



**AGREEMENT BETWEEN BROWARD COUNTY AND [REDACTED] FOR SHUTTLE BUS
AND OTHER TRANSPORTATION SERVICES AT FORT LAUDERDALE-HOLLYWOOD
INTERNATIONAL AIRPORT (RFP # 2018-06-05-0-AV-02)**

This is an Agreement ("Agreement"), made and entered into by and between Broward County, a political subdivision of the State of Florida ("County"), and [REDACTED], a [REDACTED] ("Contractor") (collectively referred to as the "Parties").

RECITALS

A. [Insert recitals if applicable]

Now, therefore, in consideration of the mutual terms, conditions, promises, covenants, and payments hereinafter set forth, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

ARTICLE 1. DEFINITIONS

- 1.1 **ACDBE**. Airport Concession Disadvantaged Business Enterprise as defined in 49 CFR, Part 23 of the Regulations of the Office of the Secretary of the United States Department of Transportation.
- 1.2 **Airport**. Fort Lauderdale-Hollywood International Airport.
- 1.3 **Aviation Department**. The Broward County Aviation Department and its duly authorized representatives.
- 1.4 **Board**. The Board of County Commissioners of Broward County, Florida.
- 1.5 **Contract Administrator**. The Director of Ground Transportation of the Aviation Department, or his or her designee, pursuant to written delegation by the Director of Aviation, or any other employee expressly designated as Contract Administrator in writing by the County Administrator.
- 1.6 **Core Bus Fleet**. The vehicles set forth in Exhibit G that are used for Core Bus Fleet Services.
- 1.7 **Core Bus Fleet Services**. The Shuttle Bus Services necessary for normal, day-to-day operations, as determined in writing by the Contract Administrator.
- 1.8 **County Administrator**. The administrative head of County appointed by the Board.
- 1.9 **County Attorney**. The chief legal counsel for County appointed by the Board.

- 1.10 **Director of Aviation.** The Director or Acting Director of the Aviation Department and such person or persons as may from time to time be authorized in writing by the Board, the County Administrator, or the Director of Aviation to act for the Director of Aviation with respect to any or all matters pertaining to this Agreement.
- 1.11 **Long-Term Vehicles.** All vehicles in the Core Bus Fleet and those owned by County in the Supplemental Bus Fleet, if applicable.
- 1.12 **Parking Facilities.** The parking facilities at the Airport, including the existing parking facilities and all parking facilities hereafter constructed at the Airport.
- 1.13 **Purchasing Director.** The Broward County Purchasing Director as appointed by the County Administrator.
- 1.14 **Services.** All work required by Contractor under this Agreement, including without limitation all deliverables, consulting, training, project management, or other services specified in Exhibit A.
- 1.15 **Shuttle Bus Routes.** The routes identified in writing by the Contract Administrator that Contractor shall follow when providing Shuttle Bus Services. County, through its Contract Administrator, reserves the right to relocate, change, remove, add, or delete Shuttle Bus Routes for any reason whatsoever.
- 1.16 **Shuttle Bus Services.** The transfer of passengers, baggage, and other persons by using the Core Bus Fleet and the Supplemental Bus Fleet.
- 1.17 **Subconsultant or Subcontractor.** A firm, partnership, corporation, independent contractor (including 1099 individuals), or combination thereof providing services to County through Contractor for all or any portion of the advertised work. The term "Subconsultant" shall include all "Subcontractors," and the term "Subcontractor" shall include all "Subconsultants."
- 1.18 **Supplemental Bus Fleet.** The vehicles set forth in Exhibit H that are used for Supplemental Bus Fleet Services.
- 1.19 **Supplemental Bus Fleet Services.** The Shuttle Bus Services requested in advance and in writing by the Contract Administrator to meet periodic increases in demand or to provide specific on-demand services.
- 1.20 **Terminals.** The terminal buildings at the Airport, including the existing buildings and all terminals hereafter constructed at the Airport.

ARTICLE 2. SCOPE OF SERVICES

- 2.1 Contractor shall perform all work identified in this Agreement including without limitation the Scope of Services stated in Exhibit A. The Scope of Services stated in this Agreement is a description of Contractor's obligations and responsibilities and is deemed to include preliminary

2.2 Contractor acknowledges that the Contract Administrator has no authority to make changes that would increase, decrease, or otherwise modify the Scope of Services to be provided under this Agreement except as expressly set forth in this Agreement or, to the extent applicable, the Broward County Procurement Code (Chapter 21 of the Broward County Administrative Code).

3.1 This Agreement shall become effective on the date it is fully executed by the Parties (“Effective Date”).

3.3 County, through the Director of Aviation, shall have the sole option to renew this Agreement for up to five (5) additional one (1) year terms by sending notice thereof to Contractor at least one hundred eighty (180) calendar days prior to the expiration of the then-current term.

In the event County elects to extend the term of this Agreement by either of the methods above, Contractor agrees that it shall continue to provide the Services upon the same terms and conditions as set forth in this Agreement for such extensions.

3.5 Unless otherwise agreed by the Parties in writing, all duties, obligations, and responsibilities of Contractor required by this Agreement shall be completed in accordance with the timing stated in Exhibit A, unless otherwise approved by the Contract Administrator. Time is of the essence in performing the duties, obligations, and responsibilities required by this Agreement.

ARTICLE 4. COMPENSATION

Contractor shall invoice County, and County will pay Contractor, for Services under this Agreement only in accordance with Exhibit B, up to maximum amounts as follows:

Services/Goods	Not-To-Exceed Amount
Fixed Fee	\$
In-Service Hourly Fee	\$
Reimbursable Expenses	\$
TOTAL NOT TO EXCEED	\$

Payment shall be made only for work actually performed and completed pursuant to this Agreement as set forth in Exhibit B (Payment Schedule), which amount shall be accepted by Contractor as full compensation for all such work. Contractor acknowledges that the amounts set forth herein are the maximum amounts payable and constitute a limitation upon County's obligation to compensate Contractor for its work under this Agreement. These maximum amounts, however, do not constitute a limitation of any sort upon Contractor's obligation to perform all items of work required under this Agreement. Unless otherwise expressly stated in this Agreement, Contractor shall not be reimbursed for any expenses it incurs under this Agreement.

ARTICLE 5. INDEMNIFICATION

Contractor shall at all times hereafter indemnify, hold harmless, and defend County and all of County's current and former officers, agents, servants, and employees (collectively, "Indemnified Party") from and against any and all causes of action, demands, claims, losses, liabilities, and expenditures of any kind, including attorneys' fees, court costs, and expenses (collectively, a "Claim"), raised or asserted by any person or entity not a party to this Agreement, which Claim is caused or alleged to be caused, in whole or in part, by any intentional, reckless, or negligent act or omission of Contractor, its current or former officers, employees, agents, or servants, arising from, relating to, or in connection with this Agreement. In the event any Claim is brought against an Indemnified Party, Contractor shall, upon written notice from County, defend each Indemnified Party against each such Claim by counsel satisfactory to County or, at County's option, pay for an attorney selected by the County Attorney to defend the Indemnified Party. The obligations of this section shall survive the expiration or earlier termination of this Agreement. To the extent considered necessary by the Contract Administrator and the County Attorney, any sums due Contractor under this Agreement may be retained by County until all of County's claims for indemnification pursuant to this Agreement have been settled or otherwise resolved. Any amount withheld shall not be subject to payment of interest by County.

ARTICLE 6. INSURANCE AND BONDS

6.1 Insurance. Contractor shall, at a minimum, provide, pay for, and maintain in force at all times during the term of this Agreement, the insurance coverages set forth in Exhibit F, in

accordance with the terms and conditions required by this article. If services are required of Contractor pursuant to this Agreement subsequent to the expiration of the Agreement, Contractor shall provide, pay for, and maintain in force such insurance coverages until County determines all services required of Contractor have been completed. Such policy or policies shall be issued by companies authorized to do business in the State of Florida with a minimum AM Best financial rating of A-, and having agents upon whom service of process may be made in Broward County, Florida.

6.1.1. Contractor shall specifically protect County by naming Broward County as an additional insured/loss payee under the primary and non-contributory General Liability Policy, Business Automobile Liability, Excess Liability, and any Property or Environmental Insurance policies.

6.1.2. All retentions, deductibles, and exclusions must be declared in writing and approved by County. Contractor shall be solely responsible to pay all deductibles or retentions applicable to a claim against County.

6.1.3. If Contractor maintains broader coverage or higher limits than the minimums shown above, County requires, and shall be entitled to, the broader coverage or the higher limits maintained by Contractor.

6.1.4. Contractor shall provide written notice to County of any cancellation or restriction of insurance at least thirty (30) days prior to the date of expiration, or ten (10) days prior to the date of expiration for cancellation due to nonpayment, and shall concurrently provide County with a copy of its updated Certificates of Insurance. County reserves the right to obtain a copy of any policy required by this Article within fourteen (14) calendar days after a written request to Contractor, either by a personal inspection of the policy at Broward County Aviation Department or by receiving a copy of the policy. Any insurance coverage that is written on a "claims made" basis must remain in force for two (2) years after the termination or expiration of this Agreement. Commercial General Liability Insurance shall be written on an "occurrence" basis only.

6.1.5. County may modify the insurance coverages required under this section at any time as County determines necessary to protect County's interest. In such event, County shall notify Contractor of the modified requirements, and Contractor shall provide an updated Certificate of Insurance evidencing such modified coverages within thirty (30) days after County's notice of the modification to the requirements.

6.1.6. Subrogation. Notwithstanding anything to the contrary in this Agreement, Contractor waives any right of recovery against County for any loss or damage to the extent the same is required to be covered by Contractor's insurance hereunder.

Contractor shall obtain from its insurers a waiver of subrogation in favor of County in connection with any loss or damage covered by Contractor's insurance.

6.1.7. Certificate Holder Address. The certificate holder address shall read "Broward County, c/o Aviation Department, 2200 SW 45 Street, Suite 101, Dania Beach, FL 33312" or such other address as may from time to time be required by County.

6.1.8. Subcontractor Coverage. Any Subcontractor performing work for Contractor shall have Broward County listed as a certificate holder for all coverages and as an additional insured for its General Liability, Excess Liability, and Pollution coverages. Contractor shall require their Subcontractors to provide all appropriate and necessary insurance coverages in their respective agreements.

6.1.9. The failure of County to demand evidence of the required insurance or to identify any deficiency in Contractor's coverage based on the evidence of insurance provided shall not be construed as a waiver by County. The insurance requirements required under this Agreement are minimum requirements, and shall in no way limit the Contractor's liability arising out of the work performed or related activities.

6.1.10. The terms of this section shall survive the expiration or earlier termination of this Agreement.

6.2 Performance and Payment Bond.

6.2.1. Performance and Payment Bond. Within fifteen (15) calendar days of the Effective Date, Contractor shall furnish a Performance Bond and a Payment Bond containing all the provisions of the Performance Bond and Payment Bond attached as Exhibit M and Exhibit N (each being a "Bond"). Each Bond shall be maintained in the amount of one million dollars (\$1,000,000) guaranteeing to County the completion and performance of the Services covered in this Agreement as well as full payment of all Subcontractors employed pursuant to this Agreement. Each Bond shall be with a surety company which is qualified pursuant to Section 6.2.3. Each Bond shall continue in effect throughout the term of the Agreement and for a period of six (6) months following the expiration or earlier termination of this Agreement.

6.2.2. Alternate Form of Security. In lieu of a Performance Bond and a Payment Bond, Contractor may furnish alternate forms of security which may be in the form of cash, money order, certified check, cashier's check or unconditional letter of credit in Form 00735 attached as Exhibit O. Such alternate forms of security shall be subject to the approval of County and for same purpose and shall be subject to the same conditions as those applicable above and shall be held by County throughout the term of the Agreement and for a period of six (6) months following the expiration or earlier termination of this Agreement.

6.2.3. Qualifications of Surety.

- i. Each Bond must be executed by a surety company of recognized standing, authorized to do business in the State of Florida as surety, having a resident agent in the State of Florida, and having been in business with a record of successful continuous operation for at least five (5) years.
- ii. The surety company shall hold a current certificate of authority as acceptable surety on federal bonds in accordance with United States Department of Treasury Circular 570, Current Revisions. If the amount of the Bond exceeds the underwriting limitation set forth in the circular, in order to qualify, the net retention of the surety company shall not exceed the underwriting limitation in the circular, and the excess risks must be protected by coinsurance, reinsurance, or other methods in accordance with Treasury Circular 297, revised July 1, 1997 (31 C.F.R. Section 223.10, Section 223.111). Further, the surety company shall provide County with evidence satisfactory to County that such excess risk has been protected in an acceptable manner.
- iii. The surety company shall hold a current Certificate of Authority with the Florida Office of Insurance Regulation.
- iv. The surety company shall have at least the following minimum ratings:

Amount of Bond	Policy Holder's Ratings	Financial Size Category
500,001 to 1,000,000	A,A-	Class I
1,000,001 to 2,000,000	A,A-	Class II
2,000,001 to 5,000,000	A	Class III
5,000,001 to 10,000,000	A	Class IV
10,000,001 to 25,000,000	A	Class V
25,000,001 to 50,000,000	A	Class VI
50,000,001 or more	A	Class VII

ARTICLE 7. TERMINATION

7.1 This Agreement may be terminated for cause by the aggrieved party if the party in breach has not corrected the breach within ten (10) days after receipt of written notice from the aggrieved party identifying the breach ("Cure Period"), except that no Cure Period shall apply and this Agreement may be terminated by County immediately if Contractor fails to provide Shuttle Bus Services. This Agreement may also be terminated for convenience by the Board. Termination for convenience by the Board shall be effective on the termination date stated in written notice provided by County, which termination date shall be not less than thirty (30) days after the date of such written notice. This Agreement may also be terminated by the County Administrator

upon such notice as the County Administrator deems appropriate under the circumstances in the event the County Administrator determines that termination is necessary to protect the public health, safety, or welfare. If County erroneously, improperly, or unjustifiably terminates for cause, such termination shall, at County's sole election, be deemed a termination for convenience, which shall be effective thirty (30) days after such notice of termination for cause is provided.

7.2 This Agreement may be terminated for cause for reasons including, but not limited to, Contractor's repeated (whether negligent or intentional) submission for payment of false or incorrect bills or invoices, failure to suitably perform the work, or failure to continuously perform the work in a manner calculated to meet or accomplish the objectives as set forth in this Agreement. This Agreement may also be terminated for cause if: Contractor is ineligible to submit a bid or proposal or perform work for a public entity pursuant to Section 287.133, Florida Statutes; Contractor or any of its affiliates are placed on the "discriminatory vendor list" pursuant to Section 287.134, Florida Statutes; or Contractor is ineligible to enter into a contract with a local government entity pursuant to Section 287.135, Florida Statutes.

7.3 Notice of termination shall be provided in accordance with the "Notices" section of this Agreement, except that notice of termination by the County Administrator that the County Administrator deems necessary to protect the public health, safety, or welfare may be verbal notice, and shall be promptly confirmed in writing in accordance with the "Notices" section of this Agreement.

7.4 In the event this Agreement is terminated for convenience by County, Contractor shall be paid for any services properly performed under this Agreement through the termination date specified in the written notice of termination. Contractor acknowledges that it has received good, valuable, and sufficient consideration from County, the receipt and adequacy of which are, hereby acknowledged by Contractor, for County's right to terminate this Agreement for convenience.

7.5 In the event this Agreement is terminated for any reason, any amounts due Contractor shall be withheld by County until all required documents are provided to County pursuant to Section 9.1.

ARTICLE 8. EQUAL EMPLOYMENT OPPORTUNITY AND ACDBE COMPLIANCE

8.1 No party to this Agreement may discriminate on the basis of race, color, sex, religion, national origin, disability, age, marital status, political affiliation, sexual orientation, pregnancy, or gender identity and expression in the performance of this Agreement.

Contractor shall include the foregoing or similar language in its contracts with any Subcontractors, except that any project assisted by the U.S. Department of Transportation (USDOT) funds shall comply with the non-discrimination requirements in 49 C.F.R. Parts 23 and 26.

Failure by Contractor to carry out any of the requirements of this section shall constitute a material breach of this Agreement, which shall permit County to terminate this Agreement or to exercise any other remedy provided under this Agreement, Broward County Code of Ordinances, Broward County Administrative Code, or under other applicable law, all such remedies being cumulative.

8.2 Airport Concession Disadvantaged Business Enterprise. The Airport Concession Disadvantaged Business Enterprise ("ACDBE") regulations (49 CFR Part 23) establish requirements for setting an overall goal for ACDBE participation in all concessions activities. This rule requires recipients of federal funds to use a methodology based on demonstrable data of relevant market conditions, and is designed to reach a goal the recipient would expect ACDBEs to achieve in the absence of discrimination. This Agreement is subject to the requirements of the USDOT's regulations, 49 CFR Parts 23 and 26. Contractor agrees that it will not discriminate against any business owner because of the owner's race, gender, color, national origin, religion, sexual orientation, marital status, political affiliation, age, or physical or mental disability in connection with the award or performance of this Agreement, which is covered by 49 CFR, Parts 23 and 26. Contractor agrees to include the above statements in any subsequent agreements that it enters into for Services under this Agreement and shall cause those businesses to similarly include the statements in further agreements.

8.2.1 Contractor has committed to twelve percent (12%) ACDBE participation to be achieved pursuant to Contractor's ACDBE participation plan as set forth in Exhibit K.

8.2.2 County has a Federal Aviation Administration ("FAA") approved nondiscriminatory management agreement and corresponding County policy governing ACDBE participation in County contracts and other selected activities which includes management contracts. County has established a policy relating to Disadvantaged Business Enterprises ("DBE") participation in all County contracts and other selected activities, which includes concessions under an ACDBE program. In order for the concession to be considered an ACDBE under federal requirements, firms must be certified ACDBE.

8.2.3 It is the policy of County to ensure that ACDBEs, as defined in 49 CFR Part 23, can compete fairly for opportunities as subcontractors and suppliers on all contracts awarded by the County to ensure a level playing field.

8.3 Contract Assurances. In the event the following clauses conflict with any other terms or provisions of this Agreement, the clauses set forth in this section shall control.

8.3.1 Nondiscrimination/Remedies. Contractor or Subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement. Contractor shall carry out applicable requirements of 49 CFR Part 23 in the award and administration of contracts subject to USDOT requirements. Failure by Contractor to carry out these requirements is a material breach of this Agreement which may result in the termination of this Agreement or such other remedy as County deems appropriate.

8.3.2 Participation by ACDBEs. It is the policy of Broward County that ACDBE firms, as defined herein, can compete fairly for opportunities as Contractor, prime contractor, subcontractors, and suppliers on all contracts awarded by County to ensure a level playing field. Contractor hereby agrees to take all necessary and reasonable steps, including compliance with the matters set forth in this section in accordance with 49 CFR Part 23, as amended, to ensure that the ACDBE firms have fair opportunity to compete for and perform contracts.

8.4 Contract Compliance Monitoring. Compliance monitoring shall be conducted to determine if Contractor and/or Subcontractors are complying with the requirements of the ACDBE program. Failure of Contractor to comply with this provision may result in County imposing penalties or sanctions pursuant to the provisions of the 49 CFR Part 23 and 26 and the County's ACDBE program plan. Contract compliance will encompass monitoring for contract dollar achievement and ACDBE Subcontractors utilization. OESBD shall have the authority to audit and monitor all contracts and contract-related documents related to County projects. The requirements of the ACDBE program are applicable to Contractor and its Subcontractors. Contractor shall be responsible for ensuring proper documentation with regard to its utilization and payment of ACDBE Subcontractors.

8.4.1 Contractor shall inform County immediately when a ACDBE Subcontractor is not able to perform or if Contractor believes the ACDBE subcontractor should be replaced for any other reason, so that OESBD may review and verify the good faith efforts of Contractor to substitute the ACDBE Subcontractor with another ACDBE Subcontractor. Contractor may change its ACDBE Subcontractor only upon receiving the prior written approval of the OESBD.

8.5 Contractor's ACDBE participation plan is set forth in Exhibit K. Subject to the approval of the OESBD, said participation plan may be revised and updated by Contractor, and upon OESBD's approval, Exhibit K shall be revised and deemed automatically incorporated herein as so revised.

8.6 Within twenty (20) days after the end of each calendar quarter, Contractor shall submit a report detailing its ACDBE participation for the previous calendar quarter. The report shall be on a form provided by OESBD as set forth on Exhibit L. This report shall be submitted to:

Director, Office of Economic and Small Business Development
115 South Andrews Avenue, A-680
Fort Lauderdale, FL 33301

with a copy provided to:

Small Business Development Specialist
Broward County Aviation Department
2200 SW 45th Street, Suite 101
Dania Beach, FL 33312

and an additional copy to:

Airport Manager- Ground Transportation
Fort Lauderdale-Hollywood International Airport
2200 SW 45th Street, Suite 101
Dania Beach, FL 33312

8.7 By execution of this Agreement, Contractor represents that (a) Contractor is not prohibited from submitting a bid or proposal or performing work with a public entity pursuant to Section 287.133, Florida Statutes, (b) Contractor has not been placed on the discriminatory vendor list as provided in Section 287.134, Florida Statutes, and (c) Contractor is not precluded from entering into this Agreement due to any basis stated in Section 287.135, Florida Statutes. County hereby materially relies on such representations in entering into this Agreement. An untrue representation of the foregoing shall entitle County to terminate this Agreement and recover from Contractor all monies paid by County pursuant to this Agreement, and may result in debarment from County's competitive procurement activities.

ARTICLE 9. MISCELLANEOUS

9.1 Rights in Documents and Work. Any and all reports, photographs, surveys, and other documents provided or created in connection with this Agreement are and shall remain the property of County, and, if a copyright is claimed, Contractor grants to County a nonexclusive license to use the copyrighted item(s) indefinitely, to prepare derivative works, and to make and distribute copies to the public. In the event of termination of this Agreement, any reports, photographs, surveys, and other documents prepared by Contractor, whether finished or unfinished, shall become the property of County and shall be delivered by Contractor to the Contract Administrator within seven (7) days after termination of this Agreement. Any compensation due to Contractor shall be withheld until all documents are received as provided herein. Contractor shall ensure that the requirements of this section are included in all agreements with its Subcontractor(s).

9.2 Public Records. To the extent Contractor is acting on behalf of County as stated in Section 119.0701, Florida Statutes, Contractor shall:

9.2.1 Keep and maintain public records required by County to perform the services under this Agreement;

9.2.2 Upon request from County, provide County with a copy of the requested records or allow the records to be inspected or copied within a reasonable time and at a cost that does not exceed that provided in Chapter 119, Florida Statutes, or as otherwise provided by law;

9.2.3 Ensure that public records that are exempt or confidential and exempt from public record requirements are not disclosed except as authorized by law for the duration of this

Agreement and following completion or termination of this Agreement if the records are not transferred to County; and

9.2.4 Upon completion or termination of this Agreement, transfer to County, at no cost, all public records in possession of Contractor or keep and maintain public records required by County to perform the services. If Contractor transfers the records to County, Contractor shall destroy any duplicate public records that are exempt or confidential and exempt. If Contractor keeps and maintains public records, Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to County upon request in a format that is compatible with the information technology systems of County.

The failure of Contractor to comply with the provisions of this section shall constitute a material breach of this Agreement entitling County to exercise any remedy provided in this Agreement or under applicable law.

A request for public records regarding this Agreement must be made directly to County, who will be responsible for responding to any such public records requests. Contractor will provide any requested records to County to enable County to respond to the public records request.

Any material submitted to County that Contractor contends constitutes or contains trade secrets or is otherwise exempt from production under Florida public records laws (including Florida Statutes Chapter 119) ("Trade Secret Materials") must be separately submitted and conspicuously labeled "EXEMPT FROM PUBLIC RECORD PRODUCT – TRADE SECRET." In addition, Contractor must, simultaneous with the submission of any Trade Secret Materials, provide a sworn affidavit from a person with personal knowledge attesting that the Trade Secret Materials constitute trade secrets under Florida Statutes Section 812.081 and stating the factual basis for same. In the event that a third party submits a request to County for records designated by Contractor as Trade Secret Materials, County shall refrain from disclosing the Trade Secret Materials, unless otherwise ordered by a court of competent jurisdiction or authorized in writing by Contractor. Contractor shall indemnify and defend County and its employees and agents from any and all claims, causes of action, losses, fines, penalties, damages, judgments and liabilities of any kind, including attorneys' fees, litigation expenses, and court costs, relating to the non-disclosure of any Trade Secret Materials in response to a records request by a third party.

IF CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF FLORIDA STATUTES CHAPTER 119 TO CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (954) 359-2318, KWILLMAN@BROWARD.ORG, 2200 SW 45TH STREET, SUITE 101, FORT LAUDERDALE, FLORIDA 33301.

9.3 Audit Rights, and Retention of Records. County shall have the right to audit the books, records, and accounts of Contractor and its Subcontractors that are related to this Agreement. Contractor and its Subcontractors shall keep such books, records, and accounts as may be

necessary in order to record complete and correct entries related to this Agreement and performance thereunder. All books, records, and accounts of Contractor and its Subcontractors shall be kept in written form, or in a form capable of conversion into written form within a reasonable time, and upon request to do so, Contractor or its Subcontractor, as applicable, shall make same available at no cost to County in written form.

Contractor and its Subcontractors shall preserve and make available, at reasonable times within Broward County for examination and audit by County, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for a minimum period of three (3) years after expiration or termination of this Agreement or until resolution of any audit findings, whichever is longer. County audits and inspections pursuant to this section may be performed by any County representative (including any outside representative engaged by County). County reserves the right to conduct such audit or review at Contractor's place of business, if deemed appropriate by County, with seventy-two (72) hours' advance notice.

Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for County's disallowance and recovery of any payment upon such entry. If an audit or inspection in accordance with this section discloses overpricing or overcharges to County of any nature by the Contractor in excess of five percent (5%) of the total contract billings reviewed by County, the reasonable actual cost of County's audit shall be reimbursed to the County by the Contractor in addition to making adjustments for the overcharges. Any adjustments and/or payments due as a result of such audit or inspection shall be made within thirty (30) days from presentation of County's findings to Contractor.

Contractor shall ensure that the requirements of this section are included in all agreements with its Subcontractor(s).

9.4 Truth-In-Negotiation Representation. Contractor's compensation under this Agreement is based upon representations supplied to County by Contractor, and Contractor certifies that the wage rates, factual unit costs, and other information supplied to substantiate Contractor's compensation, including without limitation in the negotiation of this Agreement, are accurate, complete, and current at the time of contracting. County shall be entitled to recover any damages it incurs to the extent any such representation is untrue.

9.5 Independent Contractor. Contractor is an independent contractor under this Agreement. In providing Services under this Agreement, neither Contractor nor its agents shall act as officers, employees, or agents of County. Contractor shall not have the right to bind County to any obligation not expressly undertaken by County under this Agreement.

9.6 Third Party Beneficiaries. Neither Contractor nor County intends to directly or substantially benefit a third party by this Agreement. Therefore, the Parties acknowledge that there are no third party beneficiaries to this Agreement and that no third party shall be entitled to assert a right or claim against either of them based upon this Agreement.

9.7 Notices. In order for a notice to a party to be effective under this Agreement, notice must be sent via U.S. first-class mail, with a contemporaneous copy via e-mail, to the addresses listed below and shall be effective upon mailing. The addresses for notice shall remain as stated below unless and until changed by providing notice of such change in accordance with the provisions of this section.

FOR COUNTY:

Broward County
Attn: County Administrator
Governmental Center, Room 409
115 South Andrews Avenue
Fort Lauderdale, Florida 33301
Email address: [REDACTED]

With a copy to:

CEO/Director of Aviation
Broward County Aviation Department
2200 SW 45th Street, Suite 101
Dania Beach, FL 33312
Email address: KWillman@Broward.org

FOR CONTRACTOR:

[REDACTED]
[REDACTED]
[REDACTED]
Email address: [REDACTED]

9.8 Assignment and Performance. Except for subcontracting approved in writing by County at the time of its execution of this Agreement or any written amendment hereto, neither this Agreement nor any right or interest herein may be assigned, transferred, subcontracted, or encumbered by Contractor without the prior written consent of County. If Contractor violates this provision, County shall have the right to immediately terminate this Agreement. Contractor represents that each person and entity that will provide services under this Agreement is duly qualified to perform such services by all appropriate governmental authorities, where required, and is sufficiently experienced and skilled in the area(s) for which such person or entity will render services. Contractor agrees that all Services under this Agreement shall be performed in a skillful and respectful manner, and that the quality of all such Services shall equal or exceed prevailing industry standards for the provision of such Services.

9.9 Conflicts. Neither Contractor nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with Contractor's loyal and conscientious exercise of judgment and care related to its performance under this Agreement. None of Contractor's officers or employees shall, during

the term of this Agreement, serve as an expert witness against County in any legal or administrative proceeding in which he, she, or Contractor is not a party, unless compelled by court process. Further, such persons shall not give sworn testimony or issue a report or writing, as an expression of his or her expert opinion that is adverse or prejudicial to the interests of County in connection with any such pending or threatened legal or administrative proceeding unless compelled by court process. The limitations of this section shall not preclude Contractor or any persons in any way from representing themselves, including giving expert testimony in support thereof, in any action or in any administrative or legal proceeding. In the event Contractor is permitted pursuant to this Agreement to utilize Subcontractors to perform any services required by this Agreement, Contractor shall require such Subcontractors, by written contract, to comply with the provisions of this section to the same extent as Contractor.

9.10 Materiality and Waiver of Breach. Each requirement, duty, and obligation set forth herein was bargained for at arm's-length and is agreed to by the Parties. Each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement, and each is, therefore, a material term hereof. County's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

9.11 Compliance with Laws. Contractor shall comply with all applicable federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations pursuant to this Agreement.

9.12 Severability. In the event any part of this Agreement is found to be unenforceable by any court of competent jurisdiction, that part shall be deemed severed from this Agreement and the balance of this Agreement shall remain in full force and effect.

9.13 Joint Preparation. This Agreement has been jointly prepared by the Parties hereto, and shall not be construed more strictly against either Party.

9.14 Interpretation. The headings contained in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation of this Agreement. All personal pronouns used in this Agreement shall include the other gender, and the singular shall include the plural, and vice versa, unless the context otherwise requires. Terms such as "herein," "hereof," "hereunder," and "hereinafter" refer to this Agreement as a whole and not to any particular sentence, paragraph, or section where they appear, unless the context otherwise requires. Whenever reference is made to a section or article of this Agreement, such reference is to the section or article as a whole, including all of the subsections of such section, unless the reference is made to a particular subsection or subparagraph of such section or article.

9.15 Priority of Provisions. If there is a conflict or inconsistency between any term, statement, requirement, or provision of any document or exhibit attached, referenced, or incorporated

herein and any provision of Articles 1 through 9 of this Agreement, the provision contained in Articles 1 through 9 shall prevail and be given effect.

9.16 Law, Jurisdiction, Venue, Waiver of Jury Trial. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the state of Florida. The exclusive venue for any lawsuit arising from, related to, or in connection with this Agreement shall be in the state courts of the Seventeenth Judicial Circuit in and for Broward County, Florida. If any claim arising from, related to, or in connection with this Agreement must be litigated in federal court, the exclusive venue for any such lawsuit shall be in the United States District Court or United States Bankruptcy Court for the Southern District of Florida. **BY ENTERING INTO THIS AGREEMENT, CONTRACTOR AND COUNTY HEREBY EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT. IF A PARTY FAILS TO WITHDRAW A REQUEST FOR A JURY TRIAL IN A LAWSUIT ARISING OUT OF THIS AGREEMENT AFTER WRITTEN NOTICE BY THE OTHER PARTY OF VIOLATION OF THIS SECTION, THE PARTY MAKING THE REQUEST FOR JURY TRIAL SHALL BE LIABLE FOR THE REASONABLE ATTORNEYS' FEES AND COSTS OF THE OTHER PARTY IN CONTESTING THE REQUEST FOR JURY TRIAL, AND SUCH AMOUNTS SHALL BE AWARDED BY THE COURT IN ADJUDICATING THE MOTION.**

9.17 Amendments. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by the Board and Contractor or others delegated authority or otherwise authorized to execute same on their behalf.

9.18 Prior Agreements. This Agreement represents the final and complete understanding of the Parties regarding the subject matter hereof and supersedes all prior and contemporaneous negotiations and discussions regarding that subject matter. There is no commitment, agreement, or understanding concerning the subject matter of this Agreement that is not contained in this written document.

9.19 HIPAA Compliance. It is expressly understood by the Parties that County personnel or their agents have access to protected health information (hereinafter known as "PHI") that is subject to the requirements of 45 C.F.R. Parts 160, 162, and 164 and related regulations. In the event Contractor is considered by County to be a covered entity or business associate or is required to comply with the Health Insurance Portability and Accountability Act of 1996 (hereinafter known as "HIPAA"), Contractor shall fully protect individually identifiable health information as required by HIPAA and, if requested by County, shall execute a Business Associate Agreement in the form located at the following link for the purpose of complying with HIPAA: <http://www.broward.org/Purchasing/Documents/Standard%20Business%20Associate%20Agreement%20Form.pdf>. Where required, Contractor shall handle and secure such PHI in compliance with HIPAA and its related regulations and, if required by HIPAA or other laws, include in its "Notice of Privacy Practices" notice of Contractor's and County's uses of client's PHI. The requirement to comply with this provision and HIPAA shall survive the expiration or earlier termination of this Agreement. County hereby authorizes the County Administrator to sign

Business Associate Agreements on its behalf. Contractor shall ensure that the requirements of this section are included in all agreements with its Subcontractors.

9.20 Payable Interest

9.20.1. Payment of Interest. County shall not be liable to pay any interest to Contractor for any reason, whether as prejudgment interest or for any other purpose, and in furtherance thereof Contractor waives, rejects, disclaims and surrenders any and all entitlement it has or may have to receive interest in connection with a dispute or claim arising from, related to, or in connection with this Agreement. This subsection shall not apply to any claim for interest, including for post-judgment interest, if such application would be contrary to applicable law.

9.20.2. Rate of Interest. If the preceding subsection is inapplicable or is determined to be invalid or unenforceable by a court of competent jurisdiction, the annual rate of interest payable by County under this Agreement, whether as prejudgment interest or for any other purpose, shall be, to the full extent permissible under applicable law, 0.25% (one quarter of one percent) simple interest (uncompounded).

9.21 Incorporation by Reference. Any and all Recital clauses stated above are true and correct and are incorporated herein by reference. The attached Exhibits are incorporated into and made a part of this Agreement, and include the following:

Exhibit A	Scope of Services
Exhibit B	Payment Schedule
Exhibit C	Statement of Compliance
Exhibit D	Service Level Agreement
Exhibit E	Certification of Payments
Exhibit F	Minimum Insurance Requirements
Exhibit G	Core Bus Fleet
Exhibit H	Supplemental Bus Fleet
Exhibit I	Security Requirements
Exhibit J	Nondiscrimination Requirements
Exhibit K	ACDBE Letter of Intent
Exhibit L	ACDBE Quarterly Activity Report
Exhibit M	Form of Performance Bond
Exhibit N	Form of Payment Bond
Exhibit O	Form 00735

9.22 Representation of Authority. Each individual executing this Agreement on behalf of a party hereto hereby represents and warrants that he or she is, on the date he or she signs this Agreement, duly authorized by all necessary and appropriate action to execute this Agreement on behalf of such party and does so with full legal authority.

9.23 Prevailing Wage Requirement. If construction work in excess of Two Hundred Fifty Thousand Dollars (\$250,000.00) is required of, or undertaken by, Contractor as a result of this Agreement, Section 26-5, Broward County Code of Ordinances, shall be deemed to apply to such construction work. Contractor shall fully comply with the requirements of such ordinance and shall satisfy, comply with, and complete the requirements set forth in Exhibits B and C.

9.24 Counterparts and Multiple Originals. This Agreement may be executed in multiple originals, and may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

9.25 Drug-Free Workplace. It is a requirement of County that it enter into contracts only with firms that certify the establishment of a drug-free workplace in accordance with Section 21.31(a)(2) of the Broward County Code of Ordinances. Execution of this Agreement by Contractor shall serve as Contractor's required certification that it has a drug-free workplace program in accordance with Section 287.087, Florida Statutes, and Section 21.31(a)(2) of the Broward County Code of Ordinances, and that it will maintain such drug-free workplace program for the full term of this Agreement.

9.26 Contingency Fee. Contractor represents that it has not paid or agreed to pay any person or entity, other than a bona fide employee working solely for Contractor, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. If County learns that this representation is false, County shall have the right to terminate this Agreement without any further liability to Contractor. Alternatively, if such representation is false, County, at its sole discretion, may deduct from the compensation due Contractor under this Agreement the full amount of such fee, commission, percentage, gift, or consideration.

9.27 Living Wage Requirement. If Contractor is a "covered employer" within the meaning of the Broward County Living Wage Ordinance, Sections 26-100 et seq. of the Broward County Code of Ordinances, Contractor agrees to and shall pay to all of its employees providing "covered services," as defined therein, a living wage as required by such ordinance, and Contractor shall fully comply with the requirements of such ordinance. Contractor shall be responsible for and shall ensure that all of its Subcontractors that qualify as "covered employers" fully comply with the requirements of such ordinance.

9.28 Use of County Logo. Contractor shall not use County's name, logo, or otherwise refer to this Agreement in any marketing or publicity materials without the prior written consent of County.

9.29 Additional Security Requirements. Contractor certifies and represents that it will comply with the Airport Security Requirements attached as Exhibit I.

9.30 Federal Fair Labor Standards Act (Federal Minimum Wage). This Agreement incorporates by reference the provisions of 29 CFR part 201, the Federal Fair Labor Standards Act ("FLSA"), with the same force and effect as if given in full text. The FLSA sets minimum wage, overtime

pay, recordkeeping, and child labor standards for full and part time workers. Contractor has full responsibility to monitor compliance to the referenced statute or regulation. Contractor must address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division.

9.31 Occupational Safety and Health Act of 1970. This Agreement incorporates by reference the requirements of the Occupational Safety and Health Act of 1970 (29 CFR Part 1910) with the same force and effect as if given in full text. Contractor must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. Contractor retains full responsibility to monitor its compliance and their subcontractor's compliance with the applicable requirements of the Occupational Safety and Health Act of 1970. Contractor must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.

9.32 Civil Rights – General. Contractor agrees to comply with pertinent statutes, executive orders, and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability, be excluded from participating in any activity conducted with or benefiting from federal assistance.

9.33 Civil Rights – Title VII Assurances. Contractor agrees to abide by and comply with the nondiscrimination requirements set forth on Exhibit J to the extent same are applicable by law, rule, or regulation, or federal grant requirements.

9.34 Access. Contractor has the right of ingress and egress over Airport public roadways, including common use roadways, as such roadways may be changed from time to time, subject to all laws, ordinances, rules, and regulations which have been established or shall be established in the future by the Airport, the County, the federal government, or the State of Florida. Such rights of ingress and egress shall apply to Contractor's employees, guests, patrons, invitees, suppliers, and other authorized individuals.

9.35 Airport Issued Identification Media and Emergency Response Training. All employees, agents, representatives, contractors, and subcontractors of Contractor shall obtain any Airport Issued Identification Media and complete any emergency response training required by Section 2-43 of the Broward County Code of Ordinances. Contractor shall comply with the requirements of Section 2-43 of the Broward County Code of Ordinances, including the requirement that Contractor compensate its employees, agents, representatives, contractors, and Subcontractors for time spent completing the emergency response training.

9.36 Environmental Compliance; Environmental Containment and Removal. County will perform an initial environmental assessment of any Airport Optional Facilities or Off-Airport Optional Facilities (hereinafter defined) provided to Contractor ("Initial Environmental Assessment") prior to providing such areas to Contractor. The Initial Environmental Assessment shall not be deemed to in any way release any party from any liability under any federal, state, county, or local laws, rules, or regulations, or in any way to limit the regulatory powers of the County or any of its agencies.

9.36.1. The Environmental Assessment is a document based on one or more environmental site assessments, examinations, inspections, tests, inquiries, and surveys necessary to identify "Recognized Environmental Conditions" (as hereinafter defined), contamination, and the presence of hazardous substances or other Materials, in, on, or under the surface of the property.

9.36.2. "Recognized Environmental Conditions" shall mean as described in "ASTM E 15267 – Standard Practice Environmental Site Assessments: Phase 1 Environmental Site Assessment Process."

9.36.3. "Materials" shall mean any pollutant, hydrocarbon contamination, hazardous substances, or other contaminants or regulated materials.

9.36.4. Any Environmental Assessment obtained by either County or Contractor shall not be deemed in any way to release any party from any liability under any federal, state, County, or local laws, rules, or regulations, or in any way to limit the regulatory powers of County or any of its agencies. The Aviation Department, other applicable County agencies, and the contractors and consultants retained to perform any Environmental Assessment of the property shall have entry to the property at all times for such purpose and the right to perform such examinations, inspections, soil borings, other tests, inquiries, and surveys necessary or desirable in the performances of the Environmental Assessment.

9.36.5. Contractor shall provide the Contract Administrator, if requested at any time, with a list of all Materials stored, used, generated, or disposed of on Airport property by Contractor.

9.36.6. Contractor agrees to comply with all existing and future federal, state, local, and County environmental laws, ordinances, and regulations, and the requirements of any Development Order covering the Airport issued to County pursuant to Chapter 380, Florida Statutes, including without limitation those addressing the following:

- i. Proper protection, use, storage, treatment, and disposal of Materials, including contracting with a licensed hazardous waste transporter or treatment and disposal facility to assure proper transport and disposal of hazardous waste and other regulated Materials;
- ii. Proper protection, use, disposal, and treatment of storm water runoff, including the construction and installation of adequate pre-treatment devices or mechanisms, if applicable. Contractor shall have in place, and make available to the Contract Administrator for review, all required environmental licenses and documents including, but not limited to, a site specific Stormwater Pollution Prevention Plan and a Spill Prevention and Countermeasures Plan.

- iii. Adequate inspection, licensing, insurance, and registration of existing and future storage tanks, storage systems, and ancillary facilities to meet all County, local, state, and federal standards, including the installation and operation of adequate monitoring devices and leak detection systems;
- iv. Adequate facilities for management and, as necessary, pretreatment of industrial waste, industrial wastewater, and regulated Materials, and the proper disposal thereof; and
- v. Compliance with reporting requirements of Title III of the Superfund Amendment and Chapter 27 of the Broward County Code, as applicable and as such laws may be amended from time to time.

9.36.7. The discharge, disposal, or release of any Recognized Environmental Conditions or Materials on or upon Airport property as a result of Contractor's operations at the Airport that is in an amount that is in violation of any federal, state, County, or local law, rule, or regulation, or in violation of an order or directive of any federal, state, or local court or governmental authority, by Contractor or any of its officers, employees, contractors, subcontractors, invitees, or agents, whether committed prior to or subsequent to the date of execution of this Agreement, shall be, at Contractor's expense, and upon demand of County or any of its agencies or any local, state, or federal regulatory agency, immediately contained, removed, or abated to meet the requirements of applicable environmental laws, rules, and regulations.

- i. If Contractor does not take action immediately to have such Recognized Environmental Conditions and Materials contained, removed, or abated, County or any of its agencies or any local, state, or federal regulatory agency may upon reasonable notice to Contractor (which notice shall be written unless an emergency condition exists) undertake the removal of the Recognized Environmental Conditions and Materials; however, any such action by County or any of its agencies or any local, state, or federal regulatory agency will not relieve Contractor of its obligations under this or any other provision of this Agreement or as imposed by law.
- ii. No action taken by any party to contain or remove Recognized Environmental Conditions or Materials, or to abate a release, whether such action is taken voluntarily or not, shall be construed as an admission of liability as to the source of or the person who caused the pollution or its release. As used in this Agreement, "Contractor's operations" and "Contractor's actions" and words of similar import shall include all actions and inaction by Contractor or by any of its officers, employees, contractors, subcontractors, invitees, or agents.
- iii. County reserves the right to require Contractor to actively perform and complete an Environmental Assessment and remediation that may be

required as a result of any release of Materials, as referenced above. Such activities will be performed at the sole expense of Contractor despite the acceptance of any government funded cleanup program which might not require immediate assessment or remediation based on a site ranking or scoring within that program. If County requires remediation of any such property, then such property shall, at Contractor's expense and upon demand of County, be immediately contained, removed, and remedied to the satisfaction of the Contract Administrator and County. Contractor shall perform assessment and remediation of any impacted property in accordance with timetables acceptable to County and so as to achieve a timely remediation of the site that does not impede any County development or other County plan.

9.36.8. Contractor shall provide the Contract Administrator with notice of releases of Materials occurring on account of Contractor's operations at the Airport in accordance with the requirements of the Aviation Department's policies and procedures manual. Contractor shall maintain a log of all such notices to the Contract Administrator and shall also maintain all records required by federal, state, County, and local laws, rules, and regulations, and also such records as are reasonably necessary to adequately assess environmental compliance in accordance with applicable laws, rules, and regulations.

9.36.9. As required by law, Contractor shall provide the federal, state, County, and local regulatory agencies with notice of spills, releases, leaks, or discharges (collectively, "release") of Materials on Airport property which exceeds an amount required to be reported to any local, County, state, or federal regulatory agency under applicable environmental laws, rules, and regulations, which notice shall be in accordance with applicable environmental laws, rules and regulations. Contractor shall further provide the Contract Administrator and the County Department of Planning and Environmental Protection (or successor agency) with written notice within one (1) business day following commencement of same of the curative measures, remediation efforts, or monitoring activities to be effected. Contractor shall have an updated contingency plan in effect relating to such releases which provide minimum standards and procedures for storage of regulated Materials and other Materials, prevention and containment of spills and releases, and transfer and disposal of regulated Materials and other Materials. The contingency plan shall describe design features, response actions, and procedures to be followed in case of releases or other accidents involving hazardous Materials, bio-hazardous Materials, or petroleum products or other Materials. Contractor agrees to permit entry of any property it occupies at the Airport at all reasonable times of inspectors of the County Department of Planning and Environmental Protection or (successor agency) and of other regulatory authorities with jurisdiction.

9.36.10. The Contract Administrator, upon reasonable written notice to Contractor, shall have the right to inspect all documents relating to the environmental condition of the property used by the Contractor at the Airport, including without limitation, the release

of any Materials, or any curative, remediation, or monitoring efforts, and any documents required to be maintained under applicable environmental laws, rules, and regulations or any development order issued to the County pertaining to the Airport pursuant to Chapter 380, Florida Statutes, including, but not limited to, manifests evidencing proper transportation and disposal of Materials, environmental site assessments, and sampling and test results. Contractor agrees to allow inspection of the property used by Contractor at the Airport by appropriate federal, state, County, and local agency personnel in accordance with applicable environmental laws, rules, and regulations, and as required by any development order issued to the County pertaining to the Airport pursuant to Chapter 380, Florida Statutes.

9.36.11. If County arranges for the removal of any Materials or the associated impacts to the environment from a release of Materials caused by Contractor or any of its officers, employees, contractors, subcontractors, invitees, agents, or trespassers at the Airport, all costs of such removal incurred by the County shall be paid by Contractor to County within ten (10) calendar days of County's written demand, with interest at the rate of eighteen percent (18%) per annum thereafter accruing.

9.36.12. Contractor will not be liable for the release of any Materials caused by anyone other than Contractor, or any of its officers, employees, contractors, subcontractors, invitees, agents, or trespassers. Nothing herein shall relieve Contractor of its general duty to cooperate with County in ascertaining the source and, containing, removing, and abating any Materials at the Airport. The Aviation Department and its employees, contractors, and agents, upon reasonable written notice to Contractor, and the federal, state, local and other County agencies and their employees, contractors, and agents, at times in accordance with applicable laws, rules, and regulations, shall have the right to enter any property used by Contractor at the Airport for the purposes of the foregoing activities and conducting such environmental assessments (testing or sampling), inspections, and audits as it deems appropriate.

9.36.13. The provisions of this section shall survive the expiration or other termination of this Agreement.

9.36.14. Contractor hereby agrees that County shall have the right to require Contractor to conduct an end-of-contract environmental assessment and facility inspection.

(THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.)

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement: BROWARD COUNTY, through its BOARD OF COUNTY COMMISSIONERS, signing by and through its Mayor or Vice-Mayor, authorized to execute same by Board action on the _____ day of _____, 20____, and Contractor, signing by and through its _____, duly authorized to execute same.

COUNTY

ATTEST:

BROWARD COUNTY, by and through
its Board of County Commissioners

Broward County Administrator, as
Ex-officio Clerk of the Broward County
Board of County Commissioners

By: _____
Mayor
_____ day of _____, 20____

Insurance requirements
approved by Broward County
Risk Management Division:

Approved as to form by
Andrew J. Meyers
Broward County Attorney
Aviation Office
2200 SW 45th Street, Suite 101
Dania Beach, Florida 33312
Telephone: (954) 359-6100
Telecopier: (954) 359-1292

By: _____
Tracy Meyer
Risk Insurance and Contracts Manager

By: _____ (Date)
Carlos Rodriguez-Cabarrocas
Assistant County Attorney

By: _____ (Date)
Alexander J. Williams, Jr.
Senior County Attorney

____/____ (insert initials)
_____.doc
10/1/2016
#_____

AGREEMENT BETWEEN BROWARD COUNTY AND [REDACTED] FOR SHUTTLE BUS
AND OTHER TRANSPORTATION SERVICES AT FORT LAUDERDALE-HOLLYWOOD INTERNATIONAL
AIRPORT (RFP # 2018-06-05-0-AV-02)

CONTRACTOR

WITNESSES:

[REDACTED]

Signature

By: _____
Authorized Signor

Print Name of Witness above

Print Name and Title

Signature

____ day of _____, 20____

Print Name of Witness above

ATTEST:

Corporate Secretary or other person
authorized to attest

(CORPORATE SEAL OR NOTARY)

EXHIBIT A
Scope of Services

Contractor and County agree that Contractor shall provide the following Services under this Agreement:

1. Project Request/Intent:

A. Services. Contractor shall provide Shuttle Bus Services between and among the Terminals, the Parking Facilities, and any other locations requested in writing by the Contract Administrator, whether on or off Airport property, by using the Shuttle Bus Routes. Contractor shall provide Shuttle Bus Services to County twenty-four (24) hours per day, seven (7) days per week, including holidays, or as otherwise required in writing by the Contract Administrator. The Parties recognize that the Services contemplated herein cannot be determined with specificity as of the Effective Date. It is the intent and purpose of the Parties that the Services shall be provided in such a manner as to most efficiently meet the operational needs of the Airport.

2. Vehicles/Equipment:

A. Core Bus Fleet. Contractor shall provide a Core Bus Fleet for Core Bus Fleet Services. The Core Bus Fleet shall be exclusively used for this Agreement and shall initially comprise of the following vehicles, which are further identified in Exhibit G:

- i. Contractor shall lease or purchase [REDACTED] to be used in the Core Bus Fleet. Any such lease or purchase must be approved in advance and in writing by the Director of Aviation. Any lease shall comply with the following:
 1. All vehicle leases for the Core Bus Fleet must be in form and substance satisfactory to the Director of Aviation and must be assignable to County, County's designee, or any person or entity requested in writing by the Director of Aviation. The Director of Purchasing is authorized to approve any assignment of any such vehicle lease to County up to the amount of the Director of Purchasing's award authority. The assignment to County of any such vehicle lease that is over the award authority of the Director of Purchasing shall be approved by the Board. Upon the expiration or earlier termination of this Agreement, or at such other date, if directed in writing by the Director of Aviation, Contractor shall promptly cause the assignment of such vehicle leases to County, County's designee, or any person or entity requested in writing by the Director of Aviation.
 2. All vehicle leases for the Core Bus Fleet must expire at the end of the Initial Term unless otherwise authorized in writing by the Director of Aviation.
- ii. The Core Bus Fleet may be used for Supplemental Bus Fleet Services at the written request of the Contract Administrator at the rates set forth herein for the Supplemental Bus Fleet.

- iii. It is anticipated that County may require Contractor to purchase or lease additional vehicles for inclusion in the Core Bus Fleet, such as large passenger capacity buses, trams, airfield buses, or other vehicles. The purchase or leasing of any such vehicles shall be subject to the written direction, requirements, and approval of the Director of Aviation.
- iv. The Director of Aviation may also require Contractor to purchase technology upgrades or equipment improvements for the Core Bus Fleet. Upon the expiration or earlier termination of this Agreement for any reason, title to such technology upgrades or equipment improvements shall vest with the County unless otherwise agreed in writing between the Parties, with the Director of Aviation acting on behalf of County.
- v. Contractor must not use any vehicle that is unserviceable (i.e., unsafe, poor performance, or poor appearance), as determined by the Contract Administrator, for Core Bus Fleet Services. Contractor shall notify the Contract Administrator in writing if any vehicle within the Core Bus Fleet becomes unserviceable other than for routine service or minor repairs during the term of this Agreement, in which case the Contract Administrator may request in writing, in his or her discretion, that the vehicle be removed from the Core Bus Fleet.
- vi. Upon the expiration or earlier termination of this Agreement for any reason, the titles for all vehicles in the Core Bus Fleet that have been purchased by Contractor (and reimbursed by County) shall be transferred to County, County's designee, or any person or entity requested in writing by the Director of Aviation. Such transfer shall be without any further payment or consideration to Contractor because Contractor was previously reimbursed the purchase price for the vehicle upon acquisition of same by Contractor. Contractor shall also transfer all other documents requested by the Contract Administrator relating to such vehicles, including, but not limited to, vehicle warranties.
- vii. In the event that any vehicles are added or removed from the Core Bus Fleet, the Parties shall amend the Agreement to update Exhibit G, with the Director of Aviation signing on behalf of County.

B. Supplemental Bus Fleet. Contractor shall provide a Supplemental Bus Fleet for Supplemental Bus Fleet Services. The vehicles in the Supplemental Bus Fleet shall consist of vehicles ranging in size from vans to full-size passenger coach buses, and may be owned by County or owned, leased, or hired by Contractor as long as such vehicles comply with the specifications in Exhibit H and are approved for County's use in writing by the Contract Administrator. All requirements detailed in Exhibit H must be followed when using the Supplemental Bus Fleet for Supplemental Bus Fleet Services.

- i. Contractor shall lease [REDACTED] from County to be used in the Supplemental Bus Fleet, which shall be exclusively used for this Agreement. As payment for leasing the vehicles, Contractor shall pay to County One Dollar (\$1.00) per vehicle, on an annual basis, payable on the Commencement Date and on each

anniversary of the Commencement Date. Such lease shall terminate on the expiration or earlier termination of this Agreement.

- ii. As part of its Supplemental Bus Fleet, Contractor shall provide subcontracted coach bus services, which shall have a maximum response time of forty-five (45) minutes and be available twenty-four (24) hours per day, seven (7) days per week, including holidays. These subcontracted coach bus services shall augment Contractor's fleet in the event of an Airport emergency, including, but not limited to, an aircraft evacuation, extended emergency or recovery response at the Airport, or other special need authorized in writing by the Contract Administrator.
- iii. Contractor must not use any vehicle that is unserviceable (i.e., unsafe, poor performance, or poor appearance), as determined by the Contract Administrator, for Supplemental Bus Fleet Services.
- iv. In the event that any specifications or requirements are changed in regards to the Supplemental Bus Fleet, or in the event that any vehicles are removed, the Parties shall amend the Agreement to update Exhibit H, with the Director of Aviation signing on behalf of County.

C. Other Provisions.

- i. All vehicles providing Services under this Agreement must be accessible to persons with disabilities and must comply with all applicable provisions of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101, Section 504 of the Rehabilitation Act of 1973, 47 CFR Section 38, and all other applicable federal, state, county, and local laws, rules, and regulations.
- ii. All vehicles must be equipped with a fully functioning air-conditioning system and proper safety equipment.
- iii. The Core Bus Fleet shall have signs and numbers, as requested in writing by the Contract Administrator, on the front, rear, and right side, and any other location the Contract Administrator deems necessary.

3. Staffing/Operations:

A. Operating Plan. Contractor shall provide all personnel, equipment, and supplies necessary for the Services contemplated in this Agreement, and shall submit a management and operation plan ("Operating Plan") that shall, at a minimum, include the items identified below:

- i. The Operating Plan must address the following, and any other items requested by the Contract Administrator, in as much detail as required by the Contract Administrator:
 - 1. Emergency Preparedness Procedures
 - 2. Incident and Safety Management Plan
 - 3. Hurricane Response Plan
 - 4. Software Cloud Technology
 - 5. Revenue Control

6. Staff Duties and Responsibilities
 7. Disciplinary Policy
 8. Training Procedures
 9. Customer Service Program
 10. Description of Routes and Procedures
 11. Maintenance of Vehicles
- ii. The Emergency Preparedness Procedures and the Incident and Safety Management Plan must require Contractor to respond to a disruption to Airport operations with organized teams that assist with operational business resumption. Contingency plans must be established to maintain essential business services during all emergency situations.
 - iii. The initial Operating Plan must be submitted to the Contract Administrator within five (5) calendar days after the Effective Date of this Agreement unless such deadline is otherwise extended in writing by the Contract Administrator.
 - iv. The Contract Administrator must provide written approval of the initial Operating Plan before the commencement of any Services by Contractor.
 - v. Contractor shall review and update the Operating Plan on an annual basis or as often as directed in writing by the Contract Administrator.
 - vi. Contractor shall make any edits to the Operating Plan that are requested in writing by the Contract Administrator.
 - vii. If requested in writing by the Contract Administrator, Contractor shall provide a copy of the Operating Plan, written confirmation that the Operating Plan is current, and written confirmation that Contractor is compliant.
 - viii. Contractor must comply with the rules, regulations, and operating procedures contained within the Operating Plan. A failure to comply with the Operating Plan, as determined by the Contract Administrator, shall be a default under this Agreement entitling County to exercise any and all remedies available hereunder. The burden of proving compliance with the Operating Plan rests with Contractor.
 - ix. The Contract Administrator must approve all revisions and updates to the Operating Plan in writing.
 - x. In the event of any conflict between the terms of the Operating Plan and any terms of this Agreement, the terms of this Agreement shall control.

B. Key Personnel. Contractor shall ensure that the persons responsible for Contractor's performance of the Services under this Agreement, as such persons are identified below (collectively, the "Key Personnel"), are appropriately trained and experienced, and have adequate time and resources to perform in accordance with the terms of this Agreement.

- i. The Key Personnel shall be as follows:

Manager:	_____
[Title]:	_____
[Title]:	_____

- ii. To the extent Contractor seeks or is required to make any change to the composition of the Key Personnel, Contractor shall provide the Contract Administrator with thirty (30) days' advance written notice (or as much advance notice as is possible if thirty (30) days' notice is not possible) regarding such changes, the management plan associated with such changes, and resumes of individuals that are proposed to replace the Key Personnel. Contractor must receive the Contract Administrator's written consent before any change in the Key Personnel.
- iii. In the event that the Contract Administrator determines that any of the Key Personnel have failed to perform his or her duties, then in addition to all other rights under this Agreement, the Contract Administrator shall have the right to require Contractor to replace such Key Personnel. The Contract Administrator shall notify Contractor in writing of its demand for replacement and shall allow Contractor thirty (30) calendar days from the date of such notice to effect replacement. Contractor must receive the Contract Administrator's written consent of the replacement Key Personnel.
- iv. County is not responsible for any additional costs associated with a change in the Key Personnel.
- v. Contractor shall provide the Contract Administrator with the daily schedule for the Key Personnel and shall notify the Contract Administrator of any changes to that schedule.
- vi. When on duty, all Key Personnel must be available to the Contract Administrator by radio contact.

C. Manager. The Manager identified above as Key Personnel shall be in complete control of the Services provided hereunder.

- i. The Manager must work full time and must not have any obligations other than managing Contractor's Services at the Airport.
- ii. The Manager must be a highly qualified and experienced manager, with at least three (3) years of experience in managing a shuttle operation at a large U.S. Airport, unless the Contract Administrator allows otherwise.
- iii. The Manager must have full power and authority to take all necessary actions where a prompt response is required to maintain or restore Services.
- iv. The Manager must respond in writing to customer complaints regarding Shuttle Bus Services and report such complaints and their resolution to the Contract Administrator.
- v. The Manager must ordinarily be available during regular business hours, and at times during the Manager's absence, an equally authorized and qualified supervisor must be in charge and available.
- vi. The Manager must send a written report to the Contract Administrator, on a weekly basis or as otherwise directed by the Contract Administrator, showing the number of passengers carried to and from each lot and between airline terminals and any other information requested by the Contract Administrator.

- vii. The Manager must report to Contract Administrator any accidents, including passenger accidents, and any non-routine events within fifteen (15) minutes of their occurrence.

D. Qualified Administrative Support.

- i. Contractor must provide administrative support staff for the Services who are qualified to:
 - 1. Provide general administrative support tasks, including, but not limited to, answering phones, typing documents, and filing documents;
 - 2. Generate computer software designs, including, but not limited to, designs for layouts, brochures, maps, and report templates;
 - 3. Assist with program reporting and performance measures, including, but not limited to, tracking all reports required by the Contract Administrator;
 - 4. Provide quality control management, including, but not limited to, ensuring that all Agreement requirements are being complied with;
 - 5. Provide accounting skills, including, but not limited to, preparing all budgetary reports;
 - 6. Provide records management, including, but not limited to, records retention;
 - 7. Provide congestion management, including, but not limited to, crowd, line, and vehicle control; and
 - 8. Any other skills required by the Contract Administrator.

E. Drivers.

- i. Contractor represents and warrants that all drivers of Contractor, at all times during the term of this Agreement, possess:
 - 1. A valid Broward County Chauffeur's Registration in accordance with the requirements of Chapter 22½, Broward County Code of Ordinances;
 - 2. The licenses and permits required by the Florida Department of Motor Vehicles and the United States Department of Transportation to fulfill their driving responsibilities;
 - 3. A Ramp Driving Endorsement and Customs and Border Patrol decal/clearance, both of which must be obtained from the Aviation Department;
 - 4. Satisfactory work qualifications and experience, as determined by the Contract Administrator, with respect to their driving responsibilities; and
 - 5. Any other license, permit, or endorsement required by the Contract Administrator.
- ii. Contractor may not employ or retain any driver whose driving record, as compiled by the Department of Motor Vehicles of the State of Florida, does not meet the following criteria:

1. Driver must be licensed for at least three (3) years. Time spent driving on a learners permit does not count towards this requirement three (3) year requirement.
 2. Driver must have no more than one (1) moving violation in the past three (3) years.
 3. Driver must have no at-fault accidents in the past three (3) years.
 4. Driver must have no Failure to Appear or Failure to Pay in the past three (3) years.
 5. Driver must have no Reckless Driving within the past seven (7) years.
 6. Driver must have no Reckless Driving causing injury.
 7. Driver must have no Driving Under the Influence ("DUI") within the past seven (7) years. Two (2) convictions (lifetime) for DUI is an automatic disqualification.
 8. Driver must have no DUI causing injury.
 9. Driver must have no suspensions within the past three (3) years. One (1) suspension for PIP permitted.
 10. Driver must have no Manslaughter charges resulting from the operation of a motor vehicle.
 11. Driver must have no Hit-Run or Hit-Run Property Damage.
 12. Driver must have no combination of any violations that indicate a pattern of irresponsibility or poor judgment.
- iii. If instructed to do so in writing by the Contract Administrator, drivers must make clear and timely announcements over the bus public address system by voice or recording in order to help passengers make proper connections. The content of such announcements will be provided by the Contract Administrator.
 - iv. Drivers must provide exceptional customer service to passengers using the Services hereunder. As such, drivers must, at a minimum, assist passengers on and off vehicles, help with the loading and unloading of baggage, and provide information to passengers (such as directions).
 - v. Drivers must maintain the headway times required in writing by the Contract Administrator. Drivers may not deviate from such headway times unless otherwise authorized verbally by the Contract Administrator (which verbal notice shall be followed by written confirmation). As such, all drivers must wear a watch.

F. Mechanics.

- i. Contractor shall provide all mechanics necessary to perform the maintenance obligations required herein.
- ii. All mechanics must be certified by the National Institute for Automotive Service Excellence (ASE) relating to transit buses, be certified by an accredited trade school as a transit bus technician, have at least three (3) ASE certificates of competence in transit bus maintenance, or have an equivalent amount of training approved by the Contract Administrator in writing. Contractor shall provide the Contract

Administrator with documentation evidencing the above, if requested in writing by the Contract Administrator.

- iii. Contractor shall assign a Maintenance Supervisor to review and approve the maintenance work performed on all Long-Term Vehicles. The Maintenance Supervisor shall review and approve all work orders prior to such work being completed and be responsible to ensure that all supporting documentation, including parts and labor service tickets, accompany each work order that is submitted to County for reimbursement.

G. Customer Service Staff.

- i. Contractor shall provide all staff necessary to assist on the busways and in the ground transportation areas of the Airport with questions by guests, and to perform proper queening of guests waiting to board the vehicles providing Services pursuant to this Agreement.

H. Appearance/Conduct.

- i. All representatives, agents, managers, supervisors, drivers, mechanics, and employees of Contractor, while providing Services under this Agreement:
 - 1. Must wear distinctive uniforms identifying them as part of Contractor, which uniforms must be approved in writing by the Contractor Administrator. The uniforms must consist of a shirt, pants, and a name tag with at least ¼ inch letters;
 - 2. Must wear a company badge with photo identification. The form badge must be approved in writing by the Contractor Administrator;
 - 3. Must be clean, neat in appearance, and uniformly attired;
 - 4. Must be able to effectively communicate orally and in writing in the English language;
 - 5. Must maintain the highest standards of service; and
 - 6. Must be courteous, polite, and inoffensive in their conduct and demeanor.
- ii. Contractor shall control the conduct, demeanor, and appearance of its representatives, agents, managers, supervisors, drivers, mechanics, and employees by, among other things, imposing disciplinary actions against such persons consistent with Contractor's policies and any other directive from the Contract Administrator, which shall include, but not be limited to, termination of employment. Periodic quality control inspections concerning the conduct, demeanor, and appearance of Contractor's personnel may be made by the Contract Administrator.

I. Training.

- i. Contractor shall create and implement a training program for all representatives, agents, managers, supervisors, drivers, mechanics, and employees of Contractor. Such training shall be provided when initially hired and on an annual basis, and must include training on at least the following topics: customer service, safety, the Operating Plan, and Airport familiarization. County shall not be charged for any such training. Contractor shall give the Contract Administrator written notice of such training at least two (2) weeks prior to such training. The Contract Administrator has the right to observe or send representative(s) to observe such trainings. Contractor shall make any changes to the training that are requested in writing by the Contract Administrator.
- ii. Contractor shall require all representatives, agents, managers, supervisors, drivers, mechanics, and employees of Contractor, as applicable, to participate in any training offered by County in which the Contract Administrator requests participation. Such training may include, but is not limited to, the County SUNsational Service Program and any emergency preparedness training. County may not be charged for any such training, and County retains the right, at the sole election of the Director of Aviation, to impose a reasonable charge to Contractor for such training.

J. Other Provisions.

- i. All representatives, agents, managers, supervisors, drivers, mechanics, and employees of Contractor parking their own personal vehicles on Airport property shall park such vehicles in the employee parking areas designated by the Contract Administrator. County retains the right, at the sole election of the Director of Aviation, to impose a reasonable charge for the privilege of utilizing these parking facilities.
- ii. In recognition that Contractor possesses specialized knowledge in the management and operation of the Services provided herein, the Contract Administrator may at any time require Contractor to provide certain information and input with respect to the Services provided herein. In such event, Contractor agrees to fully cooperate with such inquiries and to be available to the Contract Administrator, including the attendance of meetings.
- iii. Contractor shall verify the employment history of all representatives, agents, managers, supervisors, drivers, mechanics, and employees of Contractor before such individuals may perform Services under this Agreement, whether such individuals are new to the company or not. Such employment verification shall cover the ten (10) year period preceding the individual's assignment to perform Services under this Agreement. Contractor must not allow any individual with a poor employment history to provide Services under this Agreement.
- iv. Contractor shall request and review the driving records of all drivers before such drivers may perform Services under this Agreement, whether such drivers are new to the company or not, and on each anniversary of the Commencement Date or as

otherwise requested in writing by the Contract Administrator. Contractor shall request the records from the Florida Department of Motor Vehicles or any other applicable agency. Contractor must not allow any driver with a poor driving record, or who doesn't comply with the requirements of this Agreement for drivers, to provide Services under this Agreement.

- v. Contractor shall maintain a personnel file for all representatives, agents, managers, supervisors, drivers, mechanics, and employees of Contractor performing Services under this Agreement, which shall include the verifications of employment referred to above, and such individual's driver's license number, driver's license expiration date, and driving records referred to above if such individual is a driver. The Contract Administrator has the right to inspect such files within twenty-four (24) hours of notice to Contractor.
- vi. Contractor shall maintain a current roster of all representatives, agents, managers, supervisors, drivers, mechanics, and employees of Contractor performing Services under this Agreement, and shall provide the Contract Administrator with a current copy of such roster within five (5) calendar days of any written request by the Contract Administrator.
- vii. Contractor's representatives, agents, managers, supervisors, drivers, mechanics, and employees may not solicit or accept any gratuities.
- viii. Contractor shall provide all representatives, agents, managers, supervisors, drivers, mechanics, and employees of Contractor with radios with frequencies compatible with the Aviation Department's radios.
- ix. All representatives, agents, managers, supervisors, drivers, mechanics, and employees of Contractor providing Services, if requested by the Contract Administrator, shall be required to obtain Airport Issued Media Identification.
- x. No representative, agent, manager, supervisor, driver, mechanic, or employee of Contractor shall eat, drink, or smoke while on duty or in any area that is open to the public.
- xi. Contractor shall update automated announcements, if applicable and if requested by the Contract Administrator, to ensure the continued and safe operation of all vehicles and the current content of programmed messages.

4. Maintenance of Vehicles:

A. Cleaning and Washing of Vehicles. All vehicles providing Shuttle Bus Services must be clean and maintain a first class appearance, as determined by the Contract Administrator. At the beginning of each shift and at any other time necessary to maintain cleanliness, the driver must sweep the vehicle and remove or clean all debris, trash, spilled liquids, and other items from the floor, chairs, and other areas of the vehicle. All Long-Term Vehicles must be washed by Contractor at least three (3) times per week. In addition, Contractor must accomplish the following major cleaning functions for Long-Term Vehicles on an as-needed basis: steam clean the engine, wheels, and undercarriage; wash and polish all exterior bus surfaces; polish all interior metal surfaces; wash all seats, interior walls, and ceiling panels; disassemble and clean all interior lights; shampoo carpeted areas; scrub and polish floor and entrance steps; and clean

all windows and treat rubber gasket material with a protective agent. Notwithstanding the above, Contractor shall perform any other cleaning of vehicles requested by the Contract Administrator.

B. Maintenance of Vehicles and Equipment. Contractor shall maintain all Long-Term Vehicles and the equipment therein (including any on-board automated announcement system and Automatic Vehicle Locator System related hardware) in a first class manner, as determined by the Contract Administrator, and in accordance with the preventive maintenance schedule issued by the manufacturer, which shall be reviewed and approved by the Contract Administrator. Such maintenance includes, but is not limited to, the upkeep of the visible aesthetics of the Long-Term Vehicles, including the replacement of seats, flooring, and stickers, as deemed necessary by the Contract Administrator.

C. Maintenance Records. Unless an alternate method is directed by the Contract Administrator in writing, Contractor shall maintain electronic status board(s) accessible by County through a browser based system, setting forth the current repair and maintenance status of each Long-Term Vehicle. All reports must be current (within thirty (30) calendar days) unless otherwise approved in writing by the Contract Administrator. Contractor shall provide such other information as the Contract Administrator may require and shall maintain its maintenance records in a manner and form acceptable to the Contract Administrator.

D. Warranty Work. Warranty work for Long-Term Vehicles and the equipment therein shall be coordinated directly between Contractor and the vehicle or component manufacturer. The Contract Administrator shall be provided with a copy of all warranty transactions. Contractor must receive pre-approval from the vehicle or component manufacturer prior to performing any warranty work in-house. All warranty claims must be submitted to the vehicle or component manufacturer as required by the manufacturer. Contractor shall have a tracking and storage system for batteries, tires, and other parts eligible for warranty credit.

E. Fueling. Contractor shall ensure that all vehicles have sufficient fuel. Contractor shall utilize bio-diesel fuel with a minimum five percent (5%) blend and agrees to continuously pursue, throughout the term of this Agreement, other means and alternatives acceptable to the Contract Administrator aimed at reducing overall total emissions. Contractor shall, as requested by the Contract Administrator, submit supporting documentation to show compliance with this requirement.

F. Operations. Fueling and maintenance of vehicles shall be completed while vehicles are not required to be in service. The total number of vehicles required to be operational during a shift will not be decreased for any period of time to allow for fueling or maintenance of vehicles.

G. Driver Reports. Each driver must record the condition of his or her vehicle at the beginning and end of his or her driving shift and must immediately notify Contractor of any issues. Contractor must respond to driver write-ups (trouble reports) in a timely manner.

H. Quality Control. Contractor shall develop and implement an acceptable quality control inspection and compliance program for maintenance work, which must be approved in writing by the Contract Administrator. Said program must include daily inspection by drivers and continuous measurement of compliance with all elements of the maintenance required by this Agreement. A monthly summary compliance report shall be submitted by Contractor to the Contract Administrator.

I. Inspections. The Contract Administrator may conduct periodic inspections using its own personnel to ensure compliance with all maintenance and cleaning requirements specified in this Agreement. Any vehicle not in compliance shall be removed from service by Contractor and all deficiencies corrected immediately.

5. Optional Facilities:

A. County, in the sole discretion of the Director of Aviation, may make certain portions of Airport property ("Airport Optional Facilities") available for Contractor's use, including, but not limited to, areas for maintenance of vehicles, administrative offices, and other operational needs. Contractor shall make a written request to the Director of Aviation if it requires Airport Optional Facilities. If Airport Optional Facilities are available and necessary for Contractor's use, as determined by the Director of Aviation, then the Director of Aviation shall give written notice thereof to Contractor of the availability of Airport Optional Facilities. Within thirty (30) calendar days following such notice from the Director of Aviation, Contractor shall advise the Director of Aviation in writing if it desires to use such Airport Optional Facilities. The Parties, with the Director of Aviation acting on behalf of County, shall amend the Agreement to designate such Airport Optional Facilities made available for Contractor's use. Contractor shall not pay rent for any such Airport Optional Facilities, but is required to maintain all Airport Optional Facilities.

B. The Director of Aviation may at any time following Contractor's occupancy of Airport Optional Facilities take back such area(s) for other County purposes. In such event, the Director of Aviation shall give Contractor at least four (4) months prior written notice that it must vacate the Airport Optional Facilities and Contractor shall be required to leave by the date specified in the Director of Aviation's notice. Improvements may not be made to the Airport Optional Facilities without the written consent of the Contract Administrator. All improvements to the Airport Optional Facilities by Contractor approved by the Contract Administrator shall be Reimbursable Expenses pursuant to the Agreement, and title thereto shall vest in County.

C. Contractor may, with the written consent of the Director of Aviation, lease space off Airport property ("Off-Airport Optional Facilities") for purposes such as the maintenance of vehicles, administrative offices, and other operational needs. Any lease for Off-Airport Optional Facilities shall comply with the following and any other requirements imposed by the Director of Aviation:

- i. Any lease must be in form and substance satisfactory to the Director of Aviation and must be assignable to County, County's designee, or any person or entity requested in writing by the Director of Aviation. The Director of Purchasing is authorized to

approve any assignment of any such lease to County up to the amount of such Director's award authority. The assignment to County of any such lease that is over the award authority of the Director of Purchasing shall be approved by the Board. On the expiration or earlier termination of this Agreement, or at such other date, if directed in writing by the Director of Aviation, Contractor shall promptly cause the assignment of such lease to County, County's designee, or any person or entity requested in writing by the Director of Aviation.

- ii. Any lease must expire at the end of the Initial Term unless otherwise authorized in writing by the Director of Aviation.
- iii. Any lease must be on commercially reasonable terms and may not be entered into with an affiliate of Contractor without the prior written consent of the Director of Aviation.

The Parties, with the Director of Aviation acting on behalf of County, shall amend the Agreement to designate such Off-Airport Optional Facilities made available for Contractor's use. Contractor is required to maintain all Off-Airport Optional Facilities.

D. Notwithstanding anything in this Agreement to the contrary, Contractor shall award any construction work (approved in writing by the Contract Administrator) for the Optional Facilities or Off-Airport Optional Facilities in compliance with Section 255.20, Florida Statutes, including competitively awarding all work that has estimated construction project costs in excess of the threshold amounts established by Section 255.20, Florida Statutes. If estimated construction project costs are in excess of Two Hundred Thousand Dollars (\$200,000), Contractor shall be required to provide to County a payment and performance bond that complies with Section 255.05, Florida Statutes.

6. Complaints:

Contractor, through its Manager, must respond to complaints issued by the public or the Contract Administrator regarding Contractor's Services. Contractor shall verbally respond within one (1) calendar day of any complaint, which shall be followed up in writing within five (5) calendar days of such complaint. Contractor shall copy the Contract Administrator on all correspondence regarding any such complaints. At the request of the Contract Administrator, Contractor shall meet with the Contract Administrator to review any complaints or concerns and to promptly correct any deficiencies. The Contract Administrator's determination as to quality of operation or services shall be conclusive, and curative measures requested by the Contract Administrator shall be implemented by Contractor as expeditiously as possible. Contractor shall submit a monthly report to the Contract Administrator summarizing complaints and damage or other claims received during the preceding month as well as the resolution, if known, of such matters.

7. Disincentive Payments/Charges:

A. Purpose. One of County's primary goals in granting this Agreement is to ensure that customer service provided to the traveling public using the Shuttle Bus Services at the Airport is of the highest caliber and is consistent with the image that the Airport wants to project to its

users and visitors. Contractor agrees that County will suffer damage if Contractor fails to meet these standards and that, due to the nature of certain breaches, the actual damage to County would be impractical or very difficult to remedy. As such, in addition to all other remedies available under this Agreement, Contractor shall be subject to the disincentive charges set forth below if Contractor breaches the performance standards specified below. The amounts set forth in subsection below have been agreed upon as the Parties' reasonable estimate of County's damages in the event of such breach. County's acceptance of any disincentive payment, as a result of a performance standard breach, will not prevent County from exercising any other right or remedy for default available to County under this Agreement.

B. Performance Standard Breaches. The following specified breaches shall be referred to as "Performance Standard Breaches." Contractor agrees to pay to County the amount specified below as a disincentive charge for the applicable breach:

- i. No driver for a designated scheduled route - Fifty Dollars (\$50) per occurrence.
- ii. Passengers waiting for more than the headway times provided in writing by the Contract Administrator - Fifty Dollars (\$50) per occurrence.
- iii. Failure to respond verbally to customer complaints within one (1) calendar day of complaint or in writing within five (5) calendar days - Fifty Dollars (\$50.00) per occurrence and Fifty Dollars (\$50) for each twenty-four (24) hour period after each such deadline.
- iv. Five (5) or more validated customer complaints in any thirty (30) day period, excluding complaints originating from the same incident or customer - One Hundred Dollars (\$100) for five (5) customer complaints in any thirty (30) day period, One Hundred Fifty Dollars (\$150) for the sixth (6th) customer complaint in any thirty (30) day period, and Two Hundred Dollars (\$200.00) for each additional complaint beyond the sixth (6th) complaint in any thirty (30) day period.
- v. Shuttle bus driver failing to comply with the performance standards set forth in this Agreement, including, but not limited to, on-time performance, announcement of stops, providing exceptional customer service, and cleaning the vehicles - Fifty Dollars (\$50) per occurrence.
- vi. Failure to make vehicles available or properly provide transportation to and from maintenance facility as scheduled - Twenty-Five Dollars (\$25.00) per occurrence.
- vii. Failure to comply with the Operating Plan - Fifty Dollars (\$50) per occurrence.
- viii. Failure to vacate Airport Optional Facilities by the date specified in any notice from the Director of Aviation - Two Hundred Fifty Dollars (\$250) for each day that Contractor occupies the Airport Optional Facilities after the date specified in the notice.
- ix. A representative, agent, manager, supervisor, driver, mechanic, or employee of Contractor eats, drinks, or smokes while on duty or in any area that is open to the public - Fifty Dollars (\$50) per occurrence.
- x. A representative, agent, manager, supervisor, driver, mechanic, or employee of Contractor, while providing Services under this Agreement, violates the

"Appearance/Conduct" provisions of Section 3(H)(i) of Exhibit A of this Agreement - Fifty Dollars (\$50) per occurrence.

C. Procedure for Declaring Performance Standard Breaches. The determination as to whether performance standards have been breached is at the reasonable discretion of the Contract Administrator. Upon determining the existence of a Performance Standard Breach, the Contract Administrator shall issue a written notice to Contractor of the occurrence of such breach and the County's claim for disincentive payment. The notice of Performance Standard Breach shall become final and be immediately due and payable unless the Contract Administrator receives no later than ten (10) calendar days after the Contractor's receipt of the notice of Performance Standard Breach a written statement from Contractor with Contractor's evidence that the breach did not occur. The Contract Administrator shall review such evidence and determine, in his or her reasonable discretion, whether Contractor has demonstrated that the breach did not occur, and notify Contractor of such decision in writing, which decision shall be final.

D. Waiver of Disincentive Payments/Charges. Disincentive charges shall be waived during periods of severe weather, work stoppages, or when other conditions indicate that the failure was unavoidable, as solely determined by the Contract Administrator. Any determination by the Contract Administrator shall be final and conclusive. If Contractor believes the occurrence of a particular event may cause delays, it is the responsibility of Contractor to notify the Contract Administrator of the event and to obtain prior written concurrence that disincentive charges will not be assessed.

8. Software:

A. Purpose. If any cloud-based services (for example, subscriptions, software, or hosted services) are provided under this Agreement ("Software"), Contractor shall comply for the duration of this Agreement with the Service Level Agreement set forth in Exhibit D.

B. County Confidential Information.

- i. All rights, title, and interest in and to certain ideas, designs, and methods, specifications, and other documentation related thereto developed by Contractor and its subconsultants specifically for County, and other materials, data, transactions of all forms, financial information, documentation, inventions, designs and methods that Contractor obtains from County in connection with the Services performed under this Agreement, that are made or developed by Contractor in the course of the performance of the Agreement, or in which County holds proprietary rights, constitute "County Confidential Information."
- ii. All County-provided employee information, financial information, and personally identifiable information for individuals or entities interacting with County (including, without limitation, social security numbers, birth dates, banking and financial

information, and other information deemed exempt or confidential under state or federal law) also constitute County Confidential Information.

- iii. County Confidential Information may not, without the prior written consent of County, or as otherwise required by law, be used by Contractor or its employees, agents, subconsultants, or suppliers for any purpose other than for the benefit of County pursuant to this Agreement. Neither Contractor nor its employees, agents, subconsultants, or suppliers may sell, transfer, publish, disclose, display, license or otherwise make available to any other person or entity any County Confidential Information without the prior written consent of County.
- iv. Contractor expressly agrees to be bound by and to defend, indemnify, and hold harmless County and its officers and employees from the breach of any federal, state, or local law by Contractor or its employees, agents, subconsultants, or suppliers regarding the unlawful use or disclosure of County Confidential Information.
- v. Upon expiration or termination of this Agreement, or as otherwise demanded by County, Contractor shall immediately turn over to County all County Confidential Information, in any form, tangible or intangible, possessed by Contractor or its employees, agents, subconsultants or suppliers.

C. Maintenance of Confidential Information. Contractor shall advise its employees, agents, Subconsultants, and suppliers who receive or otherwise have access to County Confidential Information of their obligation to keep such information confidential, and shall promptly advise County in writing if it learns of any unauthorized use or disclosure of County Confidential Information. In addition, Contractor agrees to cooperate fully and provide all reasonable assistance to ensure the confidentiality of County Confidential Information.

D. Security and Access. Any access by Contractor to any aspect of the County's network must comply at all times with all applicable County access and security standards, as well as any other or additional restrictions or standards for which County provides written notice to Contractor. Contractor will provide any and all information that County may reasonably request in order to determine appropriate security and network access restrictions and verify Provider's compliance with County security standards. If at any point in time County, in the sole discretion of its Chief Information Officer, determines that Contractor's access to any aspect of the County's network presents an unacceptable security risk, County may immediately suspend or terminate Contractor's access and, if the risk is not promptly resolved to the reasonable satisfaction of the County's Chief Information Officer, may terminate this Agreement upon ten (10) business days' notice (including, without limitation, without restoring any access to the County network to Contractor).

E. Data and Privacy. Contractor shall comply with all applicable data and privacy laws and regulations, including without limitation the Florida Information Protection Act of 2014, Florida Statutes Section 501.171, and shall ensure that County data transmitted or stored in the System is not transmitted or stored outside the continental United States. Contractor may not sell, market, publicize, distribute, or otherwise make available to any third party any personal

identification information (as defined by Florida Statutes Section 817.568 or Section 817.5685) that Contractor may receive or otherwise have access to in connection with this Agreement, unless expressly authorized in advance by County. If and to the extent requested by County, Contractor shall ensure that all hard drives or other storage devices and media that contained County data have been wiped in accordance with the then-current best industry practices, including without limitation DOD 5220.22-M, and that an appropriate data wipe certification is provided to the satisfaction of the Contract Administrator.

EXHIBIT B Payment Schedule

The rates specified below shall be in effect for the entire term of the Agreement, including any renewal or extension term(s), unless otherwise expressly stated below. Any goods or services required under this Agreement for which no specific fee or cost is expressly stated in this Payment Schedule shall be deemed to be included, at no extra cost, within the costs and fees expressly provided for in this Exhibit B.

1. Fixed Fee:

County shall pay Contractor a fixed annual dollar amount of _____, payable in twelve (12) equal monthly payments, for the Services contemplated in this Agreement ("Fixed Fee"). This Fixed Fee will be inclusive of payroll-related expenses (including, but not limited to, training, vacation, payroll taxes, workman's compensation insurance and other insurance, and all other employee benefits), uniforms, badges, and other related expenses for Key Personnel, and profit for providing Services.

2. In-Service Hourly Fee:

In addition to the Fixed Fee, County shall pay Contractor a fixed dollar amount for each hour that a vehicle in the Core Bus Fleet is used for Core Bus Fleet Services ("In-Service Hourly Fee").

A. The rates used to calculate the In-Service Hourly Fee shall be as follows:

<u>VEHICLE</u>	<u>CURRENT ESTIMATED ANNUAL HOURS</u>	<u>TIER 1 IN-SERVICE HOURLY RATE</u> (_____ hours - _____ hours)	<u>TIER 2 IN-SERVICE HOURLY RATE</u> (_____ hours - _____ hours)	<u>TIER 3 IN-SERVICE HOURLY RATE</u> (_____ hours - _____ hours)
_____	_____ hours	\$_____/hour	\$_____/hour	\$_____/hour
_____	_____ hours	\$_____/hour	\$_____/hour	\$_____/hour
_____	_____ hours	\$_____/hour	\$_____/hour	\$_____/hour
_____	_____ hours	\$_____/hour	\$_____/hour	\$_____/hour
Idle Hourly Rate	_____ hours	\$_____/hour	\$_____/hour	\$_____/hour

B. The In-Service Hourly Fee includes the following:

- i. Payroll-related expenses (including, but not limited to, training, vacation, payroll taxes, overtime, workman's compensation insurance and other insurance, and all

other employee benefits), uniforms, badges, and other related expenses for all staff other than Key Personnel. This includes, but is not limited to, qualified administrative support staff, drivers, mechanics, and customer service staff.

- ii. Vehicle fuel costs
- iii. Vehicle maintenance
- iv. Vehicle repairs, tires, and parts
- v. Vehicle licensing and registration
- vi. Radio equipment for vehicles
- vii. Radios for staff
- viii. Insurance required by this Agreement
- ix. Office supplies (including computers) and postage
- x. Janitorial services for facilities
- xi. Support vehicles (including maintenance and fuel costs)
- xii. Costs associated with obtaining the Performance Bond and Payment Bond
- xiii. All corporate overhead
- xiv. Any other expenses deemed necessary by Contractor to provide Services that are not part of the Fixed Fee or Reimbursable Expenses.

C. For vehicles authorized by County to be available for Core Bus Fleet Services but not in service ("on call"), County agrees to pay Contractor the Idle Hourly Rate identified above. The Idle Hourly Rate shall only apply to vehicles that are on call for at least one (1) hour; if less than (1) hour, no fee will be paid. The Idle Hourly Rate serves to reduce the number of vehicles in service during reduced traffic times or during reduced passenger activity while at the same time compensating Contractor for keeping the vehicles and drivers available.

3. Reimbursable Expenses:

In addition to the Fixed Fee and the In-Service Hourly Fee, County shall pay Contractor all Reimbursable Expenses that have been approved in advance and in writing by the Contract Administrator, and that are not otherwise prohibited by this Agreement. "Reimbursable Expenses" are limited to the following:

- A. The hourly rate associated with providing Supplemental Bus Fleet Services requested in writing by the Contract Administrator. The hourly rate for Supplemental Bus Fleet Services shall be limited to the rates specified on Exhibit H for the vehicles identified thereon.
- B. Costs and expenses associated with the purchase or lease of the Core Bus Fleet, to the extent approved by the Contract Administrator in advance and in writing.
- C. Costs and expenses associated with the lease of Off-Airport Optional Facilities, except for maintenance, to the extent approved by the Contract Administrator in advance and in writing.

4. Twice Monthly Report:

Contractor shall invoice County for the fees above on a twice monthly basis. Each invoice shall be submitted to County in a report certified by an officer of Contractor and on a form approved in writing by the Contract Administrator (each being a "Report"). The first Report for the respective month shall cover the period beginning on the first (1st) day of the month and ending on the fifteenth (15th) day of the month, and shall include the monthly Fixed Fee, the In-Service Hourly Fee for such period, and any Reimbursable Expenses approved by the Contract Administrator and incurred during such period. The second Report shall cover the period beginning the sixteenth (16th) day of the month and ending on the last day of the month, and shall include the In-Service Hourly Fee for such period and any Reimbursable Expenses approved by the Contract Administrator and incurred during such period. Reports must be received by the Contract Administrator no later than seven (7) calendar days following the last day of each twice monthly reporting period. Contractor shall submit with each Report a Certification of Payments to Subcontractors and Suppliers (Exhibit E).

A. Each Report must list each driver that provided Core Bus Fleet Services by name and the actual number of regular, overtime, and holiday hours he or she worked; the total number of hours each vehicle in the Core Bus Fleet was driven; the number of passengers transported by route; and any other information requested by the Contract Administrator.

B. Each Report must be in a format that is compatible with Aviation Department software, and if requested by the Contract Administrator, Contractor shall provide both a hard copy report and an electronic copy in a format approved by Contract Administrator.

C. County shall pay Contractor within thirty (30) calendar days of receipt of Contractor's proper invoice, as required under the "Broward County Prompt Payment Ordinance," Section 1-51.6, Broward County Code of Ordinances. To be deemed proper, all invoices must comply with the requirements set forth in this Agreement and must be submitted on the form and pursuant to instructions prescribed by the Contract Administrator. Payment may be withheld for failure of Contractor to comply with a term, condition, or requirement of this Agreement.

D. Contractor shall pay its Subcontractors and suppliers within fifteen (15) days following receipt of payment from County for such subcontracted work or supplies. Contractor shall include the foregoing prompt payment language in all of its contracts with subcontractors who participate on County projects subject to the regulations in 49 CFR Part 23 and Part 26, as amended. Designated staff of County's Office of Economic and Small Business Development ("OESBD") will conduct meetings with parties involved in prompt payment disputes to facilitate an amicable resolution. Failure to pay a Subcontractor or supplier in accordance with this subsection shall be a material breach of this Agreement, unless Contractor demonstrates that such failure to pay results from a bona fide dispute with the Subcontractor or supplier.

E. Notwithstanding any provision of this Agreement to the contrary, County may withhold, in whole or in part, payment to the extent necessary to protect itself from loss on account of inadequate or poor Services which have not been remedied or resolved in a manner satisfactory

to the Contract Administrator, or failure to comply with any provision of this Agreement. The amount withheld shall not be subject to payment of interest by County.

F. Payment shall be made to Contractor at the address designated in the Notices section.

5. Prevailing Wage Rates:

Pursuant to Section 26-5, Broward County Code of Ordinances:

A. The rate of wages and fringe benefit payments for all laborers, mechanics, and apprentices shall not be less than those payments for similar skills in classifications of work in a like construction industry as determined by the Secretary of Labor and as published in the Federal Register (latest revision).

B. All mechanics, laborers, and apprentices, employed or working directly upon the site of the work shall be paid in accordance with the above-referenced wage rates. Contractor shall post notice of these provisions at the site of the work in a prominent place where it can be easily seen by the workers.

C. If the Parties cannot agree on the proper classification of a particular class of laborers or mechanics or apprentices to be used, the Contract Administrator shall submit the question, together with its recommendation, to the County Administrator for final determination.

D. In the event it is found by the Contract Administrator that any laborer or mechanic or apprentice employed by Contractor, or any Subcontractor directly on the site of the work has been or is being paid at a rate of wages less than the rate of wages required by the ordinance, the Contract Administrator may: (1) by written notice to Contractor terminate its right to proceed with the work or such part of work for which there has been a failure to pay said required wages; and (2) prosecute the work or portion thereof to completion by contract or otherwise. Whereupon, Contractor and its sureties shall be liable to County for any excess costs occasioned to County thereby.

E. These provisions shall apply to the Contractor and any Subcontractors.

F. Contractor shall maintain payrolls and basic records relating thereto during the course of the work and shall preserve such for a period of three (3) years thereafter for all laborers, mechanics, and apprentices working at the site of the work. Such records shall contain the name and address of each such employee; its current classification; rate of pay (including rates of contributions for, or costs assumed to provide, fringe benefits); daily and weekly number of hours worked; deductions made; and actual wages paid.

G. Contractor shall submit, with each requisition for payment, a signed and sworn "Statement of Compliance" attesting to compliance with Broward County Ordinance No. 83-72. The Statement shall be in the form attached as Exhibit C.

H. The Contract Administrator may withhold or cause to be withheld from Contractor as much of the payments requisitioned as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, watchpersons, and guards employed by Contractor or any Subcontractor on the work, the full amount of wages required by this Agreement.

I. If Contractor or any Subcontractor fails to pay any laborer, mechanic, or apprentice employed or working on the site of the work all or part of the wages required by this Agreement, the Contract Administrator may, after written notice to Contractor, take such action as may be necessary to cause suspension of any further payments or advances until such violations have ceased.

EXHIBIT C
Statement of Compliance (Prevailing Wage Rate Ordinance No. 83-72)

No. _____

Agreement No. _____

Project Title _____

The undersigned Contractor hereby swears under penalty of perjury that, during the period covered by the application for payment to which this statement is attached, all mechanics, laborers, and apprentices, employed or working on the site of the Project, have been paid at wage rates, and that the wage rates of payments, contributions, or costs for fringe benefits have not been less than those required by Section 26-5, Broward County Code of Ordinances, and the applicable conditions of this Agreement.

Dated _____, _____,

Contractor

By _____
(Signature)

By _____
(Name and Title)

STATE OF)
) SS.
County OF)

The foregoing instrument was acknowledged before me this ____ day of _____, _____, by _____ who is personally known to me or who has produced _____ as identification and who did/did not take an oath.

WITNESS my hand and official seal, this ____ day of _____, 20__.

(NOTARY SEAL)

(Signature of person taking acknowledgment)

(Name of officer taking acknowledgment)
typed, printed, or stamped

(Title or rank)

(Serial number, if any)

My commission expires:

EXHIBIT D

Service Level Agreement

In connection with all Services provided to County under the Agreement, Contractor shall, at no additional cost to County, meet or exceed the requirements set forth in this Service Level Agreement ("SLA") for the duration of the Agreement. The standards set forth herein are intended to reflect the current industry best practices for the Application Service Contractor ("ASP") hosting or Software as a Service ("SaaS") solution provided under this Agreement. If and to the extent industry best practices evolve to impose higher standards than set forth herein, SLA shall be deemed to impose the new, higher standards upon Contractor. Contractor shall promptly notify County in writing of any material change to its compliance with these standards. Any approval by County under this SLA may be approved in writing by the Contract Administrator or the Director of County's Division of Enterprise Technology Services ("ETS").

1. Definitions

1.1. "Contractor Platform" means to the ASP or SaaS solution that constitutes the Services to the County, or otherwise stores, hosts, or transmits County Data. Contractor shall maintain the same standards set forth herein for all of its data centers and facilities that store or host County data.

1.2. "County Data" means the data and information provided by County or its agents under this Agreement and all results derived therefrom through the use of the Contractor's services, whether or not electronically retained and regardless of the retention media.

1.3. **Any other capitalized terms not defined herein refer to those defined terms in the Agreement.**

2. Security

2.1. General

2.1.1. Contractor will ensure that County has the ability to authenticate all access by username/password or two-factor authentication. Upon request, Contractor shall restrict access to County data to a specific source static IP address.

2.1.2. Contractor shall ensure that separation of duties and least privilege are enforced for privileged or administrative access to County's data and the Contractor Platform.

2.1.3. Contractor's procedures for the following must be documented and approved by County within 10 days of the Effective Date of the Agreement:

- 2.1.3.1. Evaluating security alerts and vulnerabilities;
- 2.1.3.2. Installing security patches and service packs;
- 2.1.3.3. Intrusion detection, incident response, and incident escalation/investigation;

- 2.1.3.4. Access and authorization procedures and resetting access controls (e.g., password policy);
- 2.1.3.5. Risk analysis and assessment procedures;
- 2.1.3.6. User access and termination procedures;
- 2.1.3.7. Security log review;
- 2.1.3.8. Physical facility access controls; and
- 2.1.3.9. Change control procedures.

2.1.4. Contractor shall ensure that its service Contractors, subconsultants, and any third parties performing any Services relating to this Agreement shall comply with all terms and conditions specified in this SLA unless County, in writing, excuses specific compliance with any such term or condition. Contractor shall provide County with a list of any such service Contractors, subconsultants or other third-parties on an annual basis, upon County's request, and promptly upon a material change in the composition of such entities.

2.1.5. If new or unanticipated threats or hazards to the Contractor Platform are discovered by either County or Contractor, or if existing safeguards have ceased to function, the discovering party shall immediately bring the situation to the attention of the other party.

2.1.6. Contractor must mitigate critical or high risk vulnerabilities to the Contractor Platform as defined by Common Vulnerability and Exposures (CVE) scoring system within 30 days of patch release. If Contractor is unable to apply a patch to remedy the vulnerability, Contractor must notify County of proposed mitigation steps to be taken and timeline for resolution.

2.2. Controls

2.2.1. Prior to the Effective Date of the Agreement, and at least once annually and upon request for the duration of this Agreement, Contractor shall provide County with a copy of a current unqualified System and Organization Controls (SOC) 2 Type II, Report for the Contractor, as well as any third party that provide hosting, SaaS, or data storage services for the Contractor Platform, inclusive of all five Trust Service Principles (Security, Availability, Processing Integrity, Confidentiality, and Privacy), unless the County's Chief Information Officer in his or her sole discretion approves other documentation of appropriate security controls implemented by Contractor. If the audit opinion in the SOC 2, Type II report is qualified in any way, Contractor shall provide sufficient documentation to demonstrate remediation of the issue(s) to the satisfaction of the County's Chief Information Officer.

2.2.2. Contractor shall maintain industry best practices for data privacy, security, and recovery measures including, but not limited to, disaster recovery programs, physical facilities security, server firewalls, virus scanning software, current security patches, user authentication, and intrusion detection and prevention. Unless otherwise provided in

this SLA, upon request by County, Contractor shall provide documentation of such procedures and practices to County.

2.3. Network Architecture/Security

2.3.1. The Contractor Platform shall be protected behind a layer of firewalls, the initial configuration diagram of which must be approved by County prior to Final Acceptance. Any subsequent changes to the configuration diagram are subject to approval by County, which shall not be unreasonably withheld. Contractor shall ensure that all database servers are protected behind a second set of internal firewalls.

2.3.2. Contractor shall submit a network architecture diagram of County's stored and transmitted data, including the location of data center and details of connectivity from all third parties who have access to County's data.

2.3.3. Contractor shall protect any Internet interfaces or web services provided under this Agreement using a security certificate from a certification authority ("CA") that meets or exceeds the CA/Browser Forum's latest Secure Sockets Layer ("SSL") baseline requirements and network and certificate systems security requirements.

2.3.4. Contractor shall restrict inbound and outbound traffic to County network to "deny all, permit by exception" configuration.

2.3.5. Contractor will support encryption using at a minimum Advanced Encryption Standard 256-bit encryption keys ("AES-256") or current industry security standards (whichever is higher) for the connection to the Contractor Platform.

2.3.6. Contractor's wireless networks connected to the Contractor Platform shall be configured at a minimum using Wi-Fi Protected Access 2 (WPA2)-Enterprise, Advanced Encryption Standard (AES), and Protected Extensible Authentication Protocol (PEAP), current industry security standards (or whichever is higher) to secure and protect County data.

2.4. Physical Architecture/Security

2.4.1. Contractor shall ensure the facilities that house the network infrastructure for the Contractor Platform are physically secure against threats such as unauthorized access and natural and environmental hazards, and entry controls are in place to limit and monitor physical access to the Contractor Platform.

2.4.2. Contractor shall connect its hosting site for the Contractor Platform through at least two (2) independent Internet Service Contractors ("ISPs") with different Internet points of presence.

2.4.3. Contractor shall ensure adequate background checks have been performed on any personnel having access to County data. To the extent permitted by such checks, Contractor shall not knowingly allow convicted felons or other persons deemed by Contractor to be a security risk to access County data. Contractor shall provide privacy and information security training to its employees upon hire and at least once annually.

2.5. Disaster Recovery

2.5.1. Contractor shall maintain a disaster recovery plan for the Contractor Platform with mirrored sites geographically separated by at least 250 miles, with a Recovery Time Objective ("RTO") of a maximum of eight (8) hours and a Recovery Point Objective ("RPO") of a maximum of four (4) hours from the incident.

2.5.2. Contractor shall conduct a disaster recovery test of Contractor's hosted or SaaS system that comprises the Contractor Platform under this Agreement on at least an annual basis, and shall notify County at least ten (10) days in advance of each such test. In addition, Contractor shall conduct a disaster recovery test specific to the County, including County's data and utilization of the Contractor Platform and County's network and data, in coordination with County at least once per year; the timing and duration of the County-specific test is subject to the approval of County.

2.6. Incident Response

2.6.1. If any unauthorized party is successful in accessing any information technology component related to the Contractor Platform, including but not limited to servers or fail-over servers where County's data or files exist or are housed, Contractor shall report to County within twenty-four (24) hours of becoming aware of such breach. Contractor shall provide County with a detailed incident report within five (5) days of the breach, including remedial measures instituted and any law enforcement involvement. Contractor shall fully cooperate with County on incident response, forensics, and investigations that involve the Contractor's infrastructure relating to any County data or County applications. Contractor shall not release County data or copies of County data without the advance written consent of County.

2.6.2. Contractor shall provide County with the names and contact information for a security point of contact and a backup security point of contact to assist County with security incidents prior to the Effective Date of this Agreement.

2.7. County Data

2.7.1. Contractor shall maintain controls that ensure separation of County Data. Contractor agrees to provide at a minimum Advanced Encryption Standard 256-bit encryption keys ("AES-256") or current industry security standards (or whichever is higher) for social security numbers, taxpayer identification numbers, employer identification numbers, bank account numbers, passwords, cardholder data, and any

other data such as Protected Health Information (“PHI”) and Personally Identifiable Information (“PII”) or as otherwise directed by County on all copies of such data stored, transmitted, or processed, at no additional charge to County, and shall classify such data internally at its highest confidentiality level. Contractor shall also ensure that the encryption key(s) are not stored with the encrypted data and are secured by a Hardware Security Module (“HSM”). Contractor shall immediately notify County of any compromise of the encryption keys. Contractor shall provide a copy of County’s encryption key(s) at County’s request. Contractor shall prohibit the use of unencrypted protocols such as FTP and Telnet for the data defined in this paragraph.

2.7.2. Any County Data must be available to County upon request within one (1) business day, in any format reasonably requested by County, including, without limitation, Extensible Markup Language (“XML”) and Structured Query Language (“SQL”), or in another format as may be mutually agreed to by County and Contractor.

2.7.3. Upon termination or expiration of this Agreement or end of serviceable life of any media used in connection with this Agreement, and upon written notification from County that the applicable County Data is currently maintained by County or otherwise securely stored, Contractor shall, at County’s option, (a) securely destroy all media (including media used for backups) containing any County Data on all decommissioned hard drives or storage media to National Institute of Standards and Technology (“NIST”) standards and provide to County a signed certificate of destruction within ten (10) business days, or (b) return to County all County Data and provide a signed certification within two (2) business days documenting that no County Data is retained by Contractor in any format or media.

2.7.4. County Data is the property solely of County and may not be reproduced or used by Contractor with the prior written consent of County. Contractor and its subcontractors will not publish, transmit, release, sell, or disclose any County Data to any third party without County’s prior written consent.

2.7.5. County shall have the right to use the Services to provide public access to County Data as County deems appropriate or as otherwise required by law.

2.7.6. In the event of any impermissible disclosure, loss, or destruction of County Data relating to any action or omission of Contractor, Contractor must immediately notify County, take all reasonable and necessary steps to mitigate any potential harm, further disclosure, loss, or destruction.

3. Compliance

3.1. Contractor shall cooperate and provide any information requested by County relating to compliance and regulatory requirements. A request for information or review by County may include, but is not limited to, the following:

3.1.1. Vulnerability scans of authenticated and unauthenticated operating systems/networks, web applications, and database applications;

3.1.2. Automated scans and penetration (“Pen”) tests performed by County personnel or agents designated by County;

3.1.3. Review of requested documents, including without limitation, Contractor’s architecture documents, external audits of Contractor’s information security policies and procedures, Pen- test documentation, security incident reports, environment logs, virtual private network (“VPN”) access logs to terminal services, network traffic and firewall activity logs, Intrusion Detection System (“IDS”) attack alerts and anomalies, enterprise password management activity, server and application logs, and monthly or periodic network traffic and firewall activity logs; and

3.1.4. Physical inspection of Contractor’s facilities by County or its representatives.

3.2. Contractor shall provide County with the ability to generate account reports consisting of the account holder’s name and application access rights.

3.3. Contractor shall provide County with the ability to generate account management reports showing new users, access rights changes, and account termination with the associated time stamp information.

3.4. Contractor shall provide County with the ability to generate time-stamped user and administrator access (login/logout) and a list of activities performed by administrators, privileged users, or third party contractors while using the System.

3.5. Upon request by County, Contractor shall promptly provide County with access to time-stamped data transfer logs (including the account, a description of the data transferred and its size, and the user and account names for forensic purposes), time-stamped application and platform environment change control logs, and time-stamped data backup logs indicating the backup type (e.g., full, incremental, etc.).

3.6. Upon County’s request, Contractor shall make available to the County proof of Contractor’s compliance with all applicable federal, state, and local laws, codes, ordinances, rules, and regulations in performing under this Agreement, including but not limited to: HIPAA compliance; Contractor’s latest compliance reports (e.g., PCI Compliance report, SSAE 16 report, International Organization for Standardization 27001 (ISO 27001) certification); and any other proof of compliance as may be required from time to time.

4. Service Availability

4.1. System Availability

4.1.1. Contractor guarantees that the Network Uptime (as defined herein) will be 99.99% of Prime Time (defined as County business days from 7 a.m. – 7 p.m. Eastern Time) and 98.00% of non-Prime Time for each calendar month during the term of the Agreement, excluding Scheduled Maintenance as defined herein (collectively, the “Network Uptime Guarantee”). Network Uptime is the time that the System and Services are functioning optimally and fully operational, and requires proper functioning of all network infrastructure, including routers, switches, and cabling, affecting a user’s ability to reliably transmit or receive data; Network Downtime is the remainder of time that is not included in Network Uptime, and is measured from the time the trouble ticket is opened to the time the network is fully restored. As long as the System is available over the Internet to at least two other comparable non-County customers (i.e., the System is functioning properly and there are no technical issues with Contractor or the Contractor Platform), any inability on the part of County to access the System as a result of a general Internet outage will not be counted toward Network Downtime. System unavailability for the purpose of building redundancy or other recovery systems that is approved by County in advance shall not be charged as downtime in computing the Network Downtime. System unavailability due to Contractor’s equipment failure constitutes Network Downtime.

4.1.2. Contractor will refund to County five percent (5%) of the monthly fees (or monthly pro rata equivalent, if recurring fees under the Agreement are charged other than monthly) under the Agreement for each thirty (30) minutes of Network Downtime in excess of that permitted under the Network Uptime Guarantee (up to 100% of County’s monthly or pro rata fee), measured on a calendar month basis. Such refunds will be paid within ten (10) days of the applicable monthly report or, at County’s option, may be credited against amounts due under any unpaid invoice or future invoice.

4.1.3. Normal availability of the System shall be twenty-four (24) hours per day, seven (7) days per week. Planned downtime (i.e., taking the System offline such that it is not accessible to County) (“Scheduled Maintenance”) shall occur during non-Prime Time and with at least five (5) business days’ advance written notice to County. Contractor may conduct Scheduled Maintenance at other times without advance notice only with written consent from County, which consent will not be unreasonably withheld. During non-Prime Time, Contractor may perform routine maintenance operations that do not require the System to be taken offline but may have immaterial effects on System performance and response time without any notice to County. Such degradation in performance and response time shall not be deemed Network Downtime. All changes that are expected to take more than four (4) hours to implement or are likely to impact user workflow require County’s prior written approval, which will not be unreasonably withheld.

4.1.4. By the tenth day of each calendar month, Contractor shall provide to County a report detailing Contractor’s performance under this SLA for the prior calendar month. To the extent the performance fails to meet the Network Uptime Guarantee, the report shall calculate: the total number of minutes of uptime for each of Prime Time and non-

Prime Time; the total number of minutes for each of Prime Time and non-Prime Time minus any applicable Scheduled Maintenance, respectively; and the percentage of uptime versus total time minus Scheduled Maintenance for each (e.g., monthly minutes of non-Prime Time network uptime / (Total minutes of non-Prime Time – Minutes of Scheduled Maintenance) = %).

4.1.5. Contractor guarantees the functioning of all equipment components necessary for Contractor to provide the Services, the Contractor Platform, and meet System availability requirements stated in this SLA.

4.2. Infrastructure Management

4.2.1. During Prime Time, Contractor shall ensure packet loss of less than one percent (1%) and less than sixty (60) milliseconds domestic latency within the Contractor Platform. Contractor shall maintain sufficient bandwidth to the Contractor Platform and ensure the server processing time (or CPU processing capacity) to provide millisecond response times from the server. County and Contractor recognize that end user response times are dependent on intermittent ISP network connectivity, and in the case of County's users, dependent on County's internal network health.

4.2.2. To the extent the Contractor Platform provides or supports public access to users in Broward County or through the County's web pages, Contractor's Services shall support up to 500,000 site hits per calendar day and capture the number of site hits by page for performance to standards reporting.

4.2.3. Contractor shall ensure that an unlimited number of transactions may be processed to County production database. Subject to County approval, Contractor may recommend that non-routine reports and queries be limited to certain timeframes, quantities, or other specifications if Contractor determines that such reports and queries cause degradation to response times affecting performance levels established in this SLA.

4.2.4. Contractor will retain all database records regardless of number or size.

4.2.5. Contractor shall routinely apply upgrades, new releases, and enhancements to the Contractor Platform as they become available after prior, written approval by the County and shall ensure that these changes will not adversely affect the Contractor Platform.

4.2.6. To the extent the Contractor Platform includes an ad-hoc reporting tool or standard reports, Contractor agrees to provide unlimited access to such functionality to County. Contractor agrees to support an unlimited number of queries and reports against County's Data. County agrees that Contractor may put reasonable size limits on queries and reports to maintain System performance, provided such limits do not materially impact County's regular business operations.

4.2.7. Contractor shall conduct full, encrypted System backups (including System and user data) weekly and shall conduct incremental, encrypted backups daily. Encrypted backups will be written to a backup device with sufficient capacity to handle the data. Contractor shall maintain a complete current set of encrypted backups for County's System, including County Data, at a remote, off-site "hardened" facility from which data can be retrieved within one (1) business day at any point in time. Full System restoration performed as a recovery procedure after a natural disaster is included as part of Contractor's required Services under this Agreement. Upon County's request, Contractor shall also provide restoration of individual file(s).

4.2.8. A development and test system, which shall mirror the production system, shall be made available for use by County for testing or training purposes upon two (2) business days' request, including without limitation, upon request for County's testing of application upgrades and fixes prior to installation in the production environment. County may control data that is populated on the demonstration and training system by requesting that Contractor perform any or all of the following:

- 4.2.8.1. periodically refresh data from production;
- 4.2.8.2. perform an ad-hoc refresh of data from production;
- 4.2.8.3. not refresh data from production until further notice from County; or
- 4.2.8.4. refresh data on an ad hoc basis with training data supplied by County.

4.3. Performance Monitoring and Hosting Capacity Increases

4.3.1. If requested by County, Contractor shall provide standard reporting metrics of the Contractor Platform to County on a monthly basis which shall include: traffic patterns by user and by time; server load, including central processing unit load, virtual memory, disk and input/output channel utilization; transmission control protocol load for each server allocated in part or in full to County System; and system errors in System, database, operating system, and each server allocated in part or in full to System.

4.3.2. In the event County anticipates an increase in transaction volume or seeks to expand capacity beyond the limitations, if any, provided under the Agreement, Contractor will provide timeline and cost estimates to upgrade existing servers or deploy additional servers dedicated to County's System within fifteen (15) calendar days of written notice by County.

5. Transition/Disentanglement

5.1. Contractor will complete the transition of any terminated Services to County and any replacement Contractors that County designates (collectively, the "Transferee"), without causing any unnecessary interruption of, or adverse impact on, the Services ("Disentanglement"). Contractor will work in good faith (including, upon request, with the Transferee) at no additional cost to County to develop an orderly Disentanglement plan that documents the tasks required to accomplish an orderly transition with minimal business

interruption or expense for County. Upon request by County, Contractor shall cooperate, take any necessary additional action, and perform such additional tasks that County may reasonably request to ensure timely and orderly Disentanglement, which shall be provided at the rate(s) specified in the Agreement or, if no applicable rate is specified, at a reasonable additional fee upon written approval by the County. Specifically, and without limiting the foregoing, Contractor shall:

5.1.1. Promptly provide the Transferee with all nonproprietary information needed to perform the Disentanglement, including, without limitation, data conversions, interface specifications, data about related professional services, and complete documentation of all relevant software and equipment configurations;

5.1.2. Promptly and orderly conclude all work in progress or provide documentation of work in progress to Transferee, as County may direct;

5.1.3. Not, without County's prior written consent, transfer, reassign or otherwise redeploy any of Contractor's personnel during the Disentanglement period from performing Contractor's obligations under this Agreement;

5.1.4. If applicable, with reasonable prior written notice to County, remove its assets and equipment from County facilities;

5.1.5. If County requests, and to the extent permitted under the applicable agreements, assign to the Transferee (or use its best efforts to obtain consent to such assignment where required) all contracts including third-party licenses and maintenance and support agreements, used by Contractor exclusively in connection with the Services. Contractor shall perform all of its obligations under such contracts at all times prior to the date of assignment, and Contractor shall reimburse County for any losses resulting from any failure to perform any such obligations;

5.1.6. Deliver to Transferee all current, nonproprietary documentation and data related to County-owned assets and infrastructure. After confirming in writing with County that the applicable County data is received intact or otherwise securely stored by County, Contractor shall securely erase all County Data, including on any hard drives and backup media, in accordance with NIST standards. Upon written consent from County, Contractor may retain one copy of documentation to the extent required for Contractor's archival purposes or warranty support; and

5.1.7. To the extent requested by County, provide to County a list with current valuation based on net book value of any Contractor-owned tangible assets used primarily by Contractor in connection with the Services. County shall have the right to acquire any or all such assets for net book value. If County elects to acquire such assets for the net book value, any and all related warranties will transfer along with those assets.

6. Payment Card Industry (PCI) Compliance

If and to the extent the Contractor Platform accepts, transmits or stores any credit cardholder data County or is reasonably determined by County to potentially impact the security of County's cardholder data environment ("CDE"), the following provisions shall apply:

6.1. Contractor shall comply with the most recent version of the Security Standards Council's Payment Card Industry ("PCI") Data Security Standard ("DSS").

6.2. Prior to the Effective Date, after any significant change to the CDE, and annually Contractor shall provide to County:

6.2.1. A copy of their Annual PCI DSS Attestation of Compliance ("AOC");

6.2.2. A written acknowledgement of responsibility for the security of cardholder data the service Contractors possess or otherwise store, process or transmit on behalf of the County, or to the extent that the service Contractor could impact the security of the county's cardholder data environment.

6.2.3. A PCI DSS responsibility matrix that outlines the exact PCI DSS Controls are the responsibility of the service Contractor and which controls the service Contractor shares responsibility with the County.

6.3. Contractor shall follow the VISA Cardholder Information Security Program ("CISP") payment Application Best Practices and Audit Procedures and maintain current validation.

6.4. If Contractor subcontracts or in any way outsources the CDE processing, or provides an API which redirects or transmits County Data to a payment gateway, Contractor is responsible for maintaining PCI compliance for their API and providing the AOC for the subcontractor or payment gateway to the County.

6.5. Mobile payment application Contractors must follow industry best practices such as VISA Cardholder Information Security Program ("CISP") or OWASP for secure coding and transmission of payment card data.

6.6. Contractor agrees that it is responsible for the security of the County's cardholder data that it possesses, including the functions relating to storing, processing, and transmitting of the cardholder data.

6.7. Contractor will immediately notify County if it learns that it is no longer PCI DSS compliant and will immediately provide County the steps being taken to remediate the noncompliant status. In no event should Contractor's notification to County be later than seven (7) calendar days after Contractor learns it is no longer PCI DSS compliant.

6.8. Contractor shall enforce automatic disconnect of sessions for remote access technologies after a specific period of inactivity with regard to connectivity into County infrastructure. (PCI 12.3.8)

6.9. Contractor shall activate remote access from vendors and business partners into County network only when needed by vendors and partners, with immediate deactivation after use. (PCI 12.3.9)

6.10. Contractor shall implement encryption and two-factor authentication for securing remote access (non-console access) from outside the network into the County's environment with access to any stored credit card data. (PCI 8.3)

6.11. Contractor shall maintain a file integrity monitoring program to ensure critical file system changes are monitored and approved with respect to County Data. (PCI 10.5.5)

6.12. All inbound and outbound connections to County's CDE must use Transport Layer Security (TLS) 1.2 or current industry equivalent (whichever is higher).

7. Managed Services/Professional Services (IT)/Third-Party Vendors

7.1. Contractor shall immediately notify County of any terminations or separations of Contractor's employees who performed Services to County under the Agreement or who had access to the County's Data and must ensure such employees' access to County Data and network is promptly disabled.

7.2. Contractor shall ensure all Contractor's employees with access to County environment have signed County's Information Resources User Acknowledgement form prior to accessing County network environment.

7.3. Contractor shall provide privacy and information security training to its employees with access to the County environment upon hire and at least annually. (PCI 12.6.1)

8. Software Installed in County Environment

8.1. Contractor shall advise County of any third party software (e.g., Java, Adobe Reader/Flash, Silverlight) required to be installed and all versions supported. Contractor shall support updates for critical vulnerabilities discovered in applicable third party software.

8.2. Contractor shall ensure that the Software is developed based on industry standards and best practices, including following secure programming techniques and incorporating security throughout the software-development life cycle.

8.3. Contractor shall ensure the Software provides for role-based access controls.

8.4. Contractor shall support electronic delivery of digitally signed upgrades from Contractor or supplier website.

8.5. Contractor shall enable auditing by default in software for any privileged access or changes.

8.6. Contractor shall regularly provide County with end-of-life-schedules for all applicable Software.

9. Equipment Leased or Purchased from Contractor

9.1. Contractor shall ensure that physical security features are included in the Equipment acquired under this Agreement to prevent tampering. Contractor shall ensure security measures are followed during the manufacture of the Equipment provided under this Agreement. Any Equipment provided under this Agreement shall not contain any embedded remote control features unless approved in writing by County's Contract Administrator.

9.2. Contractor shall disclose any default accounts or backdoors which exist for access to County's network.

9.3. Contractor shall regularly provide County with end-of-life-schedules for all applicable Equipment.

9.4. Contractor shall support electronic delivery of digitally signed upgrades of any applicable Equipment firmware from Contractor or supplier website.

EXHIBIT E
Certification of Payments to Subcontractors and Suppliers

RLI/Bid/Contract No. _____

Project Title _____

The undersigned Contractor hereby swears under penalty of perjury that:

1. Contractor has paid all subcontractors and suppliers all undisputed contract obligations for labor, services, or materials provided on this project in accordance with Section 4.2.1 of the Agreement, except as provided in paragraph 2 below.

2. The following subcontractors and suppliers have not been paid because of disputed contractual obligations; a copy of the notification sent to each, explaining in reasonably specific detail the good cause why payment has not been made, is attached to this form:

Subcontractor or supplier's name and address	Date of disputed invoice	Amount in dispute

3. The undersigned is authorized to execute this Certification on behalf of Contractor.

Dated _____, 20____

Contractor

By _____

(Signature)

By _____

(Name and Title)

STATE OF)
) SS
COUNTY OF)

The foregoing instrument was acknowledged before me this _____ day of _____, _____, by _____ who is personally known to me or who has produced _____ as identification and who did/did not take an oath.

WITNESS my hand and official seal, this _____ day of _____, 20____.

(NOTARY SEAL)

(Signature of person taking acknowledgment)

(Name of officer taking acknowledgment; printed/typed/stamped)

My commission expires:

EXHIBIT F
Minimum Insurance Requirements
[Use form provided by Risk]

EXHIBIT G
Core Bus Fleet

[PROPOSER WILL SUBMIT AND PARTIES WILL NEGOTIATE]

EXHIBIT H
Supplemental Bus Fleet

[PROPOSER WILL SUBMIT AND PARTIES WILL NEGOTIATE]

EXHIBIT I

Security Requirements

Airport Security Program and Aviation Regulations.

Contractor agrees to observe all security requirements and other requirements of the Federal Aviation Regulations applicable to Contractor, including without limitation, all regulations of the United States Department of Transportation, the Federal Aviation Administration, and the Transportation Security Administration. Contractor also agrees to comply with the County's Airport Security Program and the Air Operations Area ("AOA") Vehicle Access Program, and any amendments thereto, and to comply with such other rules and regulations as may be reasonably prescribed by the County, including any regulations pertaining to emergency response training, and to take such steps as may be necessary or directed by the County to insure that subconsultants/subcontractors, employees, invitees and guests of Contractor observe these requirements. If required by the Aviation Department, Contractor shall conduct background checks of its employees in accordance with applicable Federal Regulations. If as a result of the acts or omissions of Contractor, its subconsultants/subcontractors, employees, invitees or guests, the County incurs any fines and/or penalties imposed by any governmental agency, including without limitation, the United States Department of Transportation, the Federal Aviation Administration, or the Transportation Security Administration, or any expense in enforcing any Federal regulations, including without limitation, airport security regulations, or the rules or regulations of the County, and/or any expense in enforcing the County's Airport Security Program, then Contractor agrees to pay and/or reimburse to County all such costs and expenses, including all costs of administrative proceedings, court costs, and attorney's fees and all costs incurred by County in enforcing this provision. Contractor further agrees to rectify any security deficiency or other deficiency as may be determined as such by the County or the United States Department of Transportation, Federal Aviation Administration, the Transportation Security Administration, or any other Federal agency with jurisdiction. In the event Contractor fails to remedy any such deficiency, the County may do so at the sole cost and expense of Contractor. The County reserves the right to take whatever action is necessary to rectify any security deficiency or other deficiency.

- (a) Access to Security Identification Display Areas and Identification Media. Contractor shall be responsible for requesting the Aviation Department to issue Airport Issued Identification Media to all employees who are authorized access to Security Identification Display Areas ("SIDA") on the Airport, as designated in the Airport Security Program. In addition, Contractor shall be responsible for the immediate reporting of all lost or stolen Airport Issued Identification Media and the immediate return of the media of Contractor's personnel transferred from the Airport, or terminated from the employ of Contractor, or upon termination of this Agreement. Before an Airport Issued Identification Media is issued to an employee, Contractor shall comply with the requirements of applicable Federal regulations with regard to fingerprinting for criminal history record checks and security threat assessments, and shall require that each employee complete security training programs conducted by the Aviation Department. Contractor shall pay or cause

to be paid to the Aviation Department such charges as may be established from time to time for lost or stolen Airport Issued Identification Media and those not returned to the Aviation Department in accordance with these provisions. The Aviation Department shall have the right to require Contractor to conduct background investigations and to furnish certain data on such employees before the issuance of Airport Issued Identification Media, which data may include the fingerprinting of employee applicants for such media.

- (b) Operation of Vehicles on the AOA: Before Contractor shall permit any employee of Contractor or of any subconsultant/subcontractor to operate a motor vehicle of any kind or type on the AOA (and unless escorted by an Aviation Department approved escort), Contractor shall ensure that all such vehicle operators possess current, valid, and appropriate Florida driver's licenses. In addition, any motor vehicles and equipment of Contractor or of any subconsultant/subcontractor operating on the AOA must have an appropriate vehicle identification permit issued by the Aviation Department, which identification must be displayed as required by the Aviation Department.
- (c) Consent to Search/Inspection: Contractor agrees that its vehicles, cargo, goods, and other personal property are subject to being inspected and searched when attempting to enter or leave and while on the AOA. Contractor further agrees on behalf of itself and its subconsultant/subcontractors, that it shall not authorize any employee or other person to enter the AOA unless and until such employee or other person has executed a written consent-to-search/inspection form acceptable to the Aviation Department. Contractor acknowledges and understands that the foregoing requirements are for the protection of users of the Airport and are intended to reduce incidents of cargo tampering, aircraft sabotage, thefts and other unlawful activities at the Airport. For this reason, Contractor agrees that persons not executing such consent-to-search/inspection form shall not be employed by Contractor or by any subconsultant/subcontractor at the Airport in any position requiring access to the AOA or allowed entry to the AOA by Contractor or by any subconsultant/subcontractor.
- (d) Contractor understands and agrees that if any of its employees, or the employees of any of its subconsultants/subcontractors, are required in the course of the work to be performed under this Agreement to access or otherwise be in contact with Sensitive Security Information ("SSI") as defined and construed under Federal law, that individual will be required to execute a Sensitive Security Information Non-Disclosure Agreement promulgated by the Aviation Department.
- (e) The provisions hereof shall survive the expiration or any other termination of this Agreement.

EXHIBIT J
Nondiscrimination Requirements

During the performance of this Agreement, Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the “contractor”) agrees as follows:

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the **Title VI List of Pertinent Nondiscrimination Statutes and Authorities**, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR part 21.
3. **Solicitations for Subcontracts, Including Procurements 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 procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor’s obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the sponsor or the Federal Aviation Administration to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the sponsor or the Federal Aviation Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor’s noncompliance with the Non-discrimination provisions of this contract, the sponsor will impose such contract sanctions as it or the Federal Aviation Administration may determine to be appropriate, including, but not limited to:
 - a. Withholding payments to the contractor under the contract until the contractor complies; and/or
 - b. Cancelling, terminating, or suspending a contract, in whole or in part.

6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through five in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the sponsor or the Federal Aviation Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the sponsor to enter into any litigation to protect the interests of the sponsor. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

EXHIBIT K **ACDBE Letter of Intent**



OFFICE OF ECONOMIC AND SMALL BUSINESS DEVELOPMENT

LETTER OF INTENT BETWEEN BIDDER/OFFEROR AND DISADVANTAGED BUSINESS ENTERPRISE (DBE) / AIRPORT CONCESSIONS DISADVANTAGED BUSINESS ENTERPRISE (ACDBE) SUBCONTRACTOR/SUPPLIER (Form to be completed and signed for each DBE/ACDBE firm)

Solicitation Number:	Project Title:
-----------------------------	-----------------------

Bidder/Offeror Name: _____

Address: _____ City: _____ State: ____ Zip: _____

Authorized Representative: _____ Phone: _____

DBE/ACDBE Subcontractor/Supplier Name: _____

Check one: Address: _____

DBE City: _____ State: ____ Zip: _____ Phone: _____

ACDBE Authorized Representative: _____

- A. This is a letter of intent between the bidder/offeror on this project and a DBE/ACDBE firm for the DBE/ACDBE to perform subcontracting work on this project, consistent with Title 49 CFR Parts 26 or 23 as applicable.
- B. By signing below, the bidder/offeror is committing to utilize the above-named DBE/ACDBE to perform the work described below.
- C. By signing below, the above-named DBE/ACDBE is committing to perform the work described below.
- D. By signing below, the bidder/offeror and DBE/ACDBE affirm that if the DBE/ACDBE subcontracts any of the work described below, it may only subcontract that work to another DBE/ACDBE if it wishes to receive DBE/ACDBE credit for said work.

Work to be performed by DBE/ACDBE Firm			
Description	NAICS*	DBE/ACDBE Contract Amount†	DBE/ACDBE Percentage of Total Project Value

AFFIRMATION: I hereby affirm that the information above is true and correct.

Bidder/Offeror Authorized Representative

(Signature) (Title) (Date)

DBE/ACDBE Subcontractor/Supplier Authorized Representative

(Signature) (Title) (Date)

* Visit <http://www.census.gov/eos/www/naics/> to search. Match type of work with NAICS code as closely as possible.

† To be provided only when the solicitation requires that bidder/offer include a dollar amount in its bid-offer.

In the event the bidder/offeror does not receive award of the prime contract, any and all representations in this Letter of Intent and Affirmation shall be null and void.

EXHIBIT L
ACDBE Quarterly Activity Report



Office Economic and Small Business Development
Government Center Annex
115 S. Andrews Avenue, Room A640 • Fort Lauderdale, Florida 33301 • 954-357-6400 • FAX 954-357-6010

**AIRPORT CONCESSION DISADVANTAGED
BUSINESS ENTERPRISE (ACDBE)**

QUARTERLY ACTIVITY REPORT

Reporting Period: ☐ 1st Quarter (10/1/___ – 12/31/___) ☐ 2nd Quarter (01/1/___ – 03/31/___)
(Please check appropriate reporting period) ☐ 3rd Quarter (04/1/___ – 06/30/___) ☐ 4th Quarter (07/1/___ – 09/30/___)

Concessionaire: _____

Address: _____

Project Title: _____ Concession Type: _____

Concessionaire's Gross Receipts	Reporting Period (listed above)	Total Reported To Date (for Fiscal Year)
TOTAL	\$	\$

ACDBE Name (s)	Gross Receipts for Reporting Period (listed above)	ACDBE Participation % for this Reporting Period	Total ACDBE Gross Receipts Amount reported to date	Total ACDBE Participation % to Date
1.	\$	%	\$	%
2.	\$	%	\$	%
3.	\$	%	\$	%
TOTAL	\$	%	\$	%

Signature of authorized representative / Date

Phone

Print name of authorized representative

DBE CONCESSION YEAR 10/01/___ THROUGH 09/30/___

OESBD Compliance Form ACDBEQAR.F2010

EXHIBIT M
Form of Performance Bond

Project Name: «Project_Name»
Project Number: «Project_Number»

By this Bond, we _____, as Principal, hereinafter called Contractor, located at:

Business Address: _____

Phone: _____

and _____, as Surety, under the assigned Bond Number _____, are bound to the Board of County Commissioners of Broward County, Florida, as Obligee, hereinafter called County, in the amount of _____ Dollars (\$ _____) for the payment whereof Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally.

WHEREAS, Contractor has by written agreement entered into an Agreement for Shuttle Bus and Other Transportation Services at Fort Lauderdale-Hollywood International Airport, dated _____, with County, which is by reference incorporated herein and made a part hereof, and for the purposes of this Bond is hereafter referred to as the "Contract";

THE CONDITION OF THIS BOND is that if Contractor:

1. Performs all Services in the Contract at the times and in the manner prescribed in the Contract; and
2. Pays County all losses, expenses, costs, and attorney's fees, including appellate proceedings, that County sustains as a result of default by Contractor under the Contract; and

3. Performs all Services under the Contract in the time specified in the Contract; then THIS BOND IS VOID. OTHERWISE, IT REMAINS IN FULL FORCE AND EFFECT.

Whenever Contractor shall be, and declared by County to be, in default under the Contract, County Having performed County obligations thereunder, the Surety may promptly remedy the default, or shall promptly:

- 3.1. Complete the Services in accordance with the terms and conditions of the Contract; or
- 3.2. Obtain a bid or bids for completing the Services in accordance with the terms and conditions of the Contract, and upon determination by County and Surety jointly of the most responsible Bidder, arrange for a contract between such Bidder and County, and make available as work progresses (even though there should be a default or a succession of defaults under the Contract or Contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the Contract Price; but not exceeding, including other costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof. The term "balance of the Contract Price," as used in this paragraph, shall mean the total amount payable by County to Contractor under the Contract and any amendments thereto, less the amount properly paid by County to Contractor.

No right of action shall accrue on this bond to or for the use of any person or corporation other than County named herein.

The Surety hereby waives notice of and agrees that any changes in or under the Contract and compliance or noncompliance with any formalities connected with the Contract or the changes does not affect Surety's obligation under this Bond.

Signed and sealed this _____ day of _____, 20____.

ATTEST:

Secretary

(CORPORATE SEAL)

(Name of Corporation)

By _____
(Signature and Title)

(Type Name and Title Signed Above)

IN THE PRESENCE OF:

INSURANCE COMPANY:

By _____
Agent and Attorney-in-Fact

Address: _____
(Street)

(City/State/Zip Code)

Telephone No.: _____

EXHIBIT N
Form of Payment Bond

Project Name: «Project_Name»
Project Number: «Project_Number»

KNOW ALL BY THESE PRESENTS:

That we _____, as Principal, hereinafter called Contractor, and _____, as Surety, are bound to the Board of County Commissioners of Broward County, Florida, as Obligee, hereinafter called County, in the amount of _____ Dollars (\$ _____) for the payment whereof Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally.

WHEREAS, Contractor has by written agreement entered into an Agreement for Shuttle Bus and Other Transportation Services at Fort Lauderdale-Hollywood International Airport, dated , with County, which is by reference incorporated herein and made a part hereof, and for the purposes of this Bond is hereafter referred to as the "Contract";

THE CONDITION OF THIS BOND is that if Contractor:

1. Pays County all losses, damages, expenses, costs, and attorney's fees, including appellate proceedings, that County sustains because of default by Contractor under the Contract; and
2. Promptly makes payments to all subcontractors used directly or indirectly by Contractor in the performance of the Contract;

THEN CONTRACTOR'S OBLIGATION SHALL BE VOID. OTHERWISE, IT SHALL REMAIN IN FULL FORCE AND EFFECT SUBJECT.

The Surety hereby waives notice of and agrees that any changes in or under the Contract and compliance or noncompliance with any formalities connected with the Contract or the changes does not affect the Surety's obligation under this Bond.

Signed and sealed this ____ day of _____, 20____.

ATTEST:

(Name of Corporation)

Secretary

By _____
(Signature and Title)

(CORPORATE SEAL)

(Type Name and Title signed above)

IN THE PRESENCE OF:

INSURANCE COMPANY:

By _____
Agent and Attorney-in-Fact

Address: _____
(Street)

(City/State/Zip Code)

Telephone No.: _____

EXHIBIT O
Form 00735. Performance and Payment Guaranty Form
Unconditional Letter of Credit:

Beneficiary:

Broward, through its
Board of County Commissioners
c/o County Administrator
Governmental Center
115 South Andrews Avenue
Fort Lauderdale, FL 33301

Date of Issue: _____

Issuing Bank's No. _____

Applicant: _____

Amount: \$ _____
(in United States funds)

Expiry: _____

Bid/Contract Number: _____

We hereby authorize you to draw on _____ (Bank, Issuer name)

_____ at _____ (Branch address) by order of and for the account of _____

_____ (Contractor, Applicant, Customer) up to an aggregate amount,

in United States Funds, of _____ available by your drafts at sight, accompanied by:

A signed statement from the County Administrator of Broward County or the Administrator's authorized representative that the drawing is due to default in performance of certain obligations on the part of (Contractor, Applicant, Customer) pursuant to the Agreement between the (Contractor, Applicant, Customer) and Broward County for Shuttle Bus and Other Transportation Services at Fort Lauderdale-Hollywood International Airport, dated _____.

Drafts must be drawn and negotiated not later than _____.
(Expiration date)

Drafts must bear the clause: "Drawn under Letter of Credit No. _____
of _____ dated _____.

This Letter of Credit shall be renewed for successive periods of one (1) year each unless we provide the Broward County Administrator with written notice of our intent to terminate the credit herein extended, which notice must be provided at least thirty (30) days prior to the expiration date of the original term hereof or any renewed one (1) year term. Notification to

Broward County that this Letter of Credit will expire prior to performance of the Contractor's obligations will be deemed a default.

This Letter of Credit sets forth in full the terms of our undertaking, and such undertaking shall not in any way be modified, or amplified by reference to any documents, instrument, or agreement referred to herein or to which this Letter of Credit is referred or this Letter of Credit relates, and any such reference shall not be deemed to incorporate herein by reference any document, instrument, or agreement.

We hereby agree with the drawers, endorsers, and bona fide holders of all drafts drawn under and in compliance with the terms of this credit that such drafts will be duly honored upon presentation to the drawee.

Obligations under this Letter of Credit shall be released one (1) year after the final completion of the Project by the

(contractor, applicant, customer)

This Credit is subject to the "Uniform Customs and Practice for Documentary Credits," International Chamber of Commerce (1984 revision), Publication No. 400 and to the provisions of Florida law. If a conflict between the Uniform Customs and Practice for Documentary Credits and Florida law should arise, Florida law shall prevail. If a conflict between the law of another state or country and Florida law should arise, Florida law shall prevail.

Authorized Signature