thousand Oaks, the City of Carpinteria, the City of Santa Barbara, the City of Goleta, the County of Santa Barbara, the Santa Barbara County Association of Governments; the State of California, the Trustees of California State University and the employees, officers and agents of each of them (the "VCTC 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' acts or omissions in the performance of the services provided pursuant to this Agreement, and agrees at its own cost, expense and risk to defend, with legal counsel acceptable to VCTC, any and all resulting actions, suits or other legal proceedings brought or instituted against the VCTC Group arising out of its performance of this Agreement, and to pay and satisfy any resulting judgments, claims, damages and costs.

Contractor also agrees to defend, with legal counsel acceptable to VCTC, and pay the entire cost of defending any claim or suit whenever or wherever made or brought against the VCTC Group based upon an infringement or alleged infringement of such letters patent, or any other intellectual property claims, and to defend, indemnify and save harmless the VCTC 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 VCTC Group to use said equipment because of any infringement or alleged infringement of any letters patent.

12. ASSIGNMENT PROHIBITED:

The Contractor may not assign or subcontract its rights or obligations under the Agreement without prior written permission of VCTC, and no such assignment or subcontract will be effective until approved in writing by VCTC. Notwithstanding the foregoing, Contractor may assign its right to receive the payments from VCTC without such consent; however, VCTC shall not be under any obligation to pay any third party unless Contractor and/or its assignee have given VCTC at least thirty (30) days' notice of such assignment.

13. SUCCESSORS AND ASSIGNS:

Subject to any provision under this Agreement restricting assignment or subcontracting by Contractor, the provisions of this Agreement shall be binding upon and insure to the benefit of the respective successors, assigns, heirs, and personal representatives of the parties to this Agreement.

14. EQUIPMENT DELIVERY:

All equipment provided under this Agreement shall be delivered to the Ventura County Transportation Commission, or at such other location that VCTC may so designate, in

first class condition, complete and ready for operation, and the Contractor shall assume all responsibility and risk of loss incident to said delivery.

15. FORCE MAJEURE:

A. Contractor shall not be charged, nor shall VCTC demand from Contractor, damages because of failure in providing the services indicated in this Agreement due to unforeseeable causes beyond the control and without the fault or negligence of Contractor. Such causes of excusable delay may include acts of public enemy, fires, floods, epidemic, quarantine, restrictions, freight embargoes, public road closures, but in every case the delay is excusable only for so long as, and to the extent, that the excusable delay continues.

B. Contractor shall be entitled to no compensation for any service, the performance of which is excused pursuant to this Section.

C. Whenever Contractor has knowledge that any actual or potential force majeure may delay or prevent performance of this Agreement, Contractor in a timely manner, shall notify VCTC of the fact, and thereafter shall report to VCTC all relevant information then known to Contractor, and shall continue to so report.

16. TRAINING:

The Contractor shall provide system user and maintenance training as set forth in Exhibits.

17. MANUALS:

The Contractor shall provide system operation and maintenance manuals prior to project acceptance.

18. AUDIT AND INSPECTION OF RECORDS:

The Contractor shall permit the authorized representative of VCTC to inspect and audit all data and records of the Contractor and any subcontractor relating to the performance under this Agreement from the date of the Agreement through and until the expiration of three (3) years after completion of the Agreement. The inspection and audit provided in this section does not include an audit of the manufacturer's cost and/or profit, with the exception of single proposal or sole source situations.

19. ACCEPTANCE:

A. Conditional Acceptance: VCTC shall grant Contractor Project conditional acceptance in writing upon conducting all design, development, procurement, delivery, installation, integration and testing activities. Project conditional acceptance is defined as that point in time in which all major subsystems are integrated, tested, and operational,

and only a punch list of open items and/or minor deficiencies remain to be corrected by Contractor.

B. Final Acceptance: VCTC shall grant Contractor Project final acceptance in writing upon completion of the punch list created during conditional acceptance. Project final acceptance is defined as that point in time in which Contractor has met all of its contractual obligations to VCTC's satisfaction and the system is fully operational with no deficiencies existing. Project final acceptance does not excuse Contractor's performance of its obligations related to the equipment, maintenance thereof, and service warranties. Acceptance shall be final and conclusive except for latent defects, fraud, gross mistakes amounting to fraud, or VCTC's rights under any warranty or guarantee.

20. TERMINATION OF AGREEMENT:

A. Termination for Convenience

1. This Agreement may be terminated by VCTC in accordance with this clause in whole, or in part, whenever VCTC determines that such termination is in its best interest upon 30 days' written notice to Contractor. Any such termination shall be affected by delivery to the Contractor of a notice of termination specifying the extent to which performance of work under the agreement is terminated, and the date upon which such termination becomes effective.
2. After receipt of a notice of termination, and except as otherwise directed by VCTC, the Contractor shall:
 - a. Stop work under the Agreement on the date and to the extent specified in the notice of termination;
 - b. Place no further orders or subcontracts for materials, services, or facilities, except as may be necessary for completion of such portion of the work under the Agreement as is not terminated;
 - c. Terminate all orders and subcontracts to the extent that they relate to the performance of work terminated by the notice of termination;
 - d. Assign to VCTC, in the manner, at the time, and to the extent directed by VCTC, all of the right, title, and interest of the Contractor under the orders and subcontracts so terminated, in which case VCTC shall have the right, in its discretion to settle or pay any or all claims arising out of the termination of such orders and subcontracts;
 - e. Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontract, with the approval and ratification of VCTC, to the

extent that may be required, which approval or ratification shall be final for all the purposes of this clause;

- f. Transfer title to VCTC and deliver in the manner, at the time, and to the extent, if any, directed by VCTC, the fabricated or un-fabricated parts, works in process, completed work, supplies, and other material produced as a part of, or acquired in connection with the performance of, the work terminated, and the completed or partially completed plans, drawings, information and other property which, if the contract had been completed, would have been required to be furnished to VCTC;
- g. Use its best efforts to sell, in the manner, at the times, to the extent, and at the price(s) directed or authorized by VCTC, any property of the types referred to above, provided, however, that the Contractor shall not be required to extend credit to any purchaser, and may acquire any such property under the conditions prescribed by and at a price(s) approved by VCTC, and provided further, that the proceeds of any such transfer or disposition shall be applied in reduction of any payments to be made by VCTC to the Contractor under this Agreement or shall otherwise be credited to the price or cost of the work covered by this Agreement or paid in such other manner as VCTC may direct;
- h. Complete performance of such part of the work as shall not have been terminated by the notice of termination; and,
- i. Take such action as may be necessary, or as VCTC may direct, for the protection or preservation of the property related to this Agreement which is in the possession of the Contractor and in which VCTC has or may acquire an interest.

B. Termination for Default

- 1. VCTC may, by written notice of default to the Contractor, terminate the whole or any part of this Agreement, if the Contractor fails to make delivery of the equipment or to perform the services in the manner or within the time specified herein or any extension thereof; or if the Contractor fails to perform any of the other provisions of the Agreement, or so fails to make progress as to endanger performance of this Agreement in accordance with its terms, and in either of these two circumstances does not cure such failure within a period of 10 days (or such longer period as VCTC may authorize in writing) after receipt of notice from VCTC specifying such failure.
- 2. If the Agreement is terminated in whole or in part for default, VCTC may procure, upon such terms and in such manner as VCTC may deem appropriate, supplies or services similar to those so terminated. The Contractor shall be

liable to VCTC for any excess costs for such similar supplies or services, and shall continue the performance of this Agreement to the extent not terminated under the provisions of this clause.

3. Payment for completed equipment delivered to and accepted by VCTC prior to the date of termination shall be at the contract price. VCTC may withhold from Contractor amounts otherwise due the Contractor for such completed equipment if VCTC determines it to be necessary to protect VCTC against loss because of outstanding liens or claims of former lien holders. Further, VCTC shall have the right to set-off any such amounts it incurs in order to complete the work or otherwise related to the termination of Contractor against any payments owed to Contractor for that portion of the work which has been completed and accepted by VCTC.
5. If, after notice of termination of this Agreement under the provisions of this clause, it is determined for any reason that the Contractor was not in default under the provisions of this clause, or that the default was excusable under the provisions of this clause, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to termination for convenience of VCTC.
6. The rights and remedies of VCTC provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law, equity, or under this Agreement.

22. DISPUTES:

A. Disputes arising in the performance of the Agreement, which are not resolved by agreement of the Parties, shall be decided in writing by the authorized representative of VCTC's Executive Director. This decision shall be final and conclusive unless within fifteen (15) days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the Executive Director. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the Executive Director shall be binding upon the Contractor and the Contractor shall abide by the decision.

B. Unless otherwise directed by VCTC, Contractor shall continue performance under the Agreement while matters in dispute are being resolved.

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

D. Unless the Agreement provides otherwise, all claims, counterclaims, disputes and other matters in question between VCTC and the Contractor arising out of or relating to the Agreement or its breach will be decided by mediation, or in a court of competent jurisdiction within the State and District in which VCTC is located.

E. The duties and obligations imposed by the Contract Documents and the rights and remedies available hereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the VCTC, or Contractor shall constitute a waiver of any right or duty afforded any of them under the Agreement, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach hereunder, except as may be specifically agreed in writing.

F. The rights afforded to VCTC under this Section shall be in addition to any other rights provided by law or set forth in these Contract Documents. VCTC may exercise any or all of such rights which individually or conjunctively will totally compensate VCTC for the damages suffered by VCTC resulting from the default of the Contractor.

G. In the event that VCTC elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this Agreement, 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 Agreement.

23. OWNERSHIP OF REPORTS AND DOCUMENTS:

The originals of all letters, documents, reports and other products and data produced under this Agreement shall be delivered to, and become the property of VCTC, or if deemed appropriate by VCTC, electronic versions of originals may be accepted. Copies may be made for Contractor's records but shall not be furnished to others without written authorization from VCTC. Such deliverables shall be deemed works made for hire and all rights in copyright therein shall be retained by VCTC.

24. 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.

25. 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.

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. **NOTICES.**

Any written notice to Contractor shall be sent to:

**Elliott F. Carson
Spring Bird Bus
P.O. Box 1032
Austin, Tx 78767**

Any written notice to VCTC shall be sent to:

**Martin Erickson, Executive Director
Ventura County Transportation Commission
751 E Daily Drive, Ste. 420 Camarillo, CA 93010
Fax: (805) 642-4860**

28. **COUNTERPARTS.** This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.

29. **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. Contractor shall comply with all California State laws, regulations, and local ordinances applicable to the performance of the work for this Project, including, but not limited to the provisions of Labor Code Section 1720(a)(1), which may be applicable to public works projects.

30. **PREVAILING WAGE.** Where applicable, the wages to be paid for a day's work to all classes of laborers, workmen, or mechanics on the work contemplated by this Agreement, shall be not less than the prevailing rate for a day's work in the same trade or occupation in the locality within the state where the work hereby contemplates to be performed as determined by the Director of Industrial Relations pursuant to the Director's authority under Labor Code Section 1770, et seq. Each laborer, worker or mechanic employed by Contractor or by any subcontractor shall receive the wages herein provided for. Contractor shall pay two hundred dollars (\$200), or whatever amount may be set by Labor Code Section 1775, as may be amended, per day penalty for each worker paid less than prevailing rate of per diem wages. The difference between the prevailing rate of per diem wages and the wage paid to each worker shall be paid by the Contractor to each worker.

An error on the part of an awarding body does not relieve the Contractor from

responsibility for payment of the prevailing rate of per diem wages and penalties pursuant to Labor Code Sections 1770 1775. VCTC will not recognize any claim for additional compensation because of the payment by the Contractor for any wage rate in excess of prevailing wage rate set forth. The possibility of wage increases is one of the elements to be considered by the Contractor.

a. Posting of Schedule of Prevailing Wage Rates and Deductions. If the schedule of prevailing wage rates is not attached hereto pursuant to Labor Code Section 1773.2, Contractor shall post at appropriate conspicuous points at the site of the project a schedule showing all determined prevailing wage rates for the various classes of laborers and mechanics to be engaged in work on the project under this contract and all deductions, if any, required by law to be made from unpaid wages actually earned by the laborers and mechanics so engaged.

b. Payroll Records. Each Contractor and subcontractor shall keep an accurate payroll record, showing the name, address, social security number, work week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by the Contractor in connection with the public work. Such records shall be certified and submitted weekly as required by Labor Code Section 1776.

31. **INDEPENDENT CONTRACTOR.** 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 personnel pursuant to Subparagraph 1.3; however, otherwise 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.
32. **AMENDMENT.** The parties may amend this Agreement only by a writing signed by all the parties.
33. **INTEGRATION.** This Agreement, including the scope of services attached hereto and incorporated herein as Exhibits A, represents the entire and integrated agreement between VCTC and Contractor and supersedes all prior negotiations, representations, or agreements, either written or oral.

--Signatures on the following page--

IN WITNESS WHEREOF the parties have executed these presents in several counterparts as of the day and year first above written.

VENTURA COUNTY TRANSPORTATION COMMISSION

BY: _____
Mike Judge, Chairman Date

BY: _____
Martin Erickson, Executive Director Date

APPROVED AS TO FORM

BY: _____
Lindsay D'Andrea, General Counsel

CONTRACTOR

BY: _____
Elliott F. Carson Date
Spring Bird Bus

CERTIFICATION

PURSUANT TO LABOR CODE SECTION 1861

I am aware of the provisions of Section 3700 of the Labor Code, which require every employer to be insured against liability for worker's compensation or to undertake self-insurance in accordance with the provisions of that Code, and I will comply with such provisions before commencing the performance of the work of this Agreement.

DATED _____

By _____
(Signature of Authorized Official)

(Printed Name)

(Title of Authorized Official)