



Anaheim Resort Transportation

1354 South Anaheim Blvd. • Anaheim, CA 92805 888-364-ARTS • RideArt.org

DATE: JULY 24, 2019
TO: ATN BOARD OF DIRECTORS
FROM: JIM APPLEBY
RE: AGENDA ITEM #1

RECOMMENDATION:

Approve Resolutions #2019-004 and #2019-005 authorizing Anaheim Transportation Network Executive Director to execute assignment of Anaheim Resort Transportation Services Operating Agreement to PCAM, LLC dba Parking Company of America, Inc.

DISCUSSION:

On May 22, 2019, Anaheim Transportation Network (ATN) entered into an early termination agreement with Transdev, ATN's transportation services provider and contractor. ATN and Transdev mutually agreed to terminate their existing contract effective as of 11:59 p.m. on August 31, 2019. The original end date for the contract was December 31, 2019, with two optional one-year extensions.

In response to the early termination decision, on May 28, 2019, ATN issued a Request for Proposals (RFP) #2019-006 to begin selection process for a new transportation provider. The RFP was forwarded to 28 prospective firms and was posted on ATN's website and Planet Bids. Twelve prospective firms and representatives of Teamsters Local 952 attended a pre-proposal conference on June 13, 2019.

Simultaneously, ATN began discussions for the assignment of the exiting operating agreement with two transportation firms who have contractual relationship with ATN to provide supplementary personnel services – We Drive You and PCAM, LLC dba Parking Company of America (PCA), Inc. We Drive You was not able to meet financial stipulations of the existing agreement; however, PCA agreed to further consider assignment option.

Through consultation with legal counsel, it was determined by the ATN Board of Directors to undertake a non-competitive procurement costing ATN less than \$250,000 under its Procurement Policy to preserve service for the remainder of the term and allow orderly procurement after service demands normalize. As a result, the ATN cancelled RFP 2019-006 on June 21, 2019 and notified all prospective bidders via email.



As of August 29, 2019, the Assignment of Operations Service Agreement will set over and transfer to PCA all right, title and interest in, to and under the ART Service Agreement to exercise the Option Year 1 term of the ART Service Agreement from the Start Date through December 31, 2020. For the Option Year 2 term, the dates will be from January 1, 2021 through December 31, 2021 and shall be considered for renewal by the ATN Board of Directors twelve (12) months after the execution date of this Assignment.

All other terms remain the same in the ART Service Agreement, ATN has agreed to assign the terms and conditions of the ART Service Agreement to PCA pursuant to the revised terms in the Assignment of Operations Service Agreement.

RESOLUTION NO. 2016-004

RESOLUTION OF THE
ANAHEIM TRANSPORTATION NETWORK
RECOMMENDING PCAM, LLC dba PARKING COMPANY OF AMERICA
(PCA), INC.
FOR PROVISION OF ANAHEIM RESORT TRANSPORTATION SERVICES

WHEREAS, Anaheim Transportation Network (“ATN”) is a private, non-profit public benefit transportation management association created in 1995 to, among other things, implement the City of Anaheim (“City”) mitigation measures described below and to develop and operate a public transportation system commonly known as the Anaheim Resort Transportation (“ART”) for The Anaheim Resort, the Platinum Triangle™ and other areas of the City and surrounding communities; and

WHEREAS, ATN manages and operates ART Clean Fuel Public Transit system along fixed routes in the “Anaheim Resort” and “Platinum Triangle” geographic areas identified by the Anaheim Resort®, Disneyland® Resort and Platinum Triangle™ Specific Plans, which have been approved by the City and have been amended from time to time; and

WHEREAS, The Platinum Triangle, and the Anaheim and Disneyland® Resort Specific Plans identify Disneyland® Park, Disney’s® California Adventure, Downtown Disney District®, Anaheim Regional Intermodal Transportation Center, Anaheim Stadium, the Honda Center, City National Grove and the Anaheim Convention Center as special activity centers which are to be served by ART; and

WHEREAS, ATN has also entered into a franchise agreement, as amended, with the City to develop, operate and administer ART Clean Fuel Public Transit System; and

WHEREAS, ATN contracts with a third party to provide ART Clean Fuel Public Transit service in accordance with the ATN’s commitment to the City; and

WHEREAS, ATN issued Request for Proposals (RFP #2016-010) to select the best qualified transportation service provider for operation of ART Clean Fuel Public Transit System;

WHEREAS, on October 26, 2016, ATN Board of Directors approved Resolution No. 2016-002 to award a 3-year operating agreement, with two (2) 1-year options, for ART Clean Fuel Public

Transit System to TransDev;

WHEREAS, on May 22, 2019, ATN Board of Directors authorized Mutual Early Termination, Settlement And Mutual Release Agreement with TransDev effective at 11:59 AM on August 31, 2019;

WHEREAS, effective as of August 29, 2019 ("Start Date"), ATN assigns, sets over and transfers to PCA all right, title and interest in, to and under the ART Service Agreement to exercise the Option Year 1 term of the ART Service Agreement from the Start Date through December 31, 2020 and for the Option Year 2 term, the dates will be from January 1, 2021 through December 31, 2021 and shall be considered for renewal by the ATN Board of Directors twelve (12) months after the execution date of this Assignment;

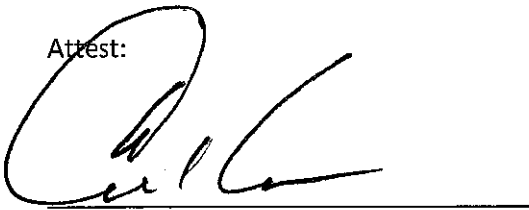
WHEREAS, all other terms remain the same in the ART Service Agreement, ATN has agreed to assign the terms and conditions of the ART Service Agreement to PCA;

Adopted, signed and approved this 24th day of July, 2019.



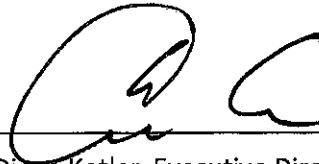
Fred Brown
Vice Chairman

Attest:



Diana Kotler, Executive Director

I, Diana Kotler, ATN Executive Director of the Anaheim Transportation Network, do hereby certify that the foregoing Resolution No.2019-004 of the Evaluation Committee of the ATN Board of Directors was duly approved by the Evaluation Committee of Anaheim Transportation Network, a California nonprofit public benefit corporation.



Diana Kotler, Executive Director

I, Diana Kotler, Executive Director of Anaheim Transportation Network, do hereby certify that the foregoing Resolution No.2019-004 of the Board of Directors was duly adopted by the Board of Directors of Anaheim Transportation Network, a California nonprofit public benefit corporation, at a regular meeting of the Board on July 24, 2019, and that it was so adopted by the following vote:

YEAS: 7
NEAS: 0
ABST: 6



Diana Kotler, Executive Director

RESOLUTION NO. 2019-005

**RESOLUTION OF THE BOARD OF DIRECTORS
OF THE ANAHEIM TRANSPORTATION NETWORK
AUTHORIZING ASSIGNMENT
ANAHEIM OF RESORT TRANSPORTATION SERVICES
TO PCAM, LLC dba PARKING COMPANY OF AMERICA (PCA), INC.**

WHEREAS, Anaheim Transportation Network (“ATN”) is a private, non-profit public benefit transportation management association created in 1995 to, among other things, implement the City of Anaheim (“City”) mitigation measures described below and to develop and operate a public transportation system commonly known as the Anaheim Resort Transportation (“ART”) for the Anaheim Resort®, the Platinum Triangle™ and other areas of the City and surrounding communities; and

WHEREAS, ATN manages and operates ART Clean Fuel Public Transit system along fixed routes in The “Anaheim Resort” and “Platinum Triangle” geographic areas identified by the Anaheim Resort®, Disneyland® Resort and Platinum Triangle™ Specific Plans, which have been approved by the City and have been amended from time to time; and

WHEREAS, The Platinum Triangle, and the Anaheim and Disneyland Resort Specific Plans identify Disneyland® Park, Disney® California Adventure, Downtown Disney District®, Anaheim Regional Intermodal Transportation Center, Anaheim Stadium, the Honda Center, City National Grove and the Anaheim Convention Center as special activity centers which are to be served by ART; and

WHEREAS, ATN has also entered into a franchise agreement, as amended, with the City to develop, operate and administer ART Clean Fuel Public Transit System; and

WHEREAS, ATN contracts with a third party to provide ART Clean Fuel Public Transit service in accordance with the ATN’s commitment to the City; and

WHEREAS, on February 19, 2019, ATN and PCA entered into an agreement to provide supplementary personnel services for operations of ART services;

WHEREAS, the ART Service Agreement is currently set to terminate on August 31, 2019 at midnight and is early with term remaining through December 31, 2019;

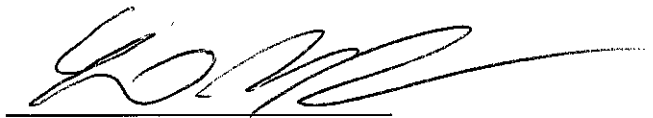
WHEREAS, the ATN Board of Directors finds the need to undertake a non- competitive procurement costing ATN less than \$250,000 under its Procurement Policy to preserve service for the remainder of the term and allow orderly procurement after service demands normalize;

WHEREAS, all other terms remain the same in the ART Service Agreement, ATN has agreed to assign the terms and conditions of the ART Service Agreement to PCA;

WHEREAS, effective as of August 29, 2019 ("Start Date"), ATN hereby assigns, sets over and transfers to PCA all right, title and interest in, to and under the ART Service Agreement to exercise the Option Year 1 term of the ART Service Agreement from the Start Date through December 31, 2020 and for the Option Year 2 term, the dates will be from January 1, 2021 through December 31, 2021 and shall be considered for renewal by the ATN Board of Directors twelve (12) months after the execution date of this Assignment;

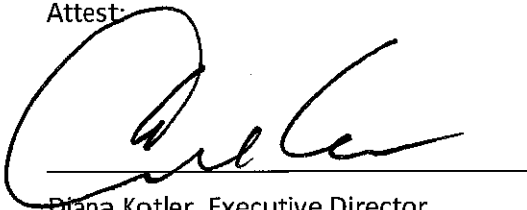
NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Anaheim Transportation Network approves the following:

Adopted, signed and approved this 24th day of July, 2019.



Fred Brown
Vice Chairman

Attest:



Diana Kotler, Executive Director

I, Diana Kotler, Executive Director of Anaheim Transportation Network, do hereby certify that the foregoing Resolution No.2019-005 of the Board of Directors was duly adopted by the Board of Directors of Anaheim Transportation Network, a California nonprofit public benefit corporation, at a regular meeting of the Board on July 24, 2019, and that it was so adopted by the following vote:

YEAS: 7
NEAS: 0
ABST: 6



Diana Kotler, Executive Director

**ASSIGNMENT OF OPERATION OF
ANAHEIM RESORT TRANSPORTATION
SERVICE AGREEMENT**

THIS ASSIGNMENT OF OPERATION OF ANAHEIM RESORT TRANSPORTATION SERVICE AGREEMENT ("Assignment") is made and entered into as of the 24th day of July 2019, by and between Anaheim Transportation Network, a California nonprofit public benefit corporation ("ATN" or "Assignor"), and PCAM, LLC dba Parking Company of America, a California corporation ("Assignee").

RECITALS

- A. WHEREAS, Assignor entered into that certain Operation of Anaheim Resort Transportation Service Agreement dated December 1, 2016, with Transdev Services, Inc., a Maryland corporation ("ART Service Agreement") to provide personnel services for the operation of Anaheim Resort Transportation ("ART") services (attached herein as Exhibit "A");
- B. WHEREAS, the ART Service Agreement is currently set to terminate on August 31, 2019 at midnight and is early with term remaining through December 31, 2019;
- C. WHEREAS, the ATN Board of Directors finds the need to undertake a non- competitive procurement costing ATN less than \$250,000 under its Procurement Policy to preserve service for the remainder of the term and allow orderly procurement after service demands normalize;
- D. WHEREAS, on February 19, 2019, Assignor and Assignee entered into an agreement to provide supplementary personnel services for operations of ART services;
- E. WHEREAS, all other terms remain the same in the ART Service Agreement, Assignor has agreed to assign the terms and conditions of the ART Service Agreement to Assignee pursuant to the revised terms below;

NOW, THEREFORE, in reliance upon the foregoing recitals and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto agree as follows:

- 1. Assignment. Effective as of September 1, 2019 ("Start Date"), Assignor hereby assigns, sets over and transfers to Assignee all of Assignor's right, title and interest in, to and under the ART Service Agreement.
- 2. Assignment Terms.
 - a. Option Years. Assignor and Assignee agree to exercise the Option Year 1 term of the ART Service Agreement from the Start Date through December 31, 2020. See Section 6 and also Section 4 under Scope of Services – Exhibit A. For the Option Year 2 term, the dates will be from January 1, 2021 through December 31, 2021 and shall be considered for renewal by the ATN Board of Directors twelve (12) months after the execution date of this Assignment;
 - b. Routes. Assignee shall also provide Free Rides Around Neighborhood ("FRAN") MicroTransit Service in addition to the routes specified in Section 17.5 of the ART Service Agreement. FRAN service is provided in downtown Anaheim, aka Center City. Service is provided using ten (10) Low Speed GEM Vehicles on an e-hail app-based deviated fixed route basis. FRAN service operates Monday through Thursday from 11:00 AM until 10:00 PM; on Friday and Saturday from 11:00 AM till 12 midnight; and on Sunday from 11:00 AM until 11:00 PM.

- c. Service Levels. Assignee hereby agrees that the number of annual RVHs as of August 28, 2019 will be approximately 260,000. See Section 17.6.
- d. Fares. The parties hereby acknowledge the revised fares for service (See Section 18):

One-way Cash Fare – Each boarding	\$4.00
One-way Cash Fare -- Each boarding Seniors (65 & over) and persons with disabilities	\$1.50
One-way Cash Fare -- Each boarding Children 3-9	\$1.50
One-way Cash Fare -- Each boarding Children 3 and under	Free
1-Day Pass - Unlimited use on all local routes (Until 02:59 A.M.)	\$6.00
3-Day Pass - Unlimited use on all local routes (Until 02:59 A.M.)	\$14.00
5-Day Pass - Unlimited use on all local routes (Until 02:59 A.M.)	\$25.00
Metrolink Ticket	Free

- e. Paperless. Under Section 18.4(b) of the ART Service Agreement, Assignee agrees to provide paperless trip records.

3. Assignment Fee. As fee shall be paid by Assignee to Assignor which is equal to the difference between Option Year 1 and the compensation amount Assignor is paying under Contract Year 3 under Section 6 of the ART Service Agreement (the "Assignment Fee").

4. Acceptance and Assumption. Assignee hereby accepts the foregoing assignment of the ART Service Agreement and hereby assumes and agrees to perform all of Assignor's obligations under or with respect to the ART Service Agreement.

5. No Prior Assignment. Assignor represents it has not transferred, conveyed or hypothecated any interest in the ART Service Agreement to any other party.

6. Severability. If any term or provision of this Assignment or the application thereof to any persons or circumstances shall, to any extent, be invalid or unenforceable, the remainder of this Assignment or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby, and each term and provision of this Assignment shall be valid and enforced to the fullest extent permitted by law.

7. Counterparts; Facsimile. This Assignment may be executed in counterparts, each of which shall be an original and all of which counterparts taken together shall constitute one and the same agreement. This Assignment may be executed via facsimile which facsimile signature shall be as binding as an original.

IN WITNESS WHEREOF, the parties hereto have executed this Assignment of ART Service Agreement as of the day and year first above written.

“Assignor”

ANAHEIM TRANSPORTATION NETWORK, a California nonprofit
public benefit corporation

By: _____
Name: Diana Kotler
Its: Executive Director

“Assignee”

PCAM, LLC dba Parking Company of America, a California
corporation

By: _____
Name:
Its:

EXHIBIT A
ART SERVICE AGREEMENT

AGREEMENT FOR SERVICES

This Agreement for Services is entered into this 19th day of February 2019 ("Effective Date") by and between the Anaheim Transportation Network (the "ATN") and PCM, LLC doing business as Parking Company of America ("Contractor") and pertains to services to be rendered by Contractor to the ATN as more fully described below.

1. TERMS AND CONDITIONS

- a. **Services:** Contractor shall provide all services outlined in the Scope of Services (exhibit B).
- b. **Term:** The term of this Agreement shall be for a period of one (1) year(s) (the "Term") commencing on the Effective Date with one (1) one-year option. at the sole election of ATN.
- c. **Compensation:** Contractor shall be compensated as set forth in Price Proposal as attached (Exhibit A). Payment shall be Net 30 days.
- d. **Termination:** This Agreement may be terminated by either party hereto for any reason and that termination shall be effective thirty (30) days after the giving of written notice to the non-terminating party. If this Agreement is terminated by the ATN for "Cause" (as defined in paragraphs 1c, 1g and 1h, 2 and 6g.3), then it may be terminated immediately upon written notice to the non-terminating party.
- e. **Schedule:** Contractor shall perform tasks according to the mutually agreed upon schedule with ATN. Failure to complete the project according to the approved schedule may be grounds for termination of the contract.
- f. **Delays:** Contractor shall not be liable for any delays in performance directly or indirectly resulting from acts of the ATN, its agents, employees, or contractors or causes beyond the control of the Contractor. "Causes beyond the control of the Contractor" included but are not limited to: acts of God; acts of a public enemy; acts of the United States or the District of Columbia; any State or Territory of the United States; or any of their political subdivisions; strikes, civic commotions, or revolutions, freight embargoes; unusually severe weather conditions.
- g. **Attorney's Fees:** In any action for arbitration or at law or in equity is necessary to enforce or interpret the terms of this agreement, the prevailing party shall be entitled to reasonable attorney's fees, costs, and necessary disbursements in addition to any other relief to which it may be entitled.
- h. **Notice:** Any written notice to any of the parties required or permitted under this agreement shall be deemed to have been duly given on the date of service if served personally by the party to whom it is given, or on the day after mailing if mailed to the party to whom notice is to be given, by certified, return receipt requested, postage prepaid, and address to the addressee at the address set forth on the signature page hereto, or at the most recent address specified by written notice, given to the sender by the addressee under this provision.

- i. **Responsibility:** The Contractor shall assume all responsibility for all services offered in its proposal, whether or not he/she produces them, and as required for a complete turn-key service. Further, the ATN will consider the Contractor to be the sole point of contact with regard to contractual matters, including payment of any kind and all changes resulting from the contract. The Contractor shall be responsible for all work and payment to the sub- contractors.

2. NON-DISCLOSURE

It is expected that Contractor may have access to the ATN's confidential information while performing the Services, including but not limited to customer information, business models, financial information, and contracts with third parties and related proprietary business information (hereafter collectively referred to as "Confidential Information"). Contractor will keep the Confidential Information confidential, use it only in the performance of the Services, and not disclose it to anyone without ATN's prior written authorization. Moreover, all files, records, documents, drawings, specifications, equipment, and similar items relating to the Confidential Information shall remain the exclusive property of ATN, and Contractor will be required to return it, and any reproductions thereof, to ATN upon termination of this Agreement.

3. INDEPENDENT CONTRACTOR STATUS

- a. It is expressly understood that Contractor will be acting as an independent contractor and not as an employee of the ATN, and it will have exclusive control over the details and means of performing the Services. Contractor is responsible for paying when due all income taxes, including estimated taxes, incurred as a result of the compensation paid to Contractor by the ATN for Services under this Agreement. In addition, Contractor agrees to provide workers' compensation insurance for Contractor's employees and agents and agrees to indemnify and hold the ATN harmless for any claims arising out of any injury, disability or death of Contractor's employees or agents unless due to gross negligence or willful misconduct of the ATN. Finally, Contractor shall be solely responsible for any and all of Contractor's taxes, including without limitation, social security, unemployment insurance and payroll taxes.
- b. Contractor shall have no right, power, or authority to bind or commit the ATN to any obligation or responsibility, or to hold itself to be an agent or employee of the ATN, without the express written consent of the ATN.

4. MUTUAL INDEMNIFICATION

Contractor shall hold harmless, indemnify and defend ATN from and against all claims, suits, judgments and awards (including reasonable attorneys' fees and other expenses of suits, whether groundless or not) on account of any damage to property, or injury or death to persons (including but not limited to any damage, injury or death to the property or person of any employee of Contractor or of ATN) which may occur or to be alleged to have occurred due to the negligence or other fault of Contractor, however arising out of or in conjunction with the performance of the Services under this Agreement.

Contractor assumes the risk of, or shall be responsible for, any loss or destruction of or damage to property, which ATN may transfer to the possession and control of Contractor.

ATN agrees to indemnify, defend and hold harmless the Contractor, its subsidiaries, parent company, employees, directors, affiliates, consultants, agents and assigns from and against any and all losses, damages, liabilities, claims, demands, suits, and expenses that Contractor may incur or be liable for as a result of any claim, suite or proceeding made or brought against Contractor based upon, arising out of, or in connection with ATN's (or that of any of its agents, employees or representatives) breach of any of its duties or obligations hereunder or negligence or misconduct in connection with any of its duties relative to this agreement.

5. ASSIGNMENT AND SUBCONTRACTORS

This Agreement is for professional Services of Contractor, and Contractor shall not assign or contract the work to be performed hereunder, in whole or in part, without prior written consent of the ATN. Any such unauthorized attempt of assignment by Contractor shall be void. This Agreement shall be binding upon the successors and assigns of the parties hereto.

6. INSURANCE

- a. Prior to commencement of service date and time, ATN shall provide Contractor with pertinent vehicle information as such to procure insurance. Said information should include, but not be limited to: Year, Vehicle Make, Vehicle Model, License Plate, Vehicle Identification Number, and Mileage. Contractor shall carry and pay premiums for insurance of the types and with the limits of liability not less than stated in Exhibit A, Section 7. Such insurance shall be maintained in effect during the term of the Contract and shall cover all events occurring during the term of the Contract.
- b. Intentionally omitted.
- c. Prior to commencing any work under this Contract, the Contractor shall deliver to the ATN insurance certificates confirming the existence of the insurance required by this Contract, and including the applicable clauses set forth in Exhibit A.
- d. Within thirty (30) days of the execution of this Contract, the Contractor shall provide the ATN endorsements to the above-required policies, which add to these policies the applicable clauses referenced above. The endorsements shall be signed by an authorized representative of the insurance company and shall include the signatory's company affiliation and title.
- e. Insurance required by this Section shall be placed with insurers acceptable to the City of Anaheim and the ATN.
- f. The ATN has the right to demand, and to receive within (30) days, copies of any insurance policies required under this Contract.
- g. In addition to any other remedies the ATN may have, if the Contractor fails to provide or maintain any insurance policies or endorsements to the extent and within the time required in this Section, the ATN may, at its sole option:
 1. Order the Contractor to stop work under this Contract; and/or withhold any payments which become due to the Contractor under this Contract until the Contractor demonstrates compliance with the requirements of this Section.
 2. Terminate this Contract.

Nothing in this Section shall be construed as limiting in any way the extent to which the Contractor may be held responsible for payments of damages to persons or property resulting from the Contractor's performance of the work covered under this Contract.

7. INTEGRATION

This Agreement constitutes the entire Agreement between the parties and supersedes any other oral or written agreement or understanding between the parties regarding the subject matter hereof. No waiver, alteration, modification, renewal or extension of this Agreement shall be valid unless made in writing and signed by the parties.

8. ARBITRATION AND ATTORNEYS' FEES

Any controversy or claim arising out of, or relating to the Agreement, or breach thereof, shall be settled by binding arbitration exclusively in Orange County, California in accordance with the rules of the American Arbitration Association, and judgment upon the award may be entered in any Court having jurisdiction thereof. The arbitrator in any such arbitration shall award reasonable attorneys' fees and costs to the prevailing party.

9. GOVERNING LAW

This Agreement shall be construed and applied in accordance with the laws of the State of California.

10. NOTICE

Any written notice to any of the parties required or permitted under this Agreement shall be deemed to have been duly given on the date of service, if served personally, or on the date immediately after the date of mailing if mailed by United States Mail addressed to the parties as follows:

If to ATN:

Anaheim Transportation Network
Attn: Ms. Diana Kotler, Executive Director
1354 South Anaheim Blvd.
Anaheim, CA 92805

with a copy to:

If to PCAM, LLC

Attn: Pep Valdes
3165 Garfield Avenue
Commerce, CA 90040

11. COUNTERPARTS

This Agreement may be executed in multiple counterparts, each of which is hereby declared to be an original; all, however, shall constitute but one and the same Agreement. Facsimile signatures shall have the same force and effect as "original" signatures.

IN WITNESS WHEREOF, this Agreement is executed by the parties hereto as of the date indicated below.

PCAM, LLC
(Contractor)

Signature

Name

Title

Date

ANAHEIM TRANSPORTATION NETWORK
(ATN)

Signature

Diana Kotler

Executive Director

Date

EXHIBIT "A"

BILLING RATES

Hourly Rates Charged to ATN	
	Amount
MicroTransit Operators	\$24.02
Overtime Rate (after 8 hours)	\$36.04
CDL Operator with air brake and passenger endorsement	\$26.02
Overtime Rate (after 8 hours)	\$39.03

EXHIBIT "B"

SCOPE OF SERVICES

1.0 ROLE OF CONTRACTOR

The CONTRACTOR shall provide driving staff for supplemental transportation services in accordance with the roles and responsibilities as outlined below:

- 1.1** Provide services to ATN on an "as needed" basis through separate work requests describing the locations, dates, number of drivers, and other requirements specific to each project. Contractor requires a minimum of 48-hours prior written notice per work request and all services requested shall be approved by the Contractor, subject to the availability of the number of drivers requested.
- 1.2** Provide as many operators as needed and confirmed by Contractor as available with passenger endorsement and an air brake endorsement for each project as described in the work request.
- 1.3** Ensure staff provided has a pre-employment drug test and DMV report all within the guidelines of the DOT and FHWSA.
- 1.4** Contractor shall abide by and otherwise fully comply with DOT and FTA rules and regulations and all employment and labor laws in the state where the services shall be performed, including, but not limited to, overtime pay above the 8/40-hour law, or holiday pay, if applicable, and the DOT hours of service laws for drivers holding a commercial driver's license.
- 1.5** Attend ATN Board and Board Committee meetings relative to project status as needed.
- 1.6** Conduct staff, safety and training meetings with ATN support staff as needed.
- 1.7** Maintain compliance with all local, state and federal rules and regulations including, but not limited to, the Americans with Disabilities Act (ADA) (including wheelchair lift/assistance and announcing bus stops).
- 1.8** Investigate all customer comments received, providing responses within prescribed policies.

2.0 ROLE OF ATN

As part of the operation and administration of the ART services, ATN will continue to provide the following functions, which are not intended to be contracted to a third party:

- 2.1** Establish overall service operations parameters for the CONTRACTOR.
- 2.2** Provide revenue vehicles for use on ATN's Contracted Fixed Route Services.
- 2.3** Provide all maintenance functions for all revenue fleet vehicles.
- 2.4** Provide an operations and maintenance facility.
- 2.5** Provide all fuel types for revenue service vehicles.
- 2.6** Establish fare policies and fare structure including transfer agreements.
- 2.7** Provide fare collection equipment and replacement fare boxes and equipment.
- 2.8** Perform overall branding and marketing of the services (including printing of public collateral materials).
- 2.9** Provide all radio dispatching and field supervision.
- 2.10** Administer and monitor the Contract Agreement including performance monitoring, audits, and accident/incident investigation.
- 2.11** Receive invoices, verify monthly reports, and process payments to CONTRACTOR per Agreement.
- 2.12** Submit required National Transit Database (NTD) reports with input from CONTRACTOR.
- 2.13** Handle all customer comments related to the services including development of written responses to customer complaints and inquiries with written input from CONTRACTOR.
- 2.14** Provide information technology support for all ATN owned voice and data hardware and software used by the CONTRACTOR.
- 2.15** Schedule regular meetings with CONTRACTOR.

Additional clarifications for the above outlined functions and responsibilities are provided below.

Dispatch and Supervision

Under supervision of the Director of Operations, ATN will provide all dispatch, road supervision and related supervisory responsibilities. The term "Supervisors"/"Dispatchers" are used by ATN interchangeably to mean general dispatch and road supervision responsibilities. ATN will provide lead Supervisors, field Supervisors, and check-in driving personnel that will monitor, administer and oversee functions, responsibilities and performance of all bus operators.

Maintenance

ATN will provide all fleet maintenance responsibilities, including a preventive maintenance program, warranty and fleet repair, utility and fueling personnel, provision of all parts, and administration of respective contracts and vendors necessary for all maintenance functions for the entire ART fleet of buses. Maintenance personnel and all related maintenance functions shall be ATN's responsibility. It is expected that a Proposer's personnel shall work cooperatively with ATN personnel to ensure provision of transportation services.

Uniforms

Uniforms for driving personnel are provided by ATN.

Fuel

ATN operates fleets using Compressed Natural Gas (CNG), Liquefied Propane Gas (LPG), Zero Emission Buses (ZEB) and Liquefied Natural Gas (LNG) and ten (10) small capacity vehicles procured specifically for the new MicroTransit CtrCity service. ATN shall be responsible for the provision of all fueling functions, including but not limited to, access to fueling/charging locations, fuel, and fueling personnel necessary for the provision of transportation services.

Global Positioning System (GPS), Syncromatics and Automatic Vehicle Location System (AVL)

The entire fleet operated by ATN in its ART operations, including dispatch functions, is equipped with GPS and AVL systems. ATN shall train the selected contractor's staff to use appropriate systems.

Stops

A network of on-street and off-street public and private bus stop locations is provided by ATN. All signage responsibilities shall be with ATN.

Marketing and Public Relations

ATN will continue to administer all functions associated with the marketing, brand management and related public relations.

Radio Communications

Two-way radio communications will be provided by ATN. ATN shall maintain vendor relationships to ensure availability of the two-way communication system. Equipment, training and access to the two-way radio communication system will be made available to the selected Proposer, whose staff shall be capable of utilizing these methods of communication.

Electronic Equipment

All internal electronic equipment in the ART fleet is provided by ATN. This equipment includes, validating fareboxes, reporting systems, voice annunciations, head/side signage, Syncromatics, etc. Training associated with the operation of the internal electronic equipment for selected contractor's driving personnel will be provided by ATN and the selected contractor's personnel shall be expected to operate these systems. The selected contractor shall fully cooperate with ATN's ability to provide adequate training to sustain and maintain provision of transportation services.

ATN Fleet

ATN will provide bus fleet necessary for service operations. A list of current ATN bus fleet is provided as Table 1 below.

Manufacturer	Model	Fuel Type	In-Service Date	Quantity
Glaval	Entourage	CNG	Dec 2012	18
El Dorado	Starcraft	LPG	May 2011	9
NABI	Low Floor 40' Bus	LNG	May 2003	48
El Dorado	EZ Rider/Passport	CNG	May 2013	3

BYD	K9	Electric	March 2016	4
Polaris	GEM e-6	Electric	Fall 2018	10

3.0 TRAINING AND SAFETY

3.1 Training Requirements

CONTRACTOR shall design, schedule and conduct ongoing training procedures that shall train and prepare all Operators assigned to ATN'S contract in a manner that conforms to all state and local laws and assures ATN'S operational objectives below are met.

- Provide service in a manner which is safe and reliable;
- Provide service which shall maximize customer service; and
- Provide service in a manner that shall maximize productivity.

The Bus Operator's training course shall meet the requirements of all appropriate California statutes and consists of each Bus Operator receiving a minimum of thirty-five (35) hours of instruction, which includes:

- ATN's policies and procedures for fixed route services (provided by ATN);
- ATN on-board electronic equipment operations (provided by ATN);
- Eight (8) hours of defensive and safe driving;
- Twenty (20) hours of behind-the-wheel training in all types of vehicles to be operated under this contract;
- Americans with Disabilities Act (ADA) training that covers assisting individuals with disabilities, service animals & mobility devices;
- Lift/wheelchair tie down techniques and specific ATN procedures for the transport of passengers with wheelchairs and other mobility devices;
- Operation of radio (voice and data) in accordance with Local, State and Federal regulations;
- Customer service training (provided by ATN);
- Fare collection and trip classification and counting (provided by ATN);
- Air brake training;
- Four (4) hours of mandatory refresher training for Bus Operators with repeated and/or accumulated minor infractions; and
- Bus Operator conduct and inappropriate behavior training (provided by ATN).

3.2 Documentation of Training

CONTRACTOR shall maintain a list of Bus Operators who have completed the required training program for operation of bus services for ATN. This list shall be updated monthly and provided to ATN (with monthly invoice) as additional active Bus Operators are trained or removed from service. The list of Bus Operators shall include, at a minimum, the following:

- Name and badge number
- Hire date
- Date of certification
- Hours of initial training
- CDL license number and expiration
- Medical certificate

The CONTRACTOR must maintain a record of all training completed by each Bus Operator and must provide a copy of these records upon request of ATN or other compliance agency (i.e. DMV or California Highway Patrol (CHP)).

In the event Federal, State, local laws change affecting Bus Operator certification or level of training required, CONTRACTOR shall be responsible for adopting any and all changes to their Bus Operator training program.

3.3 Tourism Ambassador Training

Since most routes involve close contact with guests in the Anaheim Resort area, Operators must also complete tourism ambassador training when instructed by ATN.

3.4 Accident/Incident Reporting

Operators shall notify ATN's Dispatch or its designee immediately of any of the following accidents/incidents.

- Collisions between a vehicle and another vehicle, person or object
- Passenger accidents, including falls to passengers who are entering, occupying or exiting the vehicle
- Inappropriate behavior on-board the vehicle
- Disturbances, ejection, fainting, sickness, deaths or assaults
- Accidents the driver witnesses

- Vandalism to the vehicle while in service
- Passenger complaints of injury or property or other circumstances likely to result in the filing of claims against the CONTRACTOR or ATN
- Any passenger, driver and service complaint that arises from an accident

The CONTRACTOR should ensure proper follow up on any accidents or incidents, where appropriate, to ensure that any unresolved safety hazards or liability issues are addressed. Copies of reports prepared for any of the above must go to ATN's Director of Operations and ATN's Safety & Training Manager. If loss of service occurs or a major incident that will likely receive media coverage, CONTRACTOR shall notify ATN's Central Communication dispatcher in addition to ATN's Director of Operations and ATN's Safety & Training Manager.

4.0 EMPLOYEE STANDARDS AND REQUIREMENTS

4.1 Personnel Policies

The CONTRACTOR shall have personnel policies in effect that conform to all state and federal laws including, but not limited to, all regulations concerning Equal Employment Opportunities, FTA Drug and Alcohol Regulations, Compensation, Worker's Compensation, and other regulations as appropriate.

The CONTRACTOR shall maintain at all times a current list of personnel assigned to ATN'S contract and provide ATN with an updated employee list each month and when otherwise requested;

Weapons: When working under ATN'S contract, employees may not have weapons in their possession or on ATN property or vehicles.

Use of Electronics/Entertainment Devices: For the safety of the Bus Operator and the safety of our passengers, the CONTRACTOR shall not allow any operator to use any entertainment device while in service.

ATN has a zero-tolerance policy for the use of a cell phone while operating a revenue service vehicle, with the exception of verified emergency situations. The CONTRACTOR must also adopt a zero-tolerance policy and shall describe their procedure for training employees in this policy.

Alcohol and Illegal Substances: Purchasing or consuming illegal substances or alcoholic beverages while in a company uniform shall not be allowed. It shall be the CONTRACTOR'S responsibility to terminate any employee observed doing so. The policies for addressing such incidents should be included in the CONTRACTOR'S Drug and Alcohol Policies. CONTRACTOR'S Drug and Alcohol Policies must also comply with FTA Drug and Alcohol Regulations.

Designated Smoking Areas: ATN promotes and supports a smoke free work environment. There is no smoking allowed in ATN vehicles or anywhere in ATN facilities. ATN has designated smoking areas at the facility. CONTRACTOR staff must observe such restrictions.

Inappropriate Behavior: ATN has a zero-tolerance policy for inappropriate and unsafe behavior. The CONTRACTOR'S personnel policies must clearly address how inappropriate and unsafe situations shall be handled. The CONTRACTOR must also adopt a zero-tolerance policy and shall describe their procedure for training employees in this policy.

Any customer comments received directly by the CONTRACTOR must be referred to ATN'S Customer Relations staff for proper handling. Should the CONTRACTOR receive notification from other than ATN that an employee is allegedly involved in a criminal activity including inappropriate behavior; the CONTRACTOR shall notify ATN immediately.

4.2 Personnel Management

CONTRACTOR'S personnel policies shall include a mechanism for administering required progressive corrective action and discipline to address any occurrence where staff performance does not conform with established ATN and/or CONTRACTOR service standards. ATN retains the right to review and comment on the CONTRACTOR'S personnel policies and the list of personnel assigned to ATN'S contract.

4.3 Removal of Employees

ATN may require that any employee be removed from the project for excessive complaints, preventable accidents, or inappropriate behavior. ATN has a zero-tolerance policy with regard to misconduct or inappropriate behavior. If an allegation of this nature is received, CONTRACTOR shall remove the employee from the project immediately pending investigation and resolution of the allegation to ATN'S satisfaction.

Any employee receiving three or more valid customer complaints within a consecutive 30-day period may be subject to a thirty (30) day probation period. During this period, ATN shall evaluate whether the employee is suitable for the project.

ATN shall notify the CONTRACTOR, in writing, of any employee determined unsuitable. Within 24 hours of receipt of such notice, CONTRACTOR shall, at its sole discretion, permanently remove the employee from the project or present to ATN a plan for correcting the employee's performance deficiencies. If ATN rejects the plan or the employee's performance deficiencies are not corrected to ATN'S satisfaction, the CONTRACTOR shall be instructed to immediately remove the employee from the project.

4.4 Dress and Appearance Standard

ATN shall provide a uniform to be worn by all Bus Operators when operating a vehicle in ATN service. It is the CONTRACTOR'S responsibility to see that Bus Operator uniforms remain in good repair, and do not appear old or worn out. Uniforms that are not in good repair must be replaced:

Bus Operators shall be required to follow the grooming and appearance standards established by ATN:

Uniforms- Only Company authorized uniforms are permitted while on duty.

- ART Uniform Shirt - Should be clean, neat, pressed and in good repair and not faded
 - Shirts must be tucked in at all times. Drivers who wish to wear shirts un-tucked must have shirts professionally cropped
- Dark blue or black trousers or slacks - Should be clean, neat, pressed and in good repair
 - No shorts are permitted
 - No sagging or baggy pants
- Black tie should be clean, neat, pressed and in good repair.
- Black or dark blue belt
- Black leather shoes or boots (polished)
- Black or dark blue socks/hosiery. No ankle socks
- Belt buckle must be no more than 2 inches wide
- Company issued ID must be worn at all times..

Personal Hygiene

- Due to working in close proximity with riders and other ART Operators it is required that Operators use antiperspirant and/or deodorant
- Wear only mildly scented fragrance products. Strong or heavy scented products are prohibited.

Hair

- Hair color is to be natural looking, no extreme colors or styles including bi-level or spiked styles.
- Do not bleach the tips of your hair
- Males: hair is to be cut above the collar and ears and if necessary neatly pulled back. Neatly trimmed mustaches and beards are acceptable
- Females: Hair is to be neatly combed. Confine hair that is below shoulder length so that it does not fall forward over the face. Hair accessories are to be neutral color or a solid color matching the uniform

Makeup

- Makeup should be natural looking and complimentary to the skin tone.

Fingernails

- Keep fingernails clean, trimmed and presentable
- Fingernails should be kept no longer than ¼" past the fingertip. Nail color should be conservative.

Contact Lenses

- Colored or tinted contact lenses must be natural looking
- Decorative or unnatural color lenses that are distracting are not permitted

Tattoos

- ALL tattoos are to be CONCEALED
- ART Operators who have visible Tattoos on arms must wear Long Sleeve Shirts

Sunglasses

- Frames are to be conservative style. No extreme shapes
- Frames should be silver, gold, bronze tortoise shell, black or brown in color
- No mirrored lenses. Wear lenses that are a neutral color- lenses that allow the eye to be seen easily
- Eyes/vision are to be unobstructed

Jewelry

- Jewelry is to be kept to a minimum
- Necklaces, bracelets and ankle bracelets are not permitted
- Only one ring per hand (with the exception of wedding sets). No thumb rings
- Wear earrings that are a simple matched pair. Hoop and/or dangle earrings are not permitted.
Only one earring is to be worn in each ear
- Body piercings are not permitted (except one pair of earring). No plugs or bandages to cover piercings

Shoes

- Only specified uniforms shoes are permitted
- Black or dark blue sock/hosiery only__

Cell Phones

- Personal cell phones are to be off and concealed from sight at all times. Company issued cell phones are permitted when there is a business need. Cell phones cannot be used while on duty.

4.5 Operator Tools

ATN provides all necessary operating equipment to the Operators. Operator equipment shall include manifests (trip sheets), clipboards and pencils. Operators are required to take good care of equipment

The following items must be in the Operator's possession while operating an ATN bus:

- A. Valid Commercial Operator License
- B. Passenger transport endorsement
- C. Valid Verification of Transit Training (VTT) certificate
- D. Valid medical certificate
- E. ATN system map
- F. Risk Management Report Kit
- G. Completed Daily Vehicle Inspection Report (DVIR)
- H. Detour information (as required)
- I. Riders' Alerts (as required)
- J. Accurate time piece
- K. ID Badge

5.0 STATE AND FEDERAL REGULATIONS

Motor Vehicle Codes

CONTRACTOR must to comply fully with State and Federal Regulations. Regulations pertaining to licensing and operation of vehicles are contained in the California Vehicle Code, California Administrative Code, Title 13 and the Federal Motor Carrier Safety Regulations.

ATN shall audit for compliance with the Commercial Motor Vehicle Safety Program including: a) Ten Year Employment History, b) Pull Notice Program, c) Medical Certificate, d) Random Drug Testing Program and, e) Passenger (P) Endorsement.

No CONTRACTOR employee, subcontractor employee or Operator applicants who accrue four or more points in 12 months, six or more points in 24 months or eight or more points in 36 months shall drive any ATN vehicle until their points count falls below the threshold. Any person whose Motor Vehicle Record contains any two-point violation or has an outstanding failure to appear or failure to pay violation will not be eligible to work on ATN's project. Point counts are to be included in employee/driver files.

Drug and Alcohol Testing

The CONTRACTOR shall comply with the requirements of the Drug Free Workplace Act of 1988. Testing shall be conducted pursuant to the FTA regulation, 49 CFR Part 655, that mandates, under certain circumstances, urine drug testing and breath alcohol testing and the U.S. Department of Transportation (DOT) standards for the collection and testing of urine and breath specimens, 49 CFR Part 40, as amended.

The regulations include requirements for pre-employment, post-accident, reasonable suspicion, DOT recertification or biennial physical examination, return-to-duty, and for random testing of employees in safety sensitive positions. Additionally, subcontractors performing safety sensitive tasks are subject to the regulations and it shall be the responsibility of the Contractor to ensure this testing is conducted. ATN requires that those safety sensitive employees employed by the CONTRACTOR for the performance of services under this Agreement (i.e., those employees employed by CONTRACTOR directly for Agency) be tested at a rate of 25% drug and 10% alcohol annually.

California OSHA

CONTRACTOR shall comply with all California OSHA requirements including the requirement of SB 198 to develop and implement an employee injury prevention safety plan.

6.0 INVOICE AND BILLING

The invoice for services rendered shall follow a format acceptable to ATN. All relevant back-up documentation, including monthly project summaries, must be included with invoice. Invoices shall be submitted to ATN within twenty (20) business days of the close of the billing cycle. Payment terms are net 30 days upon review and approval of the CONTRACTOR invoices.

7.0 INSURANCE

During the term of this Agreement CONTRACTOR shall carry and pay the premiums for insurance of the types and with limits not less than as stated below.

- 7.1** Worker's Compensation Insurance covering all of Contractor's employees engaged in work under this Agreement as required under the Worker's Compensation Act of the State of California and coverage for Employers Liability in the minimum amount of \$1,000,000.
- 7.2** Comprehensive General Liability Insurance /Commercial General Liability Insurance, including coverage for Premises and Operations, Contractual Liability, Personal Injury Liability, Products/Completed Operation Liability, in an amount of not less than Ten Million Dollars (\$10,000,000) per occurrence.
- 7.3** Comprehensive Automobile Liability coverage in an amount of not less than Ten Million Dollars (\$10,000,000) per occurrence combined single limit.
- 7.4** Comprehensive and Collision coverage to include such perils as: fire; lightning; explosion; theft; windstorm; hail; earthquake; flood; mischief; vandalism; and overturn or collision with another object. The most CONTRACTOR will pay for any one loss is the lesser of: 1) the actual cash value of the damaged or stolen property as of the date of the loss; or 2) the cost of repairing or replacing the damaged or stolen property with other property of like kind and quality; or 3) the property's stated value on the fleet inventory. An adjustment for depreciation and physical condition will be made in determining actual cash value in the event of a "total loss". If a repair or replacement results in better than like kind or quality, CONTRACTOR will not pay for the amount of the betterment. The

vehicle physical damage coverage shall name the owner of the vehicle as the loss payee and shall be primary and in no respect excess to, contributory to, or contingent upon any physical damage coverage carried by ATN. CONTRACTOR shall provide ATN with a Certificate of Insurance showing compliance with the requirements of this paragraph.

Each insurance policy required above (except for Workers' Compensation as to clause 3 below) shall contain the following clauses:

1. This insurance shall not be cancelled, or limited in scope or coverage, until after thirty (30) days prior written notice has been given to ATN."
2. "It is agreed that any insurance maintained by the Contractor pursuant to this policy shall be primary to, and not contribute to, any insurance or self-insurance maintained by the ATN."
3. "The ATN and their officers, agents, employees, representatives and volunteers are hereby added as additional insureds."
4. The Physical Damage requirement applies while the vehicles are in the care, custody and control of the CONTRACTOR.

Prior to commencing any work under the project, including the acceptance of any fleet vehicles, CONTRACTOR shall deliver to ATN insurance certificates confirming the existence of the insurance required by this Agreement, and including the applicable clauses set forth above. The endorsements shall be signed by an authorized representative of the insurance company and shall include the signatory's company affiliation and title.

- 7.5 Nonresponsibility.** Notwithstanding any other provision of this Agreement, Contractor shall be responsible for vehicles used by Contractor as provided in this Agreement only when and if in use by Contractor or its employees. Contractor shall not be responsible for any vehicle or its use and ATN shall not make any claim against Contractor or any insurance policy provided by Contractor for any vehicle or its use when not being used by Contractor or its employees or for the use of any vehicle by any person or entity other than Contractor or its employees.

**AGREEMENT REGARDING
OPERATION OF ANAHEIM RESORT TRANSPORTATION SERVICE**

This Agreement Regarding Operation of Anaheim Resort Transportation Service (hereinafter referred to as the "Agreement") is entered and made effective as of the 1st day of December, 2016, by and between Anaheim Transportation Network, hereinafter referred to as the "ATN" and Transdev Services, Inc., hereinafter referred to as "CONTRACTOR".

WHEREAS, ATN conducted a competitive procurement process to select a CONTRACTOR to provide personnel services for the operation of Anaheim Resort Transportation ("ART") services (as further described in this Agreement).

WHEREAS, CONTRACTOR was selected as the highest ranked and best qualified proposer under the evaluation process and criteria established in Request For Proposal 16-010.

WHEREAS, CONTRACTOR has agreed to provide the ART services in exchange for the compensation and in accordance with the terms and conditions specified in this Agreement.

NOW THEREFORE, ATN and CONTRACTOR have mutually agreed as follows:

1. GENERAL ROLES AND RESPONSIBILITIES

1.1. The City of Anaheim (the "City"), a local municipal agency, has designated ATN to administer the ART services on behalf of the City. On April 20, 2004, the City granted a franchise to ATN for the operation of clean fuel fleet vehicles, which was re-awarded in April, 2011 (the "Franchise"). The City may observe ART operations, act as a liaison with funding agencies, direct data collection and reporting functions, and manage government relations as they relate to ART services.

1.2. CONTRACTOR shall provide fleet operator personnel consistent with ATN's responsibilities under the Franchise (including any amendments to the terms of the Franchise that may be enacted in the future). To that end, CONTRACTOR shall provide services consistent with and as described in: (a) the Anaheim Resort Mitigation Monitoring Program No. 0085 (Sept. 27, 1994), (incorporated herein by reference); and (b) Resolution No. 2004-33 (March 16, 2004), and Ordinance No. 5911, (April 20, 2004), granting a franchise to ATN (incorporated herein by reference). In addition to these general obligations, CONTRACTOR shall abide by, and provide those services described in, the "Scope of Services", attached hereto as Exhibit "A" (incorporated herein by reference), RFP 16-010 ("RFP") (incorporated herein by reference) and in CONTRACTOR's formal proposal dated September 22, 2016 and presented to ATN on or about that date (hereinafter, the "Proposal") (incorporated herein by reference).

1.3. ATN has the responsibility for the overall management of the ART services on behalf of the City, the Anaheim Resort community (including areas outside the boundaries of the Anaheim Resort as defined by the Anaheim Resort Specific Plan) which are and will be serviced by ATN (collectively, the "Anaheim Resort"). The role of ATN is to act as liaison between and for the City, the Anaheim Resort and the CONTRACTOR. In addition, ATN shall provide all necessary office functionality, including furniture, communication system, telephone, facsimile and copier, as further detailed in this Agreement, in connection with CONTRACTOR's performance under this Agreement.

1.4. As part of the operation and administration of the ART services, ATN will continue to provide the following functions, which are not intended to be contracted to a third party:

- a. Establish overall service operations parameters for CONTRACTOR.
- b. Provide revenue vehicles for use on ATN's Contracted Fixed Route Services.
- c. Provide non-revenue vehicles for use by CONTRACTOR's personnel.
- d. Provide all maintenance functions for all revenue fleet vehicles and non-revenue vehicles
- e. Provide an operations and maintenance facility.
- f. Provide all fuel types for revenue service and non-revenue vehicles.
- g. Establish fare policies and fare structure including transfer agreements.
- h. Provide fare collection equipment and replacement fare boxes and equipment.
- i. Perform overall branding and marketing of the services (including printing of public collateral materials).
- j. Provide all radio dispatching and field supervision.
- k. Administer and monitor the Contract Agreement including performance monitoring, audits, and accident/incident investigation.
- l. Receive invoices, verify monthly reports, and process payments to CONTRACTOR per Agreement.
- m. Determine compliance with service performance requirements and assess penalties as specified in the Agreement.
- n. Submit required National Transit Database (NTD) reports with input from CONTRACTOR.
- o. Handle all customer comments related to the services including development of written responses to customer complaints and inquiries with written input from CONTRACTOR.
- p. Provide information technology support for all ATN owned voice and data hardware and software used by CONTRACTOR.
- q. Schedule regular meetings with CONTRACTOR's Project Manager and others, as needed.
- r. Make presentations to ATN's Board of Directors (Board) and associated Committees relative to project status, as needed.
- s. ATN, at its sole cost and expense, shall be responsible for and ensure that that all revenue vehicles at all times comply with all local, state, and federal requirements,

including, but not limited to, CARB requirements and vehicle testing requirements (including opacity testing) and fleet inspection requirements.

1.5 Dispatch and Supervision. Under supervision of the Director of Operations, ATN will provide all dispatch, road supervision and related operational responsibilities. The terms "Supervisors" and "Dispatchers" are used by ATN interchangeably to mean general dispatch and road supervision responsibilities. CONTRACTOR will be responsible for scheduling all rest and lunch breaks for its drivers in accordance with Industrial Welfare Commission Order No. 9-2001 Regulating Wages, Hours and Working Conditions in the Transportation Industry ("Wage Order No. 9"). In no event shall ATN Supervisors or Dispatchers direct any of CONTRACTOR's drivers to work through a rest or lunch break scheduled by CONTRACTOR but instead will notify CONTRACTOR if ATN's operational needs conflict with scheduled meal or rest periods, and ATN will reimburse CONTRACTOR for the prescribed meal or rest period penalty paid by CONTRACTOR to the affected employee for Wage Order No. 9 violations when such operational demands dictate a conflict with scheduled meal or rest periods; provided, however, CONTRACTOR meets the established staffing criteria at the time of the violation. In the event CONTRACTOR has not met the established staffing criteria at the time of the violation, ATN shall have no obligation to reimburse CONTRACTOR for any such prescribed meal or rest period penalty.

1.6. Maintenance. ATN will provide all fleet maintenance responsibilities, including a preventive maintenance program, warranty and fleet repair, utility and fueling personnel, provision of all parts, and administration of respective contracts and vendors necessary for all maintenance functions for the entire ART fleet vehicles. Maintenance personnel and all related maintenance functions shall be ATN's responsibility. It is expected that CONTRACTOR's personnel shall work cooperatively with ATN personnel to ensure provision of transportation services.

1.7. Uniforms. Uniforms for driving personnel, supervisors, dispatchers and maintenance personnel are provided by ATN. All uniforms for the front line staff, including staff to be provided by CONTRACTOR, will be provided by ATN.

1.8. Fuel. ATN operates fleet using Compressed Natural Gas (CNG), Propane Liquefied Gas (LPG), electricity, and Liquefied Natural Gas (LNG). ATN shall be responsible for the provision of all fueling functions, including but not limited to, access to fueling locations, fuel, and fueling personnel necessary for the provision of transportation services. Should ATN decide to integrate other fuel types, i.e. hybrid and/or electric, ATN will provide necessary resources for energy and fuels to accommodate these future applications.

1.9. Global Positioning System (GPS) And Automated Vehicle Location System (AVL). The entire fleet operated by ATN in its ART operations, including dispatch functions, is equipped with GPS and AVL systems. ATN shall train CONTRACTOR's staff to use both the system to monitor driving personnel and to access to the reporting functions to assist with the provision of transportation services.

1.10. Stops. A network of on-street and off-street public and private fleet vehicle stop locations is provided by ATN. All signage responsibilities shall be with ATN.

1.11. Marketing And Public Relations. ATN will continue to administer all functions associated with the marketing, brand management and related public relations.

1.12. Radio Communications. Two-way radio communications will be provided by ATN. ATN shall maintain vendor relationships to ensure availability of the two-way communication system. Equipment, training and access to the two-way radio communication system will be made available to CONTRACTOR, whose staff shall be capable of utilizing these methods of communication.

1.13. Office Space. Appropriate office space will be made available to CONTRACTOR's assigned personnel. Costs associated with the provision of office space shall be borne by ATN.

1.14. Furniture, Communication System, Telephone Facsimile, Copier, etc.. ATN will provide CONTRACTOR's staff with all necessary office functionality to maintain adequate operations.

1.15. Electronic Equipment. All internal electronic equipment in the ART fleet is provided by ATN. This equipment includes, validating fareboxes, reporting systems, voice annunciations, head/side signage, etc. Training associated with the operation of the internal electronic equipment for CONTRACTOR's supervisory and driving personnel will be provided by ATN and CONTRACTOR's personnel shall be expected to operate these systems. CONTRACTOR shall fully cooperate with ATN's ability to provide adequate training to sustain and maintain provision of transportation services.

1.16. ATN Fleet. ATN will provide all fleet vehicles necessary for service operations. ATN will NOT provide fleet vehicles for CONTRACTOR's supervisory staff; CONTRACTOR will maintain adequate fleet vehicles for this purpose.

1.17. Hours of Operations/Schedules. ATN's Operations Department shall provide all transportation schedules for the provision of transportation services. Operating service metrics shall be made available to CONTRACTOR in order to facilitate operating schedules.

1.18. CONTRACTOR shall provide transportation services in accordance with the Scope of Services set forth in Exhibit "A".

2. CONTRACTING OFFICER

Whenever this Agreement specifies any action relating to the supervision, coordination, direction, control, or approval of the work performed by CONTRACTOR, such actions shall be carried out by the Executive Director of ATN or his or her designee.

3. ENGAGEMENT OF CONTRACTOR

ATN hereby engages CONTRACTOR to do the work and fulfill the obligations according to the terms and conditions of this Agreement and hereby agrees to pay CONTRACTOR the agreed amount for the services rendered as provided herein.

4. SCOPE OF SERVICES

CONTRACTOR shall perform its obligations to ATN as described in this Agreement, the Exhibit "A", RFP and in the Proposal.

5. TERM

The term of this Agreement shall be for a period of thirty (30) months from the date this Agreement is fully executed, with two (2) one-year options, at the sole election of ATN.

6. COMPENSATION RATES

6.6. There shall be two (2) service options, one for regular service and the other for reduced service. The parties understand, acknowledge and agree ATN's operational needs are determined in large part by third parties for which ATN provides service. Based on those operational needs, as and when communicated to ATN by such third parties, ATN will thereafter notify CONTRACTOR as soon as reasonably practical of its selection of the applicable service option, which may occur at or during any Contract Year and would take effect for the following Contract Years. The first service option (Option #1 or regular service option) is for the following Revenue Vehicle Hours (RVH):

Contract Year 1:	12/1/16 through 12/31/2017	280,000 RVHs (or VSH)
Contract Year 2:	1/1/18 through 12/31/2018	260,000 RVHs (or VSH)
Contract Year 3:	1/1/19 through 12/31/2019	260,000 RVHs (or VSH)
Option Year 1:	1/1/20 through 12/31/2020	260,000 RVHs (or VSH)
Option Year 2:	1/1/21 through 12/31/2021	260,000 RVHs (or VSH)

6.7. With regard to the ART services for Option #1, including Routes 1 through 20, effective as of December 1, 2016, CONTRACTOR shall be compensated at the Regular Operating Rate (as defined below) starting at \$28.73 per vehicle service hour (VSH) for Contract Year 1 and then for each year thereafter as follows: (a) \$29.86 per VSH for Contract Year 2; (b) \$31.02 per VSH for Contract Year 3; (c) \$32.63 per VSH for Option Year 1; and (d) \$33.58 per VSH for Option Year 2. For purposes of this Agreement, the term "Regular Operating Rate" shall mean the total number of Revenue Vehicle Hours from clock-in to clock-out minus 30 minutes for lunch. In no event, regardless of any circumstances related to government regulation, labor or collective bargaining agreements or otherwise, shall the Regular Operating Rates increase above the rates provided in this Section 6.2 ("Option #1 Maximum Regular Rate"). It is the parties' intention that the Option #1 Maximum Regular Rate shall serve as a guaranteed maximum rate which shall not be exceeded under any circumstance, including, without limitation, for any unforeseen cost or expense increase not presently known or anticipated by CONTRACTOR at the time of execution of this Agreement, whether as a result of government regulation, imposition of collective bargaining agreements or otherwise. The CONTRACTOR acknowledges and agrees the Option #1 Maximum Regular Rate is based on CONTRACTOR's bid for the RFP, and CONTRACTOR had the responsibility to take into account any potentially unforeseen contingencies when making its bid.

6.8. With regard to the ART services for Option #1, including Routes 1 through 20, effective as of December 1, 2016, CONTRACTOR shall be compensated at the Variable Operating Rate (as defined below) starting at \$26.11 per VSH for Contract Year 1 and then for each year thereafter as follows: (a) \$27.01 per VSH for Contract Year 2; (b) \$27.96 per VSH for Contract Year 3; (c) \$29.47 per VSH for Option Year 1; and (d) \$30.26 per VSH for Option Year 2. For purposes of this Agreement, the term

“Variable Operating Rate” shall mean the billing rate for VSH above the total number of Revenue Vehicle Hours minus 30 minutes for lunch. Pre and post-trip time allocation shall each be 15 minutes. In no event, regardless of any circumstances related to government regulation, labor or collective bargaining agreements or otherwise, shall the Variable Operating Rates increase above the rates provided in this Section 6.3 (“Option #1 Maximum Variable Rate”), It is the parties’ intention that the Option #1 Maximum Variable Rate shall serve as a guaranteed maximum rate which shall not be exceeded under any circumstance, including, without limitation, for any unforeseen cost or expense increase not presently known or anticipated by CONTRACTOR at the time of execution of this Agreement, whether as a result of government regulation, imposition of collective bargaining agreements or otherwise. The CONTRACTOR acknowledges and agrees the Option #1 Maximum Variable Rate is based on CONTRACTOR’s bid for the RFP, and CONTRACTOR had the responsibility to take into account any potentially unforeseen contingencies when making its bid.

6.9. The second service option (Option #2 or reduced service option) is for the following Revenue Vehicle Hours (RVH):

Contract Year 1:	12/1/16 through 12/31/2017	280,000 RVHs (or VSH)
Contract Year 2:	1/1/18 through 12/31/2018	260,000 RVHs (or VSH)
Contract Year 3:	1/1/19 through 12/31/2019	180,000 RVHs (or VSH)
Option Year 1:	1/1/20 through 12/31/2020	180,000 RVHs (or VSH)
Option Year 2:	1/1/21 through 12/31/2021	180,000 RVHs (or VSH)

6.10. With regard to the ART services for Option #2, including Routes 1 through 20, effective as of December 1, 2016, CONTRACTOR shall be compensated at the Regular Operating Rate starting at \$28.73 per vehicle service hour (VSH) for Contract Year 1 and then for each year thereafter as follows: (a) \$29.86 per VSH for Contract Year 2; (b) \$33.68 per VSH for Contract Year 3; (c) \$35.36 per VSH for Option Year 1; and (d) \$36.40 per VSH for Option Year 2. In no event, regardless of any circumstances related to government regulation, labor or collective bargaining agreements or otherwise, shall the Regular Operating Rates increase above the rates provided in this Section 6.5 (“Option #2 Maximum Regular Rate”), It is the parties’ intention that the Option #2 Maximum Regular Rate shall serve as a guaranteed maximum rate which shall not be exceeded under any circumstance, including, without limitation, for any unforeseen cost or expense increase not presently known or anticipated by CONTRACTOR at the time of execution of this Agreement, whether as a result of government regulation, imposition of collective bargaining agreements or otherwise. The CONTRACTOR acknowledges and agrees the Option #2 Maximum Regular Rate is based on CONTRACTOR’s bid for the RFP, and CONTRACTOR had the responsibility to take into account any potentially unforeseen contingencies when making its bid.

6.11. With regard to the ART services for Option #2, including Routes 1 through 20, effective as of December 1, 2016, CONTRACTOR shall be compensated at the Variable Operating Rate starting at \$26.11 per VSH for Contract Year 1 and then for each year thereafter as follows: (a) \$27.01 per VSH for Contract Year 2; (b) \$30.31 per VSH for Contract Year 3; (c) \$31.83 per VSH for Option Year 1; and (d) \$32.76 per VSH for Option Year 2. In no event, regardless of any circumstances related to government regulation, labor or collective bargaining agreements or otherwise, shall the Variable Operating Rates

increase above the rates provided in this Section 6.6 ("Option #2 Maximum Variable Rate"), It is the parties' intention that the Option #2 Maximum Variable Rate shall serve as a guaranteed maximum rate which shall not be exceeded under any circumstance, including, without limitation, for any unforeseen cost or expense increase not presently known or anticipated by CONTRACTOR at the time of execution of this Agreement, whether as a result of government regulation, imposition of collective bargaining agreements or otherwise. The CONTRACTOR acknowledges and agrees the Option #2 Maximum Variable Rate is based on CONTRACTOR's bid for the RFP, and CONTRACTOR had the responsibility to take into account any potentially unforeseen contingencies when making its bid.

6.12. The VSH rates described herein shall be clock-in to clock-out calculated as follows: VSHs for any given day shall start when the employee clocks-in and end when the employee clocks-out, less thirty (30) minutes for the employee's lunch period. ATN dispatch and supervision staff, in cooperation with CONTRACTOR managers, shall monitor pre-trip, shift exchange, and post-trip times to ensure accurate billing.

6.13. ATN shall be responsible for all costs associated with the maintenance and repair of the fleet vehicles except any repair resulting from negligence on the part of CONTRACTOR. In the case of a repair resulting from the negligence of CONTRACTOR, ATN shall perform the repairs and deduct the cost of the repair from the most current unpaid invoice received from CONTRACTOR. Alternatively, with prior written approval from ATN, CONTRACTOR may be permitted to perform the repairs at their expense. Any repairs so undertaken shall be performed to ATN'S satisfaction. If said repairs are not performed to ATN'S satisfaction, ATN reserves the right to perform the corrective repairs and deduct the cost from the most current unpaid invoice received from CONTRACTOR. Whether to allow CONTRACTOR to self-perform any repair shall be evaluated on a case-by-case basis and only allowed with written advanced approval from ATN.

7. PAYMENT

7.6. CONTRACTOR will be paid by ATN check. Payment shall be made no later than 90 days from receipt of invoice.

7.7. If, during the term of this Agreement, ATN wishes to receive a one percent (1%) reduction in the yearly VSH rate, then, at its option and in its sole discretion, it may change its payment terms and pay the invoices it receives from CONTRACTOR as follows: All payments by ATN shall be made in arrears after the service has been provided. ATN shall make semimonthly progress payments to an account specified by CONTRACTOR. The first progress payment will be made on the 15th day of each calendar month for 45% of the estimated monthly charge. The second progress payment will be made on the last day of the month for 45% of the estimated monthly charge totaling 90% of the estimated monthly charges. If the payment day falls on a weekend, payment will be on the next working day. Progress payments will be credited on the invoice. Payment for the remaining 10% of service shall be made by ATN no more than thirty (30) days from ATN's receipt of an approved invoice.

7.8. The invoice for services rendered shall follow a format acceptable to ATN. All relevant back-up documentation, including monthly project summaries, must be included with invoice. Invoices shall be submitted to ATN within ten (10) business days of the close of the billing cycle. CONTRACTOR shall provide weekly updates on Revenue Vehicle Hours (RVH), and other pertinent operating reports required by the ATN. Payment terms are net 30 days upon review and approval of CONTRACTOR invoices.

8. CHANGE ORDERS

In light of the need to meet fluctuating demand, and the impact of other variables related to the ART services, it is understood that changes in service will be required by ATN during the term hereof. These changes may be summarized as follows.

8.1. It is anticipated that the vast majority of changes will relate to the re-allocation of resources on a monthly, weekly, daily or even hourly basis in order to meet changing ridership demands, including unusual demand events or "emergencies". Such changes would include, for example, requests to re-allocate fleet vehicles to a particularly busy area; the addition of service hours to routes; or the reconfiguration of routes. ATN will provide as much advance notice for these occasions as it reasonably can. CONTRACTOR shall maintain the flexibility to meet and shall meet these changes in service as required. Such changes (and others like them) shall not result in any change in the cost charged to ATN beyond the impact, if any, that such changes may have on annual service hours as already contemplated in Section 6 hereof. The parties shall document these changes so that there is an up-to-date record of all changes in service requested by ATN.

8.2. Any request for a material change in the terms of this Agreement must be implemented by formal amendment to this Agreement in order to be effective. A "material change" shall include the following: (i) any proposed change to the VSH rate required by changes in service requested by ATN; (ii) where it is reasonably believed that requested changes will increase or decrease the projected number of annual service hours incurred by more than ten percent (10%) from one year to the next; and (iii) any change which is reasonably believed to result in a monetary impact to ATN of more than ten percent (10%) (increase or decrease) from one year to the next. ATN shall not be responsible for any increase in costs occasioned by a material change unless it has approved of that material change in writing as provided herein.

9. OWNERSHIP OF VEHICLES /USE OF FACILITY

9.6. All fleet vehicles are owned either by the Orange County Transportation Authority ("OCTA") or by ATN. CONTRACTOR has no ownership interest in any of the fleet vehicles, and ATN will be responsible for the care, licensing, insuring, and maintenance of the fleet vehicles except as otherwise provided in this Agreement.

9.7. It is understood that ATN will provide the physical facility for housing and maintaining the fleet vehicles and that CONTRACTOR may not utilize that facility for any purpose other than as contemplated by this Agreement unless the parties reach a separate agreement in writing regarding such use. ATN shall provide an operations and maintenance facility which includes approximately 1.87 acres suitable for administration, operations and maintenance functions, at the following address: 1354 South Anaheim Blvd, Anaheim, CA 92805 (the "Facility").

9.8. Facility Furnishings. ATN will provide all office furniture and equipment which they deem necessary for this project.

9.9. Maintenance, Cleanliness and Safety of Facilities. ATN shall provide facility maintenance services required to ensure the safe and efficient operation of the property. ATN staff will be available during all days and hours of operation. Facility maintenance services provided by ATN staff shall include inspections and preventative maintenance of all equipment supplied by ATN. CONTRACTOR shall be responsible for all costs associated with any repair resulting from negligence on the part of CONTRACTOR. In the case of a repair resulting from the negligence of CONTRACTOR, ATN shall perform the repairs and deduct the cost of the repair from the most current unpaid invoice received from CONTRACTOR. Alternatively, with prior written approval from ATN, CONTRACTOR may be permitted to perform the repairs at their expense. Any repairs so undertaken shall be performed to ATN'S satisfaction. If said repairs are not performed to ATN'S satisfaction, ATN reserves the right to perform the corrective repairs and deduct the cost from the most current unpaid invoice received from CONTRACTOR. Whether to allow CONTRACTOR to self-perform any repair shall be evaluated on a case-by-case basis and only allowed with written advanced approval from ATN. CONTRACTOR shall be responsible for simple facility tasks such as office and equipment moving, light painting and wall hangings.

9.10. CONTRACTOR shall be required to follow all applicable regulatory requirements, such as storm water runoff and hazardous material regulations and requirements at all times herein. Training will be provided by ATN on these requirements, as needed.

9.11. ATN shall provide reasonable janitorial services for the above-referenced operating base, including all offices, administrative areas, bathrooms and public areas. CONTRACTOR shall ensure that all employees use care and consideration for the property to ensure a safe, professional, hygienic and attractive working environment that complies with all federal, state and local regulations.

9.12. By executing this Agreement, CONTRACTOR warrants that it: (a) is thoroughly familiar with the obligations and scope of services required of it under this Agreement, Exhibit "A", RFP and the Proposal; (b) has carefully examined the Facility and has considered its ability to perform the required services at and from the Facility; and (c) has concluded that the Facility will be (when improved according to ATN plans) adequate to allow it to perform its duties and obligations without any further modifications. CONTRACTOR agrees to cooperate with ATN to ensure proper utilization of space and resources at the Facility, and shall provide its full cooperation if ATN chooses to re-locate to another site.

10. LICENSING, PERMITS, AND TAXES

CONTRACTOR shall be appropriately licensed for the work required hereunder. The cost for any required licenses or permits shall be the responsibility of CONTRACTOR. CONTRACTOR is liable for any and all taxes due as a result of the Contract. CONTRACTOR must provide evidence of a valid Business License with the City, which must remain in force during the entire period of this Agreement.

11. COMPLIANCE WITH STATE AND FEDERAL LAWS

11.6. CONTRACTOR shall give all notices and comply with all existing and future federal, state, and local laws, ordinances, rules, regulations, and orders of any public authority bearing on the performance of this Agreement. Upon request, CONTRACTOR shall furnish to ATN certificates of compliance with all such laws, orders, and regulations.

11.7. During the performance of this Contract, CONTRACTOR, for itself, its assignees and successors in interest, shall comply with the regulations relative to nondiscrimination of federally-assisted programs of the Department of Transportation Title 49, Code of Federal Regulation, Part 21, as they may be amended from time to time which are incorporated herein by reference.

11.8. Americans With Disabilities Act. CONTRACTOR shall comply with all applicable provisions of the Americans with Disabilities Act of 1990. (P.L. 101-336) and Section 504 of the Rehabilitation Act of 1973 (P.L. 93-112) and implementing regulations set forth in 49 C.F.R. Parts 37 & 38 as well as all state and local statutes and ordinances of similar effect.

11.9. Motor Vehicle Codes. CONTRACTOR shall comply fully with State and Federal regulations pertaining to licensing and operation of vehicles are contained in the California Vehicle Code, California Administrative Code, Title 13 and the Federal Motor Carrier Safety Regulations. ATN shall audit for compliance with the Commercial Motor Vehicle Safety Program including: a) Ten Year Employment History, b) Pull Notice Program, c) Medical Certificate, d) Drug and Alcohol Program and, e) Passenger (P) Endorsement. No CONTRACTOR employee, subcontractor employee or fleet operator applicant who accrues four or more points in 12 months, six or more points in 24 months or eight or more points in 36 months shall drive any ATN vehicle until his/her point count falls below the threshold. Any person whose Motor Vehicle Record contains any two point violation, or has an outstanding failure to appear or failure to pay violation will not be eligible to work on ATN's project. Point counts are to be included in employee/driver files.

11.10. Drug and Alcohol Testing. CONTRACTOR shall comply with the requirements of the Drug Free Workplace Act of 1988. Testing shall be conducted pursuant to the FTA regulation, 49 CFR Part 655, that mandates, under certain circumstances, urine drug testing and breath alcohol testing and the U.S. Department of Transportation (DOT) standards for the collection and testing of urine and breath specimens, 49 CFR Part 40, as amended. The regulations include requirements for pre-employment, post-accident, reasonable suspicion, Department of Transportation recertification or biennial physical examination, return-to-duty, and for random testing of employees in safety sensitive positions. Additionally, subcontractors performing safety sensitive tasks are subject to the regulations and it shall be the responsibility of CONTRACTOR to ensure this testing is conducted. ATN requires that those safety sensitive employees employed by CONTRACTOR for the performance of services under this Agreement (i.e., those employees employed by CONTRACTOR directly for the Agency) be tested at a rate of 25% drug and 10% alcohol annually.

11.11. California OSHA. CONTRACTOR shall comply with all California OSHA requirements including the requirement of SB 198 to develop and implement an employee injury prevention safety plan.

11.12. Access to Records. In addition to any other provisions contained in this Agreement with respect to access to CONTRACTOR's records, the following shall apply:

- a. CONTRACTOR agrees to provide ATN, the U.S. Secretary of Transportation, the Controller General of the United States, or any of their authorized representatives, access to any books, documents, papers and records of CONTRACTOR which are directly pertinent to the Agreement for the purposes of making audits, examinations, excerpts and transcriptions.
- b. CONTRACTOR agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- c. CONTRACTOR agrees to maintain all books, records, accounts and reports required under the Agreement for a period of not less than seven (7) years after the date of termination or expiration of the Agreement, except in the event of litigation or settlement of claims arising from the performance of the Agreement, in which case CONTRACTOR agrees to maintain such materials until ATN, the Federal Transit Administration (FTA) Administrator, the Controller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. See 49 C.F.R. 18.39(i)(11).

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

11.9 School Bus Operations. CONTRACTOR agrees that neither it nor any of its subcontractors will engage in school bus operations exclusively for the transportation of students or school personnel in competition with private school bus operators, except as permitted by federal transit laws, 49 U.S.C. 5323(f) or (g), FTA regulations, "School Bus Operations," 49 C.F.R. part 605, and any other applicable federal "School Bus Operations" regulations, or applicable federal guidance. If CONTRACTOR or any of its subcontractors has operated school bus service in violation of FTA's School Bus laws, regulations and requirements, FTA may require CONTRACTOR or its subcontractor to take such remedial measures as FTA considers appropriate, or bar CONTRACTOR or such subcontractor from receiving federal transit assistance.

11.10. Civil Rights.

- a. Nondiscrimination. In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. 200d, Section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. 6102, Section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. 12132, and Federal transit law at 49 U.S.C. 5332, CONTRACTOR agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, CONTRACTOR agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.
- b. Equal Employment Opportunity. The following equal employment opportunity requirements apply to the underlying contract:

- a. Race, Color, Creed, National Origin, Sex. In accordance with Title VII of the Civil Rights Act, as amended 42 U.S.C. 2000e, and Federal transit law at 49 U.S.C. 5332, CONTRACTOR agrees to comply with all applicable equal employment opportunity requirements of the U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor", 41 C.F.R. Parts 60 et seq. (which implement Executive Order No. 11246, "Equal Employment Opportunity", as amended by Executive Order No. 11375 U.S.C. 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, CONTRACTOR agrees to comply with any implementing requirements FTA may issue.
- b. Age. In accordance with Section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. 623 and Federal transit law at 49 U.S.C. 5332, CONTRACTOR agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, CONTRACTOR agrees to comply with any implementing requirements FTA may issue.
- c. Disabilities. In accordance with Section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. 12112, CONTRACTOR agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, CONTRACTOR agrees to comply with any implementing requirements FTA may issue.
- c. Subcontracts. CONTRACTOR also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.
- d. Sanctions for Noncompliance. In the event of CONTRACTOR's noncompliance with nondiscrimination provisions of this Agreement, ATN shall impose Agreement sanctions as it may determine to be appropriate, including, but not limited to:
 1. Withholding of payments to CONTRACTOR under the Agreement until CONTRACTOR complies; and/or
 2. Cancellation, termination, or suspension of the Agreement, in whole or in part.

11.11. Contract Work Hours and Safety Standards Act. CONTRACTOR shall comply with the provisions of the Contract Work Hours and Safety Standards Act, 40 U.S.C. 327-330, and implementing Department of Labor regulations at 29 C.F.R. Part 5 and 1926. CONTRACTOR shall comply with the

clauses set forth at 29 C.F.R. Part 5-5(b) as if such clauses were set forth in their entirety in the Agreement.

11.12. Energy Conservation. CONTRACTOR shall recognize the mandatory standards and policies relating to energy efficiency that are contained in the State Energy Conservation Plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq.).

11.13. Environmental Requirements. CONTRACTOR agrees to comply with any Federal environmental and resource conservation laws, regulations, and requirements that apply to the activities under the Agreement. Specifically –

- a. CONTRACTOR shall comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962), including but not limited to the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in subpart B of 40 C.F.R. Part 247, the Clean Air Act (42 U.S.C. 7401 et seq.) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), and shall report any violation of such standards, orders, or regulations resulting from its activities in connection with the performance of the Agreement to FTA and to the appropriate U.S. EPA Regional Office. CONTRACTOR agrees to include these requirements in all of its subcontracts.
- b. CONTRACTOR shall be responsible for the disposal of hazardous materials in accordance with applicable Federal, State, and local laws, regulations, and requirements.
- c. CONTRACTOR shall comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. 7401 et seq. CONTRACTOR shall report each violation to FTA and to the appropriate U.S. EPA Regional Office. CONTRACTOR agrees to include this requirement in all of its subcontracts.
- d. CONTRACTOR shall comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. CONTRACTOR shall report each violation to FTA and to the appropriate U.S. EPA Regional Office. CONTRACTOR agrees to include this requirement in all of its subcontracts.

11.14. Federal Changes. CONTRACTOR shall at all times comply with all applicable FTA regulations, policies, procedures and directives, that may be amended or promulgated from time to time during the term of the Agreement. CONTRACTOR's failure to so comply shall constitute a material breach of the Agreement and all consequences imposed by the FTA shall become the responsibility directly to CONTRACTOR.

11.15. Lobbying. CONTRACTOR shall at all times comply with 31 U.S.C. 1352 (as amended by the Lobbying Disclosure Act of 1995) regarding the prohibition from using federal appropriated funds to influence any officer, employee of an agency, member of Congress, or an officer or employee of Congress in connection with the awarding of any Federal contract, grant, loan or cooperative agreement, If any funds other than Federal appropriated funds have or will be paid to any person for making lobbying contacts, CONTRACTOR shall complete and submit Standard Form –LL

“Disclosure Form to Report Lobbying”, in accordance with its instructions as amended by “Government Wide Guidance for New Restrictions on Lobbying”, 61 Fed. Reg. 1413.

11.16. Suspension and Debarment. This Agreement is a covered transaction for purposes of 49 CFR Part 29. As such, CONTRACTOR is required to verify that none of its principals, as defined in 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945. CONTRACTOR shall comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into.

11.17. Disadvantaged Business Enterprise (DBE).

In accordance with federal financial assistance agreements with the U.S. Department of Transportation (U.S. DOT), ATN has adopted the Orange County Transportation Authority’s (OCTA) Disadvantaged Business Enterprise (DBE) Policy and Program, in conformance with Title 49 CFR Part 26, “Participation by Disadvantaged Business Enterprises in Department of Transportation Programs”.

This DOT-assisted project is subject to these stipulated regulations and OCTA’s DBE program, which are hereby incorporated in their entirety by this reference. In order to ensure that ATN assists OCTA in achieving its overall DBE Program goals and objectives, ATN encourages the participation of DBEs as defined in 49 CFR 26 in the performance of contracts financed in whole or in part with U.S. DOT funds. Pursuant to the intent of these regulations, it is also a policy of ATN to:

1. Ensure non-discrimination in the award and administration of all ATN's DOT-assisted contracts and subcontracts;
2. Create a level playing field by which DBEs can compete fairly for and perform on ATN 's DOT-assisted contracts;
3. Ensure the DBE Program meets legal standards for unique and narrow program tailoring;
4. Ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;
5. Assist in the removal of procurement and contracting barriers which may inadvertently impede DBE participation;
6. Offer assistance to firms to enable them to compete successfully in the market place outside of the DBE Program;
7. Comply with federal regulations and financial assistance agreements;
8. Disseminate timely and accurate information regarding ATN’s contracting opportunities to DBE Program participants and potential participants; and
9. Monitor and enforce contractor compliance with meeting established DBE goals and/or exercising Good Faith Efforts to do so as defined in 49 CFR 26.

CONTRACTOR shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of subcontracts.

Any terms used in this section that are defined in 49 CFR Part 26, or elsewhere in the Regulations, must have the meaning set forth in the Regulations. In the event of any conflicts or inconsistencies between the Regulations and OCTA's DBE Program with respect to DOT-assisted contracts, the Regulations must prevail.

A. DBE Goal

In conformance with 49 CFR Part 26 OCTA established an overall triennial DBE goal of 10% for Federal Fiscal Years (FFY) 2016/18. Contractor's DBE participation on this contract will assist OCTA in meeting its overall triennial DBE goal for the 2016/18 Federal Fiscal period.

OCTA establishes contract-specific DBE goals to meet any portion of the overall DBE goal that the Authority does not project being able to meet using race-neutral means. OCTA establishes contract-specific goals only on those DOT-assisted contracts that have subcontracting opportunities.

OCTA may establish a DBE contract goal that is higher or lower than its overall goal, depending on such factors as the type of work involved, the location of the work, and the availability of DBEs for the work of the particular contract.

OCTA has established a 0% DBE contract-specific goal on this project.

B. DBE CERTIFICATION AND ELIGIBILITY

1. ATN requires all DBEs listed for participation to be DBE certified by a California Unified Certification Program (CUCP) certifying member agency. ATN will accept DBE certifications from member agencies which certify the eligibility of DBEs in accordance with 49 CFR Part 26.81, under the CUCP. Listings of DBEs certified by the CUCP are available at www.dot.ca.gov/hq/bep/find_certified.htm.
2. It is the responsibility of the Contractor to verify the DBE certification status of all listed DBEs prior to listing the firm as a DBE participant.
3. It is also the responsibility of the Contractor to ensure that each DBE is certified in the NAICS code that corresponds to the DBE's contract scope of work.
4. A DBE may participate as a prime Contractor, subcontractor, vendor of material or supplies, or trucking company.
5. A DBE must perform a commercially useful function in accordance with 49 CFR 26.55.
6. A DBE performs a commercially useful function when it is responsible for execution of work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a commercially useful function, the DBE must also be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself.

7. A DBE should perform at least thirty percent (30%) of the total cost of its contract with its own workforce to presume that it is performing a commercially useful function.
8. A DBE does not perform a commercially useful function if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of DBE participation.

C. DBE “FRAUDS” AND “FRONTS”

Only legitimate DBEs are eligible to participate in federally funded contracts. Therefore, Contractor is cautioned against knowingly and willfully using “fronts” to meet DBE goals. The use of “fronts” and “pass through” subcontracts to non-disadvantaged firms constitutes criminal violations. Further, any indication of fraud, waste, abuse, or mismanagement of Federal funds should be immediately reported to the Office of Inspector General (OIG), U.S. Department of Transportation, via the online hotline at <https://www.oig.dot.gov/dot-oig-hotline-complaint-form>, toll-free hotline at 800-424-9071, email at hotline@oig.dot.gov, online complaint form at <https://www.oig.dot.gov/dot-oig-hotline-complaint-form> or U.S. mail at DOT Inspector General, 1200 New Jersey Ave SE, West Bldg. 7th Floor, Washington, DC 20590. The hotline is open 24 hours per day, seven days per week. Additional information can be found on www.oig.dot.gov/hotline.

D. Submission of DBE Information and On-going Reporting Requirements (Post-Award)

If there is a DBE goal on the contract or a DBE firm has been listed by the Contractor, the Contractor must complete and submit the following DBE forms and/or documentation:

1. “Monthly DBE Subcontractor Commitment and Attainment Report/Payment Verification Summary” (Form 103)

If the Contractor is a DBE and/or has proposed to utilize DBEs, the Contractor will be required to complete and submit Form 103 to ATN by the 10th of each month until completion of the Contract, following the first month of contract activity. Upon completion of the contract, the Contractor must clearly mark the last Form 103 submission “Final” to facilitate reporting and capturing actual DBE attainments.

The purpose of this form is to ensure Contractor DBE commitments are attained, properly reported and credited in accordance with DBE crediting provisions based on the capacity the DBE performs the scope of work. This form further serves to collect DBE utilization data required under 49 CFR Part 26.

The Monthly Form 103 must include the following information:

- a. General Contract Information – Including Contract Number and Name, Prime Contractor and the following:
 1. Original Contract Amount
 2. Running Total of Change Order Amount
 3. Current Contract Amount

4. Amount Paid to Contractor during Month
 5. Amount Paid to Contractor from Inception to Date
 6. DBE Contract Goal
 7. Total Dollar Amount of DBE Commitment
 8. DBE Commitment as Percentage of Prime Current Contract Amount
- b. Listed and/Proposed Contractor/Subcontractor Information – For All DBE participation being claimed either Race Neutrally or Race Consciously, regardless of tier:
1. DBE Firm Name, Address, Phone Number, DBE Type of Operation, Certification, and Type and Certification Number.
 2. DBE Firm Contract Value Information:
Original contract amount, running total of change order amount, Current contract amount, Amount paid to Contractor during month and Amount paid to Contractor to date.

2. Contractor Assurance of Full Compliance with Prompt Payment Provisions and Payment Verification(s)

Contractor to sign the prompt payment assurance statement of compliance contained within the Form 103. Contractor is to further maintain and submit a detailed running tally of related invoices submitted by DBE(s) and Non DBE(s), including dates of invoice submission, dates accepted and corresponding dates and amount of payments made. The Payment and Retention Reporting tally must also include:

DBE(s) and Non DBE(s) Invoice Number, Invoice Amount, Invoice Date, Prime Contractor's Invoice Number that incorporated the corresponding DBE and Non DBE invoice(s) for billing purposes, Date of Invoice submission ATN, date and amount ATN paid on Prime Contractor's Invoice. The report must also reflect a breakout of retention withheld (including retention as specified in subcontract agreement(s) and disputed invoice retention) and retention payments made, check number and date paid to DBE and Non DBE.

Contractor is advised not to report the participation of DBE(s) toward the Contractor's DBE attainment until the amount being claimed has been paid to the DBE. Verification of payments and/or a signed Verification of Payment by the applicable DBE or Non DBE must be submitted with Form 103 to authenticate reported payments.

3. DBE Subcontract Agreements

The Contractor must submit to ATN copies of executed subcontracts and/or purchase orders (PO) for all DBE firms participating on the contract within ten working days of award. The Contractor must immediately notify ATN in writing of any problems it may have in obtaining the subcontract agreements from listed DBE firms within the specified time.

4. "Monthly DBE Trucking Verification" Form

Prior to the 10th of each month, the Contractor must submit documentation on the "Monthly DBE Trucking Verification" Form to ATN showing the amount paid to DBE trucking companies. The Contractor must also obtain and submit documentation to ATN showing the amount paid by DBE trucking companies to all firms, including owner-operators, for the leasing of trucks. If the DBE leases trucks from a non-DBE, the Contractor may count only the fee or commission the DBE receives as a result of the lease arrangement.

The Contractor must also obtain and submit documentation to ATN showing the truck number, owner's name, California Highway Patrol CA number, and if applicable, the DBE certification number of the owner of the truck for all trucks used during that month.

5. "Final Report-Utilization of Disadvantaged Business Enterprises (DBE), First Tier Subcontractors"

Upon completion of the contract, a summary of these records must be prepared on the: "Final Report-Utilization of Disadvantaged Business Enterprises (DBE), First Tier Subcontractors" and certified correct by the Contractor or the Contractor's authorized representative, and must be furnished to the Engineer. The form must be furnished to ATN within 90 days from the date of contract acceptance. The amount of \$10,000 will be withheld from payment until a satisfactory form is submitted.

6. "Disadvantaged Business Enterprises (DBE) Certification Status Change"

If a DBE Subcontractor is decertified during the life of the project, the decertified Subcontractor must notify the Contractor in writing with the date of decertification. If a Subcontractor becomes a certified DBE during the life of the project, the Subcontractor must notify the Contractor in writing with the date of certification (Attach DBE certification/Decertification letter). The Contractor must furnish the written documentation to ATN.

Upon completion of the contract, the "Disadvantaged Business Enterprises (DBE) Certification Status Change" must be signed and certified correct by the Contractor indicating the DBEs' existing certification status. If there are no changes, please indicate "No Changes". The certified form must be furnished to ATN within 90 days from the date of contract acceptance.

E. DBE Crediting Provisions

Credit for DBE participation is determined according to the following provisions:

- When a DBE is proposed to participate in the Contract, either as a prime Contractor or subcontractor, only the value of the work proposed to be performed by the DBE with its own forces may be counted toward DBE participation.
- If a DBE intends to subcontract part of the work of its subcontract to a lower tier subcontractor, the value of the subcontracted work may be counted toward DBE participation only if the DBE

subcontractor is a certified DBE and actually performs the work with its own forces. Services subcontracted to a non-DBE firm may not be credited toward the prime Contractor's DBE attainment.

- Contractor is to calculate and credit participation by eligible DBE vendors of equipment, materials, and suppliers toward DBE attainment, as follows:
 1. Sixty percent (60%) of expenditure(s) for equipment, materials, and supplies required under the Contract, obtained from a regular dealer; or
 2. One hundred percent (100%) of expenditure(s) for equipment, materials, and supplies required under the Contract, obtained from a DBE manufacturer.

- The following types of fees or commissions paid to DBE subcontractors, brokers, and packagers may be credited toward DBE attainment, provided that the fee or commission is reasonable, and not excessive, as compared with fees or commissions customarily allowed for similar work, including:
 1. Fees and commissions charged for providing bona fide professional or technical services, or procurement of essential personnel, facilities, equipment, materials, or supplies required in the performance of the Contract;
 2. Fees charged for delivery of material and supplies (excluding the cost of materials or supplies themselves) when the licensed hauler, trucker, or delivery service is not also the manufacturer of, or a regular dealer in, the material and supplies;
 3. Fees and commissions charged for providing any insurance specifically required in the performance of the Contract.

- Contractor may count the participation of DBE trucking companies toward DBE attainment, as follows:
 1. The DBE must be responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular Contract.
 2. The DBE must itself own and operate at least one fully licensed, insured, and operational truck used on the Contract.
 3. The DBE receives credit for the total value of the transportation services it provides on the Contract using trucks it owns, insures, and operates using drivers it employs.
 4. The DBE may lease trucks from another DBE firm, including an owner-operator who is certified as a DBE. The DBE who leases trucks from another DBE receives credit for the total value of the transportation services the lessee DBE provides on the Contract.
 5. The DBE may also lease trucks from a non-DBE firm, including an owner-operator. The DBE who leases trucks from a non-DBE is entitled to credit only for the fee or commission it receives as a result of the lease arrangement. The DBE does not receive

credit for the total value of the transportation services provided by the lessee, since these services are not provided by a DBE.

6. For purposes of this paragraph, a lease must indicate that the DBE has exclusive use of and control over the truck. This does not preclude the leased truck from working for others during the term of the lease with the consent of the DBE, so long as the lease gives the DBE absolute priority for use of the leased truck. Leased trucks must display the name and identification number of the DBE.
- If the Contractor listed a non-certified DBE 1st tier subcontractor to perform work on this Contract, and the non-certified DBE subcontractor subcontracts a part of its work or purchases materials and/or supplies from a lower-tier DBE certified subcontractor or Vendor, the value of work performed by the lower-tier DBE firm's own forces can be counted toward DBE participation on the Contract.
 - The Contractor is advised not to count the participation of DBEs toward the Contractor's DBE attainment until the amount being counted has been paid to the DBE.

F. Performance of DBE Subcontractors

The following requirements govern the performance of DBE subcontractors:

- DBEs listed by the Contractor in its "DBE Participation Listing" Form submitted with the executed Contract documents shall perform the work and supply the materials for which they are listed, unless the Contractor has received prior written authorization from ATN to perform the work with other forces or to obtain the materials from other sources.
- Contractor shall provide written notification to ATN in a timely manner of any changes to its anticipated DBE participation. This notice should be provided prior to the commencement of that portion of the work.

G. Additional DBE Subcontractors

In the event that the Contractor identifies additional DBE subcontractors or suppliers not previously identified for DBE participation under the Contract, Contractor shall notify ATN by completing and submitting a **"DBE Addition/ Substitution/ Termination Request" form** to enable Contractor to capture all DBE participation. Contractor shall also submit, for each DBE identified after Contract execution, a written confirmation from the DBE acknowledging that it is participating in the Contract for a specified value, including the corresponding scope of work (a subcontract agreement can serve in lieu of the written confirmation).

H. DBE Substitutions and Terminations

Contractor shall be required to comply with 49 CFR § 26.53 regarding DBE subcontractor terminations, including the following:

- A Contractor shall not terminate a listed DBE subcontractor without ATN's prior written consent.

- Prior to the termination request, the prime Contractor must notify the DBE, in writing, of the intent to terminate, allowing for five days of response time in opposition of the rejection.
- A Contractor may only terminate a DBE subcontractor for “good cause,” as defined in 49 CFR § 26.53.
- Good cause does NOT exist if the failure or refusal of the DBE subcontractor to perform its work on the subcontract results from the bad faith or discriminatory action of the Contractor (e.g., failure of the Contractor to make timely payments or the unnecessary placing of obstacles in the path of the DBE’s work). Good cause also does NOT exist if the Contractor seeks to terminate a DBE so that it can self-perform the work of the terminated DBE.
- In the event that the Contractor needs to substitute or terminate a DBE firm and if the substitution/termination request meets the definition of “good cause,” the Contractor shall notify ATN by completing and submitting a “**DBE Addition/Substitution/Termination Request**” form for ATN’s written approval prior to actualizing any changes.
- The Contractor must make a Good Faith Effort (GFE) to replace the terminated DBE with another DBE. The Contractor’s GFE shall be directed at finding another DBE to perform at least the same amount of work under the contract as the DBE that was terminated, to the extent needed to meet the established DBE contract goal and/or the Contractor’s DBE participation commitment approved by ATN prior to award of the Contract.
- Failure by the Contractor to adhere to these requirements may constitute a material breach of contract, which may result in the termination of the contract or such other remedy as ATN deems appropriate.

I. Non-Compliance and Administrative Sanctions

A Contractor determined to be non-compliant with DBE Program requirements may be subject to administrative sanctions as outlined below:

- A non-compliant Contractor may be notified by the DBELO or designee, that administrative remedies shall be imposed for failure to: (a) meet the contractor’s DBE commitment by contract end, (b) submit documentation of Good Faith Efforts, (c) submit required DBE utilization reports, (d) submit verification of prompt payment to DBE subcontractors, and/or (e) comply with proper DBE termination procedures. The notice shall state the specific administrative remedies to be imposed.
- The Contractor shall be given ten (10) working days from the date of the notice to file a written appeal to OCTA’s Executive Director. Failure to respond within the ten (10) day period shall constitute a waiver of appeal.
- The Executive Director or his designee may schedule a hearing to gather additional facts and evidence, and shall issue a final written determination on the matter within thirty (30) working days following receipt of the written appeal. The written decision of the Executive Director or designee is final and there is no further appeal.

- Administrative remedies shall be determined by the DBELO and/or designee and may include, but will not be limited to:
 1. Suspension of progress payments to the Contractor or of any monies held by ATN as retention on the contract until the Contractor is brought into compliance; and/or
 2. Termination of the contract in part or in whole.

J. Contractor's Assurance Clause Regarding Non-Discrimination

Contractor shall ensure that the following clause is placed in every Subcontract agreement:

"The Contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. The Contractor shall carry out applicable requirements of federal law. Failure by the Contractor to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy as ATN deems appropriate."

12. PROHIBITED INTERESTS

12.10. CONTRACTOR covenants that, for the term of this Agreement, no director, member, officer or employee of ATN during his/her tenure in office or for one (1) years thereafter, shall have any interest, direct or indirect, in this Agreement or the proceeds thereof.

12.11. No member of or delegate to, the Congress of the United States shall have any interest, direct or indirect, in this Agreement or to the benefits thereof.

13. OWNERSHIP OF REPORTS AND DOCUMENTS

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

13.11. All ideas, memoranda, specifications, plans, manufacturing, procedures, drawings, descriptions, and all other written information submitted to CONTRACTOR in connection with the performance of this Agreement shall not, without prior written approval of ATN, be used for any purposes other than the performance under this Agreement, nor be disclosed to an entity not connected with the performance of the project. CONTRACTOR shall comply with ATN's policies regarding such material. Nothing furnished to CONTRACTOR, which is otherwise known to CONTRACTOR or is or becomes generally known to the related industry shall be deemed confidential. CONTRACTOR shall not use ATN's name, photographs of the project, or any other publicity pertaining to the project in any professional publication, magazine, trade paper, newspaper, seminar or other medium without the express written consent of ATN.

13.12. No copies, sketches, computer graphics or graphs, including graphic artwork, are to be released by CONTRACTOR to any other person or agency except after prior written approval by ATN,

except as necessary for the performance of services under this Agreement. All press releases, including graphic display information to be published in newspapers, magazines, etc., are to be handled only by ATN unless otherwise agreed by CONTRACTOR and ATN.

14. NOTICE OF LABOR DISPUTE

14.10. CONTRACTOR shall give ATN notice of any union organizing activity when CONTRACTOR is aware of such activity. In the event that an election is held, the results of the election shall be communicated to ATN with eight (8) hours after the voting results are known to CONTRACTOR.

14.11. Whenever CONTRACTOR has knowledge that any actual or potential labor dispute may delay performance of this Agreement, CONTRACTOR shall immediately notify and submit all relevant information to ATN, including its plan for continuing to provide transportation services. CONTRACTOR shall insert the substance of this entire clause in all, if any subcontracts hereunder.

14.12. If a labor dispute results in a work slowdown or labor strike, whereby CONTRACTOR does not have sufficient labor force to provide one or more types of transportation services specified in the Agreement, ATN may withhold payments to CONTRACTOR related to the percentage of the variable costs reimbursement equivalent to the percentage of transportation service not being provided of the type of service affected until the work slowdown or labor strike has ended.

14.13. As provided under Section 33, Force Majeure, CONTRACTOR may be excused from operating service interrupted as a result of a strike but is encouraged to work with ATN to establish a contingency plan in order to ensure continued service to the public. Within 180 days after the date of this Agreement, CONTRACTOR shall work with ATN to develop a contingency plan to be used in the event of a strike or work slowdown which will provide for plans to hire temporary or replacement workers as well as use subcontractors and other internal resources. In the event subcontractors are recommended by CONTRACTOR to provide the service, ATN shall approve such recommendation prior to CONTRACTOR actually hiring the subcontractor.

15. CALIFORNIA LABOR CODE CHAPTER 4.6

CONTRACTOR shall adhere to the requirements stipulated in the California Labor Code Chapter 4.6 (Sections 1070 through Section 1072), (Subdivision (c)(1) of Section 1072, for the use of existing drivers and staff to support all of the services as noted in Exhibit "A", Scope of Services.

16. PRIVACY ACT

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

17. INCORPORATION OF FTA TERMS

All contractual provisions required by DOT, whether or not expressly set forth in this document, as set forth in Federal Transit Administration (FTA) Circular 4220.1F, as amended, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. CONTRACTOR shall not perform any act, fail to perform any act, or refuse to comply with any requests, which would cause ATN to be in violation of the FTA terms and conditions.

18. NO FEDERAL GOVERNMENT OBLIGATION TO THIRD PARTIES

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

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

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

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

20. TERMINATION FOR CONVENIENCE

20.10. This Agreement may be terminated by ATN in accordance with this Section whenever ATN determines that such termination is in its best interest. Any such termination shall be effected by delivery to the other party of a written notice of termination specifying the date upon which such termination will become effective, which can be no sooner than 180 days from the date the notice is given.

20.11. Upon receipt of a notice of termination, and except as otherwise directed by ATN, CONTRACTOR shall: (1) stop work under the Agreement on the date specified in the notice of termination; (2) complete any such part of the work as shall not have been terminated by the notice of termination; and (3) take such action as may be necessary, or as ATN may direct, for the protection and

preservation of the property related to the Agreement which is in the possession of CONTRACTOR and in which ATN or the City has or may acquire an interest. ATN shall not be obligated to pay for work completed after the date of termination.

20.12. In the event ATN exercises its right to terminate for convenience in accordance with this provision, CONTRACTOR shall be entitled to its reasonable termination costs which shall be negotiated and calculated in accordance with Federal Acquisition Regulation (FAR) 31.205-42. Notwithstanding the above, however, CONTRACTOR shall not be entitled to recover termination costs relating to (i) employee salary or benefits; (ii) training costs; or (iii) sub-CONTRACTOR claims (31.205-42 (h)). CONTRACTOR shall have the burden of proving that any termination costs which it claims are reasonable and warranted.

21. TERMINATION FOR DEFAULT

21.10. ATN may, by 10-day advance written notice of default to CONTRACTOR, terminate the whole or any part of this Agreement if CONTRACTOR is in breach of any material term of this Agreement and if that breach is not cured to the reasonable satisfaction of ATN within the ten day notice period ("Cure Period"). In the event that the default cannot be cured within 10 days and CONTRACTOR has begun to address the issue, CONTRACTOR shall have additional time up to a maximum of 30 days, to cure such default. If CONTRACTOR fails to cure within such time frame, ATN may declare CONTRACTOR to be in default and terminate this Agreement in whole or in part.

21.11. In the event that ATN terminates the Agreement in whole or in part as provided in Section 21.1 above, ATN may procure, upon such terms and in such manner as it may deem appropriate, services similar to those so terminated. CONTRACTOR shall be liable to ATN for costs associated with the termination of this Agreement, the procurement of replacement services by ATN, and any and all excess costs of such similar services incurred by ATN as a result of the re-procurement of services from the date of termination to the expiration date of this Agreement. CONTRACTOR shall continue the performance of the Agreement to the extent not terminated under the provisions of this Section.

21.12. If ATN is in breach of a material term of this Agreement, CONTRACTOR shall give ATN written notice thereof and describe in particular the nature of the breach. ATN shall have 30 days from its receipt of that notice within which to cure such material breach. If no cure is effected within that time period, CONTRACTOR may terminate this Agreement by a second written notice to ATN indicating its intent to terminate. The termination will then be effective 30 days following the receipt by ATN of the second notice unless the parties mutually agree otherwise.

21.13. Upon the occurrence of three (3) notices of default, as provided under Section 21.3 above, within any three (3) month period, ATN shall have the right to terminate this Agreement, regardless of whether such defaults were timely cured or not, and pursue its rights or remedies as provided in this Agreement.

21.14. Termination of this Agreement (whether by convenience, default or otherwise) shall be construed in accordance with the provisions of CFR Title 48, Chapter 1, Part 49, of the Federal Acquisition Regulation ("FAR") and specific subparts and other provisions thereof applicable to termination. Contractor agrees to comply with all applicable provisions of the FAR pertaining to termination and such termination shall comply with CFR Title 48, Chapter 1, Part 49, of the FAR.

22. ARBITRATION

22.10. Any dispute, claim or controversy that arises out of or relating to this Agreement or the breach, termination, enforcement, interpretation or validity hereof, including the determination of the scope or applicability of this agreement to arbitrate, shall be determined by arbitration in Orange County, California, before a single arbitrator. The arbitration shall be administered by JAMS pursuant to its Streamlined Arbitration Rules and Procedures, where applicable. Judgment on the award may be entered in any court having jurisdiction. The parties will be responsible to each pay one-half of the costs of the arbitrator.

22.11. Notwithstanding the above, however, it is understood and agreed that, a breach of the provisions of this Agreement by one party may cause irreparable damage to the other party for which recovery of money damages would be inadequate. The non-breaching party shall therefore be entitled to obtain timely injunctive relief from a court of competent jurisdiction (located exclusively in Orange County, California), to protect that party=s rights under this Agreement in addition to any and all remedies available at law. If injunctive relief is granted by the court, the prevailing party shall have the option to have the entire matter adjudicated in the courts, without further resort to arbitration.

23. INDEPENDENT CONTRACTOR

CONTRACTOR is an independent CONTRACTOR and has and retains full control and supervision of the services performed by and full control over the employment and direct compensation and discharge of all persons, other than ATN representatives, assisting in the performance of its services. CONTRACTOR agrees to be solely responsible for all matters relating to wages, hours of work, and working conditions and payment of employees, including compliance with social security, all payroll taxes and withholdings, unemployment compensation, and all other requirements relating to such matters. CONTRACTOR agrees to be responsible for its own acts and those of its subordinates, employees, and any and all subcontractors during the term of this Agreement.

24. SUBCONTRACTING

24.10. CONTRACTOR will not enter into any subcontract unless approved in advance and in writing by ATN, acting in its sole discretion. In any case in which CONTRACTOR desires to subcontract, it shall provide ATN with all proposed subcontracting agreements and documents, including scope of work and terms of compensation. CONTRACTOR shall be fully responsible for all work performed by any subcontractor.

24.11. Any approval of a subcontract shall not be construed as making ATN a party to such subcontract, giving the subcontractor privity of contract with ATN, or subjecting ATN to liability of any kind to any subcontractor.

24.12. All subcontracts will incorporate in full all appropriate terms and conditions of this Agreement.

24.13. CONTRACTOR may not, by subcontract, modify its obligation to perform in full under this Agreement or change its key personnel. Any action of CONTRACTOR in violation of the preceding sentence shall constitute a breach of this Agreement and a default hereunder. Further, the entering into

a subcontract shall not, under any circumstances, relieve CONTRACTOR of its liability and other obligations under this Agreement.

25. INSURANCE

25.10. During the term of this Agreement CONTRACTOR shall carry and pay the premiums for insurance of the types and with limits not less than as stated below.

a. Worker's Compensation Insurance covering all of CONTRACTOR's employees engaged in work under this Agreement as required under the Worker's Compensation Act of the State of California and coverage for Employers Liability in the minimum amount of \$1,000,000.

b. Comprehensive General Liability Insurance /Commercial General Liability Insurance, including coverage for Premises and Operations, Contractual Liability, Personal Injury Liability, Products/Completed Operation Liability, in an amount of not less than Ten Million Dollars (\$10,000,000) per occurrence.

c. Comprehensive Automobile Liability coverage in an amount of not less than Ten Million Dollars (\$10,000,000) per occurrence combined single limit.

d. Comprehensive and Collision coverage to include such perils as: fire; lightning; explosion; theft; windstorm; hail; earthquake; flood; mischief; vandalism; and overturn or collision with another object. The most CONTRACTOR will pay for any one loss is the lesser of: 1) the actual cash value of the damaged or stolen property as of the date of the loss; or 2) the cost of repairing or replacing the damaged or stolen property with other property of like kind and quality; or 3) the property's stated value on the fleet inventory. An adjustment for depreciation and physical condition will be made in determining actual cash value in the event of a "total loss". If a repair or replacement results in better than like kind or quality, CONTRACTOR will not pay for the amount of the betterment. The vehicle physical damage coverage shall name the owner of the vehicle (either OCTA or ATN, depending on the vehicle) as the loss payee, and shall be primary and in no respect excess to, contributory to, or contingent upon any physical damage coverage carried by the City or ATN. CONTRACTOR shall provide OCTA and ATN with a Certificate of Insurance showing compliance with the requirements of this paragraph.

25.11. Each insurance policy required above (except for Workers' Compensation as to clause 3 below) shall contain the following clauses:

a. "This insurance shall not be cancelled, or limited in scope or coverage, until after thirty (30) days prior written notice has been given to ATN."

b. "It is agreed that any insurance maintained by CONTRACTOR pursuant to this policy shall be primary to, and not contribute to, any insurance or self-insurance maintained by ATN or OCTA."

c. "ATN, OCTA and their officers, agents, employees, representatives and volunteers are hereby added as additional insureds."

25.12. Prior to commencing any work under this Agreement, including the acceptance of any fleet vehicles, CONTRACTOR shall deliver to ATN insurance certificates confirming the existence of the insurance required by this Agreement, and including the applicable clauses set forth above.

25.13. Within thirty (30) days of the execution of this Agreement, CONTRACTOR shall provide ATN endorsements to the above-required policies, which add to these policies the applicable clauses referenced above. The endorsements shall be signed by an authorized representative of the insurance company and shall include the signatory's company affiliation and title.

25.14. Insurance required by this Section shall be placed with insurers acceptable to the ATN and OCTA.

25.15. ATN has the right to demand, and to receive within (30) days, copies of any insurance policies required under this Agreement.

25.16. In addition to any other remedies ATN may have, if CONTRACTOR fails to provide or maintain any insurance policies or endorsements to the extent and within the time required in this Section, ATN may, at its sole option:

- a. Order CONTRACTOR to stop work and/or withhold any payments which become due to CONTRACTOR until CONTRACTOR demonstrates compliance with the requirements of this Section.
- b. Immediately terminate this Agreement.

25.17. Nothing in this Section shall be construed as limiting in any way the extent to which CONTRACTOR may be held responsible for payments of damages to persons or property resulting from CONTRACTOR's performance hereunder.

26. BONDING REQUIREMENTS

26.10. Performance Bond. CONTRACTOR shall procure, at its sole expense, and keep in effect at all times during the term of this Agreement, a performance bond equivalent to 25% of the cost of the first twelve (12) months of service, excluding capital costs, in favor of ATN and executed by a corporate surety authorized to conduct business as a surety in the State of California. CONTRACTOR shall provide a fully notarized performance bond to ATN within seven (7) days before commencement of this Agreement. CONTRACTOR shall provide any necessary updates, renewals, or modifications to the Performance Bond on an annual basis thereafter or before each anniversary date of the commencement of this Agreement.

26.11. Performance Bond Renewal. The performance bond must be kept in full force and effect at all times during the term of this Agreement. The bond shall be conditioned upon faithful performance by CONTRACTOR of the terms and conditions of this Agreement and shall be renewed to provide for continuing liability in the amount set forth in subsection 27.1 above notwithstanding any payment or recovery thereon. Such bond shall not be subject to cancellation except after notice to ATN's Executive Director by registered mail at least forty-five (45) days prior to the date of cancellation. Failure to maintain such surety bond shall be a default of this Agreement and may, at ATN's discretion, result in cancellation of this Agreement.

26.12. Enforcement of Performance Bond. If ATN determines that CONTRACTOR has substantially failed to keep and perform the covenants, conditions, and obligations under this Agreement and the RFP, ATN may require the Surety to perform, or may exercise or collect or cause to be exercised or collected, the obligations under the performance bond. In such event, ATN's Executive Director shall notify the Surety and give the Surety an opportunity to perform within a reasonable time. If the Surety fails to perform, ATN's Executive Director shall perform and assess the Surety on its bond for the cost of such performance. The cost of such performance includes the costs of all labor and equipment reasonably necessary to perform the work in CONTRACTOR's absence.

27. NO INDEMNIFICATION BY ATN

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

28. INDEMNIFICATION BY CONTRACTOR

Excluding any and all losses, penalties, damages, settlements, costs, charges, professional fees or other expenses or liabilities of every kind and character arising solely from any "claims" in connection with or arising directly or indirectly from ATN's performance under this Agreement, CONTRACTOR agrees to protect, defend, indemnify and hold ATN and the City and their officers, employees, board members, and representatives, free and harmless from and against any and all losses, penalties, damages, settlements, costs, charges, professional fees or other expenses or liabilities of every kind and character arising out of or relating to any and all claims, liens, demands, obligations, actions, proceedings, or causes of action of every kind and character brought by a third party, including Worker's Compensation suits, (hereinafter collectively "claims") in connection with or arising directly or indirectly out of CONTRACTOR's performance under this Agreement (or any subcontractor to CONTRACTOR). Without limiting the generality of the foregoing, any and all such claims, relating to personal injury, infringement of any patent, trademark, copyright (or application for any thereof) or of any other tangible or intangible personal or property right, or actual or alleged violation of any applicable statute, or ordinance, administrative order, rule, or regulation, or decree of any court, in connection with or arising directly or indirectly out of CONTRACTOR's performance (or any subcontractor to CONTRACTOR) under this Agreement, shall be included in the indemnity hereunder. CONTRACTOR further agrees to investigate, handle, respond to, provide defense for, and defend any such claims, at its sole expense and agrees to bear all other costs and expenses related thereto. The CONTRACTOR's indemnification obligations under this Section 28 shall survive any termination or expiration of the Agreement.

29. NO WAIVER

The failure of ATN or CONTRACTOR to enforce one or more of the terms or conditions of this Agreement or to exercise any of its rights or privileges hereunder shall not be construed as a waiver of any such terms, conditions, rights, or privileges, and the same shall continue and remain in force and effect.

30. GOVERNING LAW, JURISDICTION, AND VENUE

This Agreement shall be subject to, governed by, and construed and interpreted solely according to the laws of the State of California. CONTRACTOR hereby consents and submits to the jurisdiction and venue of the appropriate arbitration hearing as provided in Section 22 and courts of California or of the United States having jurisdiction in California and located in Orange County, California for adjudication of any arbitration, suit or cause of action arising under or in connection with this Agreement, and agrees that any such arbitration, suit or cause of action for which court intervention is required shall be brought in such jurisdiction and venue.

31. SEVERABILITY

In the event any provision of this Agreement is declared or determined to be unlawful, invalid, or unconstitutional, such declaration shall not affect, in any manner, the legality of the remaining provisions of this Agreement and each provision of this Agreement will be and is deemed to be separate and severable from each other provision.

32. ASSIGNMENT

CONTRACTOR may not assign or subcontract this Agreement or any of the interests, rights, duties, or responsibilities of CONTRACTOR hereunder without the prior written consent of ATN.

33. FORCE MAJEURE

Neither ATN nor CONTRACTOR assumes any liability to fulfill the terms and conditions of this Agreement caused by events beyond the reasonable control of such party. Such events may include, but are not restricted to, the following: 1) governmental restrictions or limitations; 2) failure or shortage of fuel, water, or other utility services; 3) riot, war, insurrection, civil unrest or other national or local emergency; 4) severe weather conditions; 5) impassability of routes due to construction, accidents, or other reasons; or 6) labor related shortages and/or disputes, including walkouts, strikes, impasse and similar disputes or interruptions.

34. ENTIRE AGREEMENT

The provisions of this Agreement contain the entire agreement between the parties relating to the subject matter hereof and, except as otherwise specifically provided herein, supersede and cancel all prior provisions, negotiations, agreements and commitments (whether oral or in writing) with respect to the subject matter hereof. This Agreement may not be released, discharged, abandoned, changed or modified in any manner except by an instrument in writing signed by the parties.

35. NOTICES

Any notice required or permitted to be given under this Agreement shall be by written communications by way of personal delivery or overnight carrier, and shall be directed by one party to the other at its respective address as follows unless otherwise provided for in this Agreement:

If to ATN: Anaheim Transportation Network
1354 S. Anaheim Blvd.

Anaheim, CA 92805
Attention: Diana Kotler, Executive Director

If to CONTRACTOR:

Transdev Services, Inc.
720 East Butterfield Road, Suite 300
Lombard, IL 60148
Attention: Alan Moldawer, General Counsel

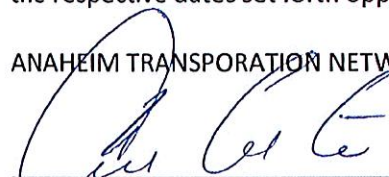
Either party may change its address to which notices or requests shall be directed by written notice to the other party, but until such change of address has been received any notice or request sent to the above addressees shall be effective upon personal delivery or the day following deposit with an overnight (next day) carrier.

36. FURTHER ASSURANCES

Each of the parties hereto agrees on behalf of itself, its successors and its assigns, that it will, without further consideration, execute, acknowledge and deliver such other documents and take such other action as may be necessary or convenient to carry out the purposes of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed on the respective dates set forth opposite their signatures.

ANAHEIM TRANSPORTATION NETWORK

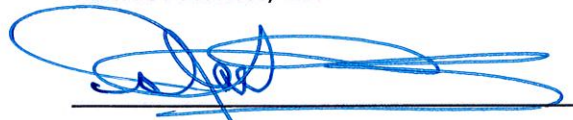


By: Diana Kotler
Its: Executive Director

DATED: 12/1/2016

CONTRACTOR

Transdev Services, Inc.



By: Michael C. Murray

DATED: 1/3/16

Its: President of Transit

EXHIBIT "A"
SCOPE OF SERVICES

1. INTRODUCTION

This Exhibit "A" to the Agreement Regarding Operation of Anaheim Resort transportation Service (the "Agreement") delineates the scope of services to be provided by CONTRACTOR. This Exhibit includes basic service requirements, administrative requirements, and reporting requirements. Unless otherwise stated, all capitalized terms referenced herein shall have the same meaning as described in the Agreement.

2. RESPONSIBILITIES OF CONTRACTOR

2.1. CONTRACTOR shall provide transportation services in accordance with the roles and responsibilities outlined below:

- a. Demonstrate the capability to have service operational on December 1, 2016.
- b. Provide contracted services described in the RFP and in compliance with ATN's operating policies and all applicable local, county, state and federal laws and regulations.
- c. Recruit, hire and train all personnel including management, staff and fleet operators, as well as provide on-going management and supervision.
- d. Prepare and submit all operating data and reports to the applicable parties on time and in the prescribed formats.
- e. Cooperate with the collection and provision of information required for ATN's National Transit Database (NTD) report.
- f. Provide and maintain required office equipment, information technology hardware and software (other than what is provided by ATN), and any other equipment deemed necessary to support the operation the service.
- g. Attend ATN Board and Board Committee meetings relative to project status as needed.
- h. Conduct staff, safety and training meetings with ATN support staff as needed.
- i. Maintain compliance with all local, state and federal rules and regulations including the Americans with Disabilities Act (ADA) (including wheelchair lift/assistance and announcing bus stops).
- j. Investigate all customer comments received, providing responses within prescribed policies.
- k. Adhere to ATN'S Lost and Found policies and procedures. (ATTACHMENT 1)

2.2. Driving Personnel. CONTRACTOR shall be responsible for the provision of necessary administrative and driving personnel.

2.3. Use of Existing Operators and Staff. Pursuant to State of California Labor Code Section 1070, CONTRACTOR shall agree to retain, for a period of at least 90 days, certain employees. (Employee is defined as any person who works for a CONTRACTOR under this contract.) Employee does not include an executive, administrative, or professional employee exempt from the payment of overtime compensation within the meaning of subdivision (a) of Section 515 or any person who is not an employee as defined under Section 2(3) of the National Labor Relations Act (29 U.S.C. Sec. 152(3) who were employed to perform essentially the same services by the previous CONTRACTOR.

2.4. DriveCam. DriveCam, or a comparable system acceptable to ANT, and related software and upgrades shall be provided by and installed by CONTRACTOR at CONTRACTOR's cost into ATN fleet vehicles. DriveCam, or comparable system capital and ongoing operating costs must be assumed by CONTRACTOR.

2.5. Training. CONTRACTOR shall be responsible for all training functions, including qualifications, re-training, and any and all other responsibilities necessary for the provision of an adequate training program necessary for the provision of transportation services in a manner that is fully consistent with both state and federal law, including without limitation Federal Transit Administration ("FTA") requirements. CONTRACTOR shall maintain and provide ATN access to all personnel training records. CONTRACTOR shall fully cooperate with ATN on the provision of Customer Services and internal electronic equipment training, which is provided by ATN.

2.6. Safety. CONTRACTOR shall maintain a superior training program, as determined by ATN, to meet all state, federal and local laws, regulations and requirements. CONTRACTOR shall maintain all personnel safety records, DMV pull notice system, etc. ATN shall have full access to the safety records.

2.7. Personnel Scheduling. ATN shall provide to CONTRACTOR a weekly ART operating schedule. CONTRACTOR shall schedule adequately trained personnel (fleet operators), as needed for the full, timely and complete provision of transportation services.

2.8. CONTRACTOR shall provide high quality, customer service oriented transit service for the Anaheim Resort. ATN will monitor the service closely to ensure that all contractual responsibilities are met.

2.9. CONTRACTOR shall ensure that Fleet Operators meet the following standards:

- a. Operators will meet approved appearance standards.
- b. Operators must be in uniforms approved and provided by ATN whenever they are operating fleet vehicles.
- c. Each operator must report to CONTRACTOR's Dispatcher before starting his/her shift and at the end of his/her shift, to ensure that all appearance and uniform standards are met.

- d. Each operator will complete training in customer service to ensure high quality passenger service and sensitivity.
- e. Empathy training for sensitive populations
- f. Operators will be aware of basic resort features and operating details and shall answer guest questions in a friendly and positive manner.
- g. Absolutely no smoking will be allowed by operators in fleet vehicles or in close proximity to the vehicle entrance.
- h. Operators will not solicit tips from any party under any circumstances.

2.10. CONTRACTOR must be available, and /or be able to acquire in a timely fashion, any additional equipment and/or personnel required for its performance under the Agreement. Any proposed modification to the routes/schedules must be furnished to ATN fifteen (15) days prior to the proposed service charge. Route modifications caused by non-recurring events (e.g. freeway accidents) are the responsibility of CONTRACTOR. Route modifications necessitated by recurring events (e.g. street closures) are also the responsibility of CONTRACTOR, but must be approved by ATN. In case of emergency, CONTRACTOR shall respond to modifications to service immediately upon request of ATN.

2.11. CONTRACTOR shall refer all media requests to ATN and shall not provide any information without prior approval by ATN. CONTRACTOR shall not issue a press release or initiate other media contact without first receiving approval from ATN.

2.12. CONTRACTOR shall ensure that all personnel cooperate with any operational procedures pertaining to survey work, including the distribution of survey questionnaires, etc. CONTRACTOR shall cause all Fleet Operators to cooperate and comply with reasonable requests to collect data on passenger counts, and distribute notices, schedules, or other promotional materials to passengers in connection with the services provided.

2.13. CONTRACTOR shall be required to attend all meetings and/or training sessions as required by ATN. CONTRACTOR may be excused from attendance only by prior written consent from ATN.

3. CONTRACTOR STAFF REQUIREMENTS

3.1. CONTRACTOR shall provide the necessary management and administrative personnel whose expertise will ensure efficient operation of contracted fleet services. CONTRACTOR shall assign a dedicated management team to the project. CONTRACTOR shall have management available consistent with the days and hours of operation of the service.

3.2. Key Personnel. The following positions shall be provided by CONTRACTOR and designated as Key Personnel under the terms of this Agreement. CONTRACTOR shall not replace the Key Personnel without the written consent of ATN; said consent shall not to be unreasonably withheld or delayed. CONTRACTOR shall submit a resume to ATN for any proposed replacement candidate and ATN will require an interview of the proposed replacement candidate.

3.2.1. General Manager. The General Manager is responsible for the management oversight of the contract operation for the contracted fleet services and its components. The General Manager must have a minimum of 8-10 years of management and supervisory experience in public transportation operations. The General Manager must be fully dedicated to this project and be based out of ATN's Anaheim, CA facility. CONTRACTOR shall not replace the General Manager without the written consent of ATN. CONTRACTOR shall submit a resume to ATN for any proposed replacement candidate and ATN shall require an interview of the proposed replacement candidate. The General Manager shall demonstrate, by decision and action, competency in all aspects of ATN's service types. The General Manager shall manage the operating records for services provided under this contract.

3.2.2. Operations Manager. The Operations Manager shall be responsible for all management and day-to-day operations of service and must maintain consistent and sufficient contact and communications with ATN. The Operations Manager should be assigned to general supervision, investigation and response to customer comments and helping to ensure quality service. The Operations Manager will act as back-up for the project management functions. The Operations Manager must have a minimum of five (5) years supervisory experience in public transportation operations or a related industry.

3.2.3. Safety/Training Manager. CONTRACTOR shall assign a full-time Safety/Training Manager, dedicated to this project to ensure that ATN's safety and training standards are maintained and achieved. This position shall be separate from the General Manager or Operations Manager, and the Safety/Training Manager assigned shall be approved by ATN. The Safety/Training Manager must have a minimum of five (5) years experience with full knowledge and extensive experience in all facets of safety related topics, regulations and responsibilities.

3.3. Vacancy of Key Positions. If during the course of normal employee turnover, any of the above-described positions remain open for a period in excess of 30 calendar days, ATN may deduct from payments due CONTRACTOR the salary and benefits of the position, plus a penalty of \$200.00 for each day in which the position remains unfilled beyond the first 30 days.

3.4. Project Staffing – Operations. At a minimum, the following project staff will be provided by CONTRACTOR to ensure the efficient operation of services:

3.4.1. Fleet Operators. CONTRACTOR shall recruit and train a sufficient number of Fleet Operators to provide the services described in this Agreement. Fleet Operators must meet the following qualifications/requirements prior to being allowed to perform in revenue service:

- a. Possess and maintain a license to operate a fleet vehicle in the State of California with a valid Class B license with an endorsement, Verification of Transit Training (VTT) Certification, as well as, maintain a valid medical certificate and any other licenses or certificates required by applicable federal, state, or local regulations;
- b. Must be able to speak, understand, write and read English;
- c. Undergo and pass a drug and alcohol screening at a facility approved by ATN in compliance with federal regulations.

3.5. Safety and Training.

3.5.1. Trainers must be provided to conduct classroom, behind the wheel and in-service training and instruction of Fleet Operators and must have a minimum of one (1) year driving experience.

3.5.2. Training responsibilities include, but not limited to: maintain fleet operator training records, conduct quarterly safety meetings, coordinate Department of Motor Vehicle (DMV) Pull Notice Program, coordinate CONTRACTOR'S Drug and Alcohol Program, and participate in accident/incident investigation with Road Supervisors, staff and project management.

3.5.3. Trainers must have a minimum of one (1) year driving experience, possess all fleet operator required credentials and in addition, either a (1) State of California, Department of Education school fleet operator instruction certificate; or (2) Transportation Safety Institute (U.S. Department of Transportation) Transit Trainer's Certificate. Trainers must meet all license and certification requirements to operate a vehicle in revenue service.

4. PROJECTED REVENUE VEHICLE HOURS

4.1. The number of annual Revenue Vehicle Hours (RVH) to be provided under the Agreement is an estimate of the service level required to meet the demand for service described in this Scope of Services; this estimate may be subject to change. This estimate is not to be interpreted as a guarantee that CONTRACTOR will operate the estimated number of RVH for any given year. CONTRACTOR should consider this estimated number as ATN's best estimate and that actual operated RVH for any given year may be higher or lower than the estimate. The estimated RVH are as follows:

Contract Year 1:	12/1/16 through 12/31/2017	280,000
Contract Year 2:	1/1/18 through 12/31/2018	260,000
Contract Year 3:	1/1/19 through 12/31/2019	260,000
Option Year 1:	1/1/20 through 12/31/2020	260,000
Option Year 2:	1/1/21 through 12/31/2021	260,000

5. PERSONNEL

5.1. CONTRACTOR shall be solely responsible for maintaining an adequate quality labor force, and for the satisfactory work performance of all employees under reasonable performance standards established by ATN, subject to labor disputes, walkouts, strikes, impasse, and the like beyond CONTRACTOR's control.

5.2. CONTRACTOR shall be solely responsible for payment of all employee's wages and benefits and subcontractor's costs. Without any additional expenses to ATN, CONTRACTOR shall comply with the requirements of employee liability, worker's compensation, employment insurance, and Social Security.

5.3. ATN must be notified in writing of new hires or reassignments of key project personnel. CONTRACTOR will provide ATN with the names and other identifying information of all current drivers of CONTRACTOR who have any responsibility regarding ART services.

6. PERSONNEL PERFORMANCE STANDARDS

6.1. Regularly assigned drivers or a fully trained back-up driver must be available and on time to ensure consistent and reliable service.

6.2. All personnel are responsible for knowledge of the service system design, including the routing and stops, fare policy, schedules, access to major destinations, and regional service connectors, ADA requirements as it relates to stop announcements and physically challenged passengers, etc. All personnel must maintain a courteous attitude, answering to the best of their ability any passenger questions regarding the provision of service. Personnel must also report all passenger complaints and operational problems to management staff.

6.3. CONTRACTOR shall describe how the performance of the drivers and managers will be monitored and evaluated. For example, the drivers should be evaluated in terms of courtesy, security, schedule adherence, safe driving records, and ability to efficiently operate electric vehicles. If the Project Manager is responsible for managing these activities, his/her time allocation should be reflected accordingly.

7. STAFFING PLAN

7.1. CONTRACTOR shall develop a written staffing plan that describes in detail the performance and functions of all management personnel and other key personnel. An essential component of this plan should be a list of positions necessary to support the provision of service, including drivers and managers.

7.2. CONTRACTOR shall be responsible for notifying ATN regarding any changes in proposed personnel policies, duties, or hours that deviate from the Proposal. Personnel changes include the following positions: general manager, operations manager, , and training and safety manager,.

8. PROJECT MANAGEMENT

8.1. CONTRACTOR will designate a General Manager to oversee the proper operations of CONTRACTOR's services.

8.2. The General Manager will provide overall management and will be responsible for all operating facets of the operations.

8.3. On-line supervision shall include, but is not limited to, the following duties:

a. Training and scheduling of all regularly assigned personnel.

b. Arranging the assignment of quality back-up personnel whenever necessary.

- c. Distribution and collection of operating reports.
- d. Supervision of all staff to ensure the provision of quality service that meets or exceeds the requirements of this Agreement.

8.4. Operations Manager shall include, but is not limited to, the following:

- a. Preparation of monthly summaries of operations data on a line by line basis.
- b. Maintenance of project accounts.

9. FLEET OPERATORS

9.1. Fleet Operators will work a schedule that ensures a consistent and overall high quality of service.

9.2. Operators must have proficient understanding and use of the English language, a valid California Class II or Class B (with appropriate endorsements) Driver's License and Medical Examiner's Certificate, as well as any other licenses required by applicable federal, state, and local regulations.

9.3. CONTRACTOR shall comply with all applicable existing future federal, state, and local regulations concerning drug testing of employees, when applicable. Such programs shall be explained to Fleet Operators.

9.4. Training must place significant emphasis on techniques for dealing with the public in a helpful and courteous manner to achieve the maximum level of customer service; this requirement pertains to regularly assigned and relief Fleet Operators. Due to the critical importance of customer relations training for drivers, CONTRACTOR must provide a detailed description of its driver training program, including customer service and sensitivity training guidelines.

9.5. CONTRACTOR shall conduct pre-employment DMV checks of all personnel including independent CONTRACTOR or subcontracted employees hired for service, and shall check DMV records at least every six (6) months for accidents, vehicle code violations, and valid driver's licenses of its employees whose jobs require them to operate vehicles. This information shall be made available for review by ATN upon request.

9.6. Drivers must be promptly trained and supervised in order to ensure proper energy conservation techniques for electric vehicles are being utilized on a daily basis.

10. INFORMATION TECHNOLOGY

10.1. Information Technology, Voice and Data Infrastructure. All ATN-supplied software applications shall remain the property of ATN. ATN shall provide computer hardware and services and applications ATN requires CONTRACTOR to operate.

10.2. Administrative Telephones. CONTRACTOR is responsible for the installation and maintenance of any telephone lines and equipment to support CONTRACTOR'S administrative requirements which are above and beyond that provided by ATN.

10.3. Facsimile Machine. ATN will provide one plain paper facsimile machine. CONTRACTOR is responsible for the installation of additional equipment to support CONTRACTOR'S administrative requirements which are above and beyond that provided by ATN.

10.4. Information Technology Services. ATN will provide and manage resources to effectively and competently operate and maintain its own technology assets. CONTRACTOR is responsible for the installation of additional equipment to support CONTRACTOR'S administrative requirements which are above and beyond that provided by ATN.

10.5. Information Technology Assets Provided by ATN. ATN shall provide the following assets and resources to be operated and managed by CONTRACTOR:

- a. Cable Plant for LAN Applications. ATN's facility, available for use to host CONTRACTOR'S operation, is wired for local area network applications.
- b. Server Computer Hardware. ATN shall supply server computer hardware in support of the software applications that are required to be housed locally at the Irvine Sand Canyon facility.
- c. Uninterruptible Power Supplies. ATN shall supply uninterruptible power supplies in order to protect the servers and networking equipment from electrical surges along with having the backup capacity to allow for graceful shutdowns of servers during the course of a power outage.
- d. WAN Communications. ATN shall supply and manage WAN communications.
- e. Future IT Assets. As a practice, ATN provides for annual software and hardware maintenance agreements with the appropriate firms for assets that are deployed during the contract period.
- f. Other Software Assets. At ATN'S direction, CONTRACTOR shall be required to learn and use additional software applications that shall be maintained and managed by ATN.
- g. Comments/Compliments/Complaints. Transtrack web-based application is used to record, track and manage customer feedback on Fleet Operators and services. This application shall be delivered to CONTRACTOR.

- h. GFI GENFARE. This application is used to record ridership and revenue data from all electronic fareboxes. This application shall be delivered to CONTRACTOR.
- i. On-board Video Surveillance System (VSS). ATN will provide hardware to be utilized for ATN staff to monitor all facilities. ATN will provide all required maintenance to VSS equipment, unless equipment was subject to abuse or misuse by CONTRACTOR.

10.6. CONTRACTOR'S Responsibilities for Information Technology. CONTRACTOR shall be responsible for providing and managing all other IT assets, not provided by ATN, needed to support its obligations under this Agreement. CONTRACTOR shall be responsible for standard IT practices and functions that result in safe, reliable, secure and efficient IT services.

10.7. Computing Security. CONTRACTOR shall employ rigorous security practices to ensure a safe computing environment that protects CONTRACTOR's respective network and IT assets, and ATN's network and IT assets. CONTRACTOR shall not, without ATN approval, remove confidential customer data from the Anaheim facility on portable devices such as laptop computers, zip disks, portable hard drives, or USB thumb drives. CONTRACTOR shall make it a priority to protect the confidentiality of sensitive customer data.

10.8. Standard Business Software. CONTRACTOR shall be responsible for providing all software required for general administrative and business support beyond those provided by ATN to fulfill its obligations under this Agreement. CONTRACTOR shall be responsible for providing the necessary desktop computers to host these additional applications.

10.9. Radio Communications. ATN shall provide voice radio communications equipment, services and maintenance for all assigned revenue vehicles, and hand-held mobile radios for Managers. ATN shall provide maintenance of all ATN-provided equipment with the exception of damages and/or repairs resulting from CONTRACTOR negligence, misuse/abuse or loss. In the case of a repair resulting from the negligence of CONTRACTOR, ATN shall perform the repairs and deduct the cost of the repair from the most current unpaid invoice received from CONTRACTOR. Alternatively, with prior written approval from ATN, CONTRACTOR may be permitted to perform the repairs at their expense. Any repairs so undertaken shall be performed to ATN'S satisfaction. If said repairs are not performed to ATN'S satisfaction, ATN reserves the right to perform the corrective repairs and deduct the cost from the most current unpaid invoice received from CONTRACTOR. Whether to allow CONTRACTOR to self-perform any repair shall be evaluated on a case-by-case basis and only allowed with written advanced approval from ATN. A trouble list shall be sent daily to ATN'S Project Manager or his designee (i.e., ATN'S Senior Maintenance Field Administrator) to schedule necessary radio maintenance and generate a work order.

11. TRAINING REQUIREMENTS

11.1. Fleet Operator Training. CONTRACTOR shall be responsible for all training of Fleet Operators including training on ATN organization, service policies, passenger fares and overview of other ATN services. ATN shall provide CONTRACTOR with ATN's policies and procedures for safety and training. CONTRACTOR shall be responsible for the provision of qualified training staff to conduct behind-the-wheel Fleet Operator training and other training as determined by CONTRACTOR. In addition, CONTRACTOR shall be responsible for providing any vehicles required for Fleet Operator training activities.

11.2. Training Standards. CONTRACTOR shall design, schedule and conduct ongoing training procedures that shall train and prepare all Fleet Operators assigned to ATN'S contract in a manner that conforms to all state and local laws and assures ATN'S operational objectives below are met.

- a. Provide service in a manner which is safe and reliable;
- b. Provide service which shall maximize customer service; and
- c. Provide service in a manner that shall maximize productivity.

11.3. The Fleet Operator's training course shall meet the requirements of all appropriate California statutes and consists of each Fleet Operator receiving a minimum of thirty-five (35) hours of instruction, which includes:

- a. ATN's policies and procedures for fixed route services (Provided by ATN);
- b. Eight (8) hours of defensive and safe driving;
- c. Twenty (20) hours of behind-the-wheel training in all types of vehicles to be operated under this contract;
- d. Americans with Disabilities Act (ADA) training that covers assisting individuals with disabilities, service animals & mobility devices;
- e. Lift/wheelchair tie down techniques and specific ATN procedures for the transport of passengers with wheelchairs and other mobility devices;
- f. Operation of radio (voice and data) in accordance with Local, State and Federal regulations;
- g. Customer service training (Provided by ATN);
- h. Fare collection and trip classification and counting (Provided by ATN);
- i. Air brake training;
- j. Four (4) hours of mandatory refresher training for Fleet Operators with repeated and accumulated minor infractions; and
- k. Fleet Operator conduct and inappropriate behavior training (Provided by ATN).

11.4. ATN Provided Training. ATN reserves the right to revise CONTRACTOR's training program(s) in order to comply with Federal, State, or local laws regarding fleet operator certification or level of training requirements. In the event Federal, State, local laws change affecting fleet operator certification or level of training required. CONTRACTOR shall be responsible for adopting any and all changes to their fleet operator training program.

11.5. Training Vehicles. ATN can and is willing to provide access to Training Vehicles. If CONTRACTOR desires to provide additional vehicles to meet its training needs, CONTRACTOR shall be responsible for all fueling and maintenance costs. ATN is willing provide fuel and maintenance and bill CONTRACTOR accordingly for services and supplies rendered.

11.6. Blood Borne Pathogens Training. CONTRACTOR shall be required to establish a written Exposure Control Plan designed to eliminate or minimize employee exposure to blood borne pathogens and/or body fluids. All Fleet Operators, Road Supervisors, Vehicle Service Workers and any other employee that may come in contact with blood borne pathogens or bodily fluids will be required to have blood borne pathogen/bodily fluid training prior to starting their jobs. Blood borne pathogen kits will be made available in all Road Supervisor vehicles and safety sensitive areas. The kits shall be purchased and maintained by CONTRACTOR. The contents of the kit must be replaced as they are used or become damaged.

11.7. CONTRACTOR shall provide the following training and safety program that at a minimum consists of:

- a. A safe driving awards program;
- b. Monitoring and inspection of Fleet Operators' Motor Vehicle Records at least every twelve (12) months through participation in the California Department of Motor Vehicles Pull Notice Program; and
- c. Promotion and reinforcement of driving and safety principles by CONTRACTOR management, policies and programs.

11.8. ATN reserves the right to revise CONTRACTOR's training program(s) in order to comply with Federal, State, or local laws regarding fleet operator certification or level of training requirements or to meet ATN's customer service training needs.

11.9. Documentation of Training. CONTRACTOR shall maintain a list of Fleet Operators who have completed the required training program for operation of fleet services described in this Scope of Services. This list shall be updated monthly and provided to ATN (with monthly invoice) as additional active Fleet Operators are trained or removed from service. The list of Fleet Operators shall include, at a minimum, the following:

- a. Name and badge number
- b. Hire date
- c. Date of certification
- d. Hours of initial training
- e. CDL license number and expiration
- f. Medical certificate.

11.10. CONTRACTOR must maintain a record of all training completed by each Fleet Operator and must provide a copy of these records upon request of ATN or other compliance agency (i.e. DMV or California Highway Patrol (CHP)).

11.11. In the event Federal, State, local laws change affecting fleet operator certification or level of training required, CONTRACTOR shall be responsible for adopting any and all changes to their fleet operator training program.

12. SAFETY PROGRAM

12.1. CONTRACTOR shall at all times abide by CONTRACTOR's established written safety program as described in the Proposal. CONTRACTOR's safety program shall at a minimum comply with applicable federal regulations of the Occupational Health and Safety Administration, and any amendments thereto, as well as any other pertinent federal, state, and/or local safety or environmental laws, codes, rules or regulations.

12.2. CONTRACTOR shall ensure that regular and continuous formal safety instruction for all personnel assigned to perform any activities under this Agreement is provided and shall require them to attend regularly scheduled safety meetings at least four times per year, or more frequently, as required.

12.3. CONTRACTOR shall maintain an incentive and safety program to support ATN's goal of providing a high quality service. ATN supports the use of a safe driving program that includes meetings, incentives, as well as participation in a _____ competition. These programs must be detailed in writing and implemented routinely.

12.4. Accident/Incentive Reporting. CONTRACTOR shall notify ATN's Dispatch or its designee immediately after the occurrence of any of the following accidents/incidents:

- a. Collisions between a vehicle and another vehicle, person or object;
- b. Passenger accidents, including falls to passengers who are entering, occupying or exiting the vehicle;
- c. Inappropriate behavior on-board the vehicle; and
- d. Disturbances, ejection, fainting, sickness, deaths or assaults.
- e. Accidents the driver witnesses;
- f. Vandalism to the vehicle while in service;
- g. Passenger complaints of injury or property or other circumstances likely to result in the filing of claims against CONTRACTOR or ATN; and
- h. Any passenger, driver and service complaint that arises from an accident.

12.5. CONTRACTOR should ensure proper follow up on any accidents or incidents, where appropriate, to ensure that any unresolved safety hazards or liability issues are address. Copies of

reports prepared for any of the above must go to ATN's Director of Operations and ATN's Safety & Training Manager. If loss of service occurs or a major incident that will likely receive media coverage, CONTRACTOR shall notify ATN's Central Communication dispatcher in addition to ATN's Director of Operations and ATN's Safety & Training Manager.

12.6. In addition to CONTRACTOR'S own safety procedures, CONTRACTOR shall implement and enforce all safety requirements that are standard in the industry and/or required by ATN. CONTRACTOR shall observe all ATN safety work rules, regulations pertaining to sexual harassment, and a drug and alcohol free environment while on property and/or while on duty.

12.7. Due to the level of activities at ATN facilities and the large number of vehicles and employees, yard congestion and safety is a viable concern. In order to avoid personal injuries or property damage, the following procedures shall be followed in order to promote yard safety.

- a. Maximum yard speed is 10 M.P.H.
- b. Yield right-of-way to coaches backing out of the shop and parking stalls.
- c. Sound horn three times and check for clear passage before backing vehicles.
- d. Follow designated yard directional traffic flow. Do not drive across fleet stalls.
- e. Always be courteous and professional; never demand the right-of-way to the extent of causing an accident.
- f. Stop at designated "stop" markings in yard.
- g. Pedestrian traffic in or out of the vehicle access gates is prohibited.
- h. All personnel must wear appropriate reflective vest at all times while on property.
- i. All new hire personnel and prospective applicants are required to check-in and check-out with ATN front office personnel.

13. AUDIT AND INSPECTION OF RECORDS

13.1. CONTRACTOR agrees that ATN, or any of their duly authorized representatives, shall, for the purpose of audit and examination, be permitted to inspect all work, materials, payrolls, and other data and records with regard to CONTRACTOR's services, and to audit the books, records, and accounts of CONTRACTOR.

13.2. At any time during normal business hours and as often as ATN may deem necessary and after reasonable notice, CONTRACTOR shall make available to ATN for examination, all records relating to CONTRACTOR's services hereunder. ATN shall have the authority to audit, examine, and make excerpts or transcripts from records, including all invoices, materials, payrolls, records of personnel, and other statistical data relating to all matters covered by this Agreement.

13.3. ATN reserve the right to dispatch auditors of its choosing to any site where any phase of the services is being conducted, controlled, or advanced in any way. Such sites may include the home office, any branch office, or other locations of CONTRACTOR if such sites or the activities performed thereon have any relationship to the services covered by this Agreement. ATN auditors shall be provided with adequate and appropriate workspace in order to conduct audits and shall be allowed to interview any employee of CONTRACTOR. It is the responsibility of CONTRACTOR to ensure the cooperation of all employees with any procedure pertaining to the audit.

13.4. ATN may elect to authorize representatives of other funding partners to inspect, audit, and analyze the records of CONTRACTOR in performing services, or preparing any proposals for services.

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

13.6. Records, in their original form, shall be maintained in accordance with the requirements covered by this Agreement and in support of service provision, start-up, capital expenditure, quarterly, monthly, and daily statistical reports. Such records shall be retained for a period of five (5) years after termination of this Agreement assuming all other pending matters (i.e. audits, litigation, governmental investigations or other actions involving CONTRACTOR records) are closed. ATN may, at its discretion, take possession of and retain said records.

13.7. Records in their original form pertaining to matters covered by this Agreement shall at all times be retained within Orange County unless authorization to remove them is granted in writing by ATN. Upon termination or completion of the Agreement, records may be relocated to CONTRACTOR's Corporate Office for long term storage. ATN shall be granted access to these records upon reasonable notice.

13.8. Results of record inspections may indicate the need for changes and/or modifications. CONTRACTOR shall cooperate with ATN to establish and improve the system and maintain flexibility so that modifications may be implemented quickly.

13.9. ATN must approve all of CONTRACTOR's accounting or administrative procedures used in the planning, controlling, monitoring, and reporting of all fiscal matters relating to audit documents.

13.10. CONTRACTOR shall maintain a system of internal fiscal control in accordance with generally accepted accounting practices. Internal fiscal control comprises the plan of organization and all of the coordinated methods and measures adopted within an organization to safeguard its assets, check the adequacy and the reliability of its accounting data, promote operating efficiency, assure adherence to prescribed management policies, and properly account for income and expenses.

13.11. CONTRACTOR agrees that, should ATN determine that CONTRACTOR's record keeping, reporting techniques, or data collection are inadequate to allow for effective monitoring and evaluation of the program, ATN shall have the right to demand whatever method it deems adequate to correct such deficiencies in matters pertaining to performance under this Agreement.

13.12. The Cost to correct insufficient record keeping, reporting techniques, or data collection will be borne by CONTRACTOR.

13.13. Financial reports required to be prepared and submitted by CONTRACTOR to ATN shall be accurate in all respects. Should inaccurate reports be submitted to ATN, ATN may require CONTRACTOR to secure the services of a licensed accounting firm. The cost of such accounting services shall be borne by CONTRACTOR.

13.14. Records shall be maintained in accordance with requirements prescribed by ATN with respect to all matters covered by any subcontract. Such records shall be retained within Orange County for a period of five (5) years, unless authorization to remove them is granted in writing by ATN.

13.15. Expenditures pertaining to subcontractors shall be supported by properly executed documents evidencing in detail the nature of each expense.

13.16. At such time and in such forms as ATN may require, there shall be furnished to ATN such statements, records, reports, data, and information as ATN may request pertaining to matters covered by any subcontract.

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

13.18. The provisions of this Section 13 are in addition to any other provisions contained in the Agreement regarding the audit and inspection of CONTRACTOR's records.

14. EMPLOYEE STANDARDS AND REQUIREMENTS

14.1. Employee Turnover. ATN recognizes the expense and negative effect of employee turnover. Therefore, CONTRACTOR must demonstrate they have an acceptable recruitment and hiring program that is intended to minimize employee turnover and retain a high quality work force.

14.2. Personnel Policies. CONTRACTOR shall have personnel policies in effect that conform to all state and federal laws including, but not limited to, all regulations concerning Equal Employment Opportunities, FTA Drug and Alcohol Regulations, Compensation, Worker's Compensation, and other regulations as appropriate.

14.3. CONTRACTOR shall maintain at all times a current list of personnel assigned to ATN'S contract and provide ATN with an updated employee list each month and when otherwise requested.

14.4. Weapons. When working under ATN'S contract, employees may not have weapons in their possession or on ATN property or vehicles.

14.5. Use of Electronics/Entertainment Devices.

14.5.1. For the safety of the Fleet Operator and the safety of our passengers, CONTRACTOR shall not allow any operator to use any entertainment device while in service.

14.5.2. ATN has a zero tolerance policy for the use of a cell phone while operating a revenue service vehicle, with the exception of verified emergency situations. CONTRACTOR must also adopt a zero tolerance policy and shall describe their procedure for training employees in this policy.

14.6. Alcohol and Illegal Substances. Purchasing or consuming illegal substances or alcoholic beverages while in a company uniform shall not be allowed. It shall be CONTRACTOR'S responsibility to terminate any employee observed doing so. The policies for addressing such incidents should be included in CONTRACTOR'S Drug and Alcohol Policies. CONTRACTOR'S Drug and Alcohol Policies must also comply with FTA Drug and Alcohol Regulations.

14.7. Designated Smoking Areas. ATN promotes and supports a smoke free work environment. There is no smoking allowed in ATN vehicles or anywhere in ATN facilities. ATN has designated smoking areas at the facility. CONTRACTOR staff must observe such restrictions.

14.8. Inappropriate Behavior. ATN has a zero tolerance policy for inappropriate and unsafe behavior. CONTRACTOR'S personnel policies must clearly address how inappropriate and unsafe situations shall be handled. CONTRACTOR must also adopt a zero tolerance policy and shall describe their procedure for training employees in this policy.

14.9. Customer Comments. Any customer comments received directly by CONTRACTOR must be referred to ATN'S Customer Relations staff for proper handling. Should CONTRACTOR receive notification from other than ATN that an employee is allegedly involved in a criminal activity including inappropriate behavior; CONTRACTOR shall notify ATN'S Project Manager immediately.

14.10. Personnel Management. CONTRACTOR'S personnel policies shall include a mechanism for administering required progressive corrective action and discipline to address any occurrence where staff performance does not conform with established ATN and/or CONTRACTOR service standards. ATN retains the right to review and comment on CONTRACTOR'S personnel policies and the list of personnel assigned to ATN'S contract.

14.11. Removal of Employees.

14.11.1. ATN may require that any employee be removed from the project for excessive complaints, preventable accidents, or inappropriate behavior. ATN has a zero tolerance policy with regard to misconduct or inappropriate behavior. If an allegation of this nature is received, CONTRACTOR shall remove the employee from the project immediately pending investigation and resolution of the allegation to ATN'S satisfaction.

14.11.2. Any employee receiving three or more valid customer complaints within a consecutive 90-day period may be subject to a thirty (30) day probation period. During this period, ATN shall evaluate whether the employee is suitable for the project.

14.11.3. ATN shall notify CONTRACTOR, in writing, of any employee determined unsuitable. Within 24 hours of receipt of such notice, CONTRACTOR shall, at its sole discretion, permanently remove the employee from the project or present to ATN a plan for correcting the employee's performance deficiencies. If ATN rejects the plan or the employee's performance

deficiencies are not corrected to ATN'S satisfaction, CONTRACTOR shall be instructed to immediately remove the employee from the project.

14.12. Dress and Appearance Standard.

14.12.1. ATN shall provide a uniform to be worn by all Fleet Operators when operating a vehicle in ATN service. It is CONTRACTOR'S responsibility to see that Fleet Operator uniforms remain in good repair, and do not appear old or worn out. Uniforms that are not in good repair must be replaced.

14.12.2. Fleet Operators shall be required to follow the grooming and appearance standards established by ATN:

Uniforms - Only Company authorized uniforms are permitted while on duty.

- a. ART Uniform Shirt – Should be clean, neat, pressed and in good repair and not faded
- b. Shirts must be tucked in at all times. Drivers who wish to wear shirts un-tucked must have shirts professionally cropped
- c. Dark blue or Black trousers or slacks – Should be clean, neat, pressed and in good repair
- d. No shorts are permitted
- e. No sagging or baggy pants
- f. Black Tie should be clean, neat, pressed and in good repair.
- g. Black or dark blue belt
- h. Black leather shoes or boots (polished)
- i. Black or dark blue socks/hosiery. No ankle socks
- j. Belt Buckle must be no more than 2 inches wide
- k. Company issued ID must be worn at all times

Personal Hygiene

- a. Due to working in close proximity with passengers and other ART Operators it is required that Operators use antiperspirant and/or deodorant
- b. Wear only mildly scented fragrance products. Strong or heavy scented products are prohibited

Hair

- a. Hair color is to be natural looking, no extreme colors or styles including bi-level or spiked styles.
- b. Do not bleach the tips of your hair
- c. Males: hair is to be cut above the collar and ears and if necessary neatly pulled back. Neatly trimmed mustaches and beards are acceptable
- d. Hair is to be neatly combed. Confine hair that is below shoulder length so that it does not fall forward over the face. Hair accessories are to be neutral color or a solid color matching the uniform

Makeup

Makeup should be natural looking and complimentary to the skin tone

Fingernails

- a. Keep fingernails clean, trimmed and presentable
- b. Fingernails should be kept no longer than ¼" past the fingertip. Nail color should be conservative. Don't wear nail polish with the exception of clear polish for manicured nails

Contact Lenses

- a. Colored or tinted contact lenses must be natural looking
- b. Decorative or unnatural color lenses that are distracting are not permitted

Tattoos

- a. ALL TATTOOS are to be CONCEALED
- b. ART Operators who have visible tattoos on arms must wear long sleeve shirts
- c. ART Operators who have visible tattoos on neck, face or other exposed body part(s) must cover all visible tattoos.

Sunglasses

- a. Frames are to be conservative style. No extreme shapes
- b. Frames should be silver, gold, bronze tortoise shell, black or brown in color
- c. No mirrored lenses. Wear lenses that are a neutral color – lenses that allow the eye to be seen easily

- d. Eyes/vision is to be unobstructed

Jewelry

- a. Jewelry is to be kept to a minimum
- b. Necklaces, bracelets and ankle bracelets are not permitted
- c. Only one ring per hand (with the exception of wedding sets). No thumb rings
- d. Wear earrings that are a simple matched pair. Hoop and/or dangle earrings are not permitted. Only one earring is to be worn in each ear
- e. Body piercings are not permitted (except one pair of earring). No plugs or bandages to cover piercings

Shoes

- a. Only specified uniforms shoes are permitted
- b. Black or dark blue sock/Hosiery only

Cell Phones

Personal cell phones are to be off and concealed from sight at all times. Company issued cell phones are permitted when there is a business need. Cell phones cannot be used while on duty

14.13. Operator Tools. ATN provides all necessary operating equipment to the Operators. Operator equipment shall include manifests (trip sheets), clipboards and pencils/pens. Operators are required to take good care of equipment CONTRACTOR is required to provide Operators with an operable and accurate time piece.

14.14. The following items must be in the Operator's possession while operating an ATN fleet vehicle:

- a. Valid Commercial Operator License
- b. Passenger transport endorsement
- c. Valid Verification of Transit Training (VTT) certificate
- d. Valid medical certificate
- e. ATN system map
- f. Risk Management Report Kit
- g. Completed Daily Vehicle Inspection Report (DVIR)

- h. Detour information (as required)
- i. Riders' Alerts (as required)
- j. Accurate time piece
- k. ID Badge

15. FLEET VEHICLES - GENERAL REQUIREMENTS

15.1. The fleet vehicles shall not be used on any other service other than that specified by this Agreement without specific written authority from ATN.

15.2. It is ATN's intention to operate the electric vehicles as Anaheim Resort transportation vehicles. Should ATN decide to deploy electric buses in its operations, at a future date, the CONTRACTOR shall fully cooperate with the ATN to facilitate full deployment, implementation, staff training, reporting, and operations.

15.3. Only ATN approved exterior advertising is permitted on fleet vehicles. The exterior appearance of the vehicles will be coordinated by ATN. In no event shall CONTRACTOR be required by obligations to third parties to affix such advertising as would place CONTRACTOR in default of this Agreement.

15.4. At the end of each day, CONTRACTOR shall return to ATN all fleet vehicles and other equipment to ATN premises.

16. REPORTS

16.1. The Operations Manager, in accordance with the established reporting schedule, will prepare data reports to be submitted promptly to ATN. Electronic access to the reports, i.e. via an email system, is acceptable to ATN.

16.2. A Monthly Service Evaluation Report shall be submitted to ATN within ten (10) working days after end the end of each month summarizing key service quality measures. This report shall be prepared by CONTRACTOR and shall be consistent with the information contained in other operating reports, which are also required by ATN.

16.3. Missed Trip/Incident Report.

16.3.1. A weekly Missed Trip/Incident Report shall be transmitted to ATN.

16.3.2. A monthly Summary of Missed Trips/Incident Reports shall be also submitted to ATN within ten (10) working days after the end of each month, which summarizes the information provided on the daily reports during each month.

16.4. A Daily Pre-Trip Inspection shall be completed by an operations supervisor and transmitted to ATN at the beginning of service each day. This report ensures an agreement between

supervisors and drivers that vehicles have been cleaned and checked for normal safety items (e.g., lights, tires, wind shield wipers, brake system, glass, body, paint, etc.).

16.5. An accident report shall be transmitted to ATN within 24 hours of each accident involving a contracted vehicle. Any major accident involving injuries or significant damage to vehicles shall be immediately reported (regardless of hour or day) through direct person-to-person contact, by telephone or by facsimile, following written summary of the accident/incident. It is imperative that CONTRACTOR contact ATN immediately about any major accident/incident. If any service is missed as a result of the accident, a Missed Trip/Incident Report must also be completed and submitted to ATN within 24 hours.

16.6. A passenger Complaint Report shall be completed for each complaint received concerning ART services. This report shall be completed by CONTRACTOR regardless of whether the complaint (written or oral) was received directly by CONTRACTOR, or was forwarded to CONTRACTOR by ATN or a third party. A copy of each passenger complaint form shall be submitted to ATN within 24 hours of receipt by CONTRACTOR.

CONTRACTOR is required to monitor and document the on-time performance of each service vehicle. CONTRACTOR shall require that all drivers immediately report to dispatch each time they fall behind schedule (at a minimum, one-half the headway or ten (10) minutes late, whichever is less).

16.7. CONTRACTOR is required to provide data consistent with and necessary for the submission of the annual report as required by the Federal Transit Administration's National Transit Database ("NTD") Section 5307 Program, as currently constituted and as amended from time to time.

17. DESCRIPTION OF SERVICES AND SERVICE AREA

17.1. ART services will be composed of a series of routes that allow riders to circulate throughout the designated ART services area. All participating business establishments in the Anaheim Resort must be accessible via one of the ART routes. ATN shall have final authority to set routes and stops for the ART services. ATN shall authorize all routes and stops in writing. CONTRACTOR shall not issue, publish, or release in any way route maps or stop locations that have not been authorized by ATN.

17.2. ATN will provide to CONTRACTOR a level of service in the form of monthly work orders ("Level of Service") that are designed to meet the ridership needs identified by ATN from month to month. ATN shall have final authority to establish the Level of Service for the ART services. CONTRACTOR shall not issue, publish or release in any way Level of Service standards that have not been authorized by ATN.

17.3. CONTRACTOR will work with ATN to the extent changes are needed in routes, stops, or the level of service.

17.4. ATN's Anaheim Resort Transportation (ART) service is provided 365 days per year in geographic areas of the City of Anaheim known as The Anaheim Resort® and the Platinum Triangle™, as well as in certain areas of the cities of Santa Ana, Orange, Garden Grove and Buena Park. The service areas are depicted on the map located at Exhibit 1. Typical operations are scheduled based on the operating hours for the destinations service by ART such as:

Disneyland® Resort
Anaheim Convention Center
Anaheim Stadium
Honda Center
The Shops at GardenWalk

Knott's Berry Farm
MainPlace Mall
The Outlets at Orange
Lodging Establishments (a total of 65)
City of Anaheim Metrolink Commuter Rail Stations

17.5. Future service expansions for ART services to the City of Huntington Beach are anticipated in early 2014. Anticipated RVH hours provided above include potential additional RVH for these services. Current ART services are comprised of three (3) specific, yet, related operating service delivery methods described below.

Anaheim Resort Transportation – Core Service – Routes 1 – 12

ART Core Services, Routes 1 through 12, operate 365 days per year on a fixed route system on a 20-minute headway schedule. One fleet vehicle is assigned to each route for operation from approximately 7 a.m. till 12 midnight. To meet fluctuation in demand for service, special events and other external functions, ATN assigns anywhere from two (2) to seven (7) floater fleet vehicles to assist with operations.

Anaheim Resort Transportation – Fixed Route – Routes 14 – 19

ART's traditional fixed route service is represented by Routes 14 through 19. Fixed routes are operated 365 days per year on a fixed operating schedule, not headway schedule. Route 17 operates Monday through Friday, excluding holidays. Operating schedules are developed by ATN and may be adjusted every six (6) months, in consultation with CONTRACTOR.

Anaheim Resort Transportation – Downtown Circulator – Route 20

Route 20, or Downtown Circulator, is provided by ATN to connect Anaheim Resort area's parking locations with the primary destinations of The Anaheim Resort™. This service is provided 365 days per year and operations are continuous on a pre-designated route and schedule is based on the operating hours of The Disneyland® Resort District.

ATN's fixed route system provides service on a set schedule with designated stops. These routes may have smaller passenger loads and utilize smaller vehicles. Some routes operate in areas that cannot be served with full-size transit coaches and others may operate seasonally. ATN routes operate 365 days, with hours of operation from approximately 7:00 a.m. and 12:00 a.m.

Service changes shall occur two (2) times a year, in March and October. If CONTRACTOR elects to conduct operator's bids, they shall concur with ATN changes unless otherwise authorized by ATN. Route schedules are developed and distributed by ATN. ATN shall provide CONTRACTOR with schedules and headways for each route, showing all trips, time points, stops, layovers, total scheduled revenue miles and hours, and total layover hours. New paddles and route summary information shall be distributed each time there is a service change. Route of line sheets (ROLS) or turn-by-turn directions are distributed when there is a change in routing, deadheading instructions, or general information. CONTRACTOR may make recommendations on run cutting and look for opportunities to interline and

provide other scheduling support as necessary to ensure efficient fleet utilization with minimum deadhead movement. ATN shall provide public schedules, and route maps at each service change.

17.6. Service Levels. The number of annual RVHs on December 1, 2016, will be approximately 130,000. During the first year of the contract, ATN is planning to add route assignments and RVH during the regularly scheduled service changes. Service for all routes will be scheduled by ATN and provided to CONTRACTOR for operation. Three months of actual operating data for all ART routes are attached.

18. FARES

18.1 ATN shall determine and set all fares. CONTRACTOR shall enforce ATN’S fare policies and ensure that fares recorded are consistent with ATN’S policy as documented in ATN’S fare matrix. ATN staff shall provide at least a thirty (30) day notice of any change to ATN’S fare policy and will coordinate such changes with CONTRACTOR.

Fares for Service

One-way Cash Fare – Each boarding	\$3.00
One-way Cash Fare -- Each boarding Seniors (65 & over) and persons with disabilities	\$1.00
One-way Cash Fare -- Each boarding Children 3-9	\$1.00
One-way Cash Fare -- Each boarding Children 3 and under	Free
1-Day Pass - Unlimited use on all local routes (Until 02:59 A.M.)	\$5.00
3-Day Pass - Unlimited use on all local routes (Until 02:59 A.M.)	\$12.00
5-Day Pass - Unlimited use on all local routes (Until 02:59 A.M.)	\$20.00
Metrolink Ticket	Free

18.2. Fare Procedures. ATN shall provide CONTRACTOR with GFI fareboxes for all revenue service vehicles. CONTRACTOR shall not put any fleet vehicle into service or provide service without an operational GFI Farebox. ATN shall maintain these fareboxes throughout the term of the Agreement including preventive maintenance and all repairs.

18.3 CONTRACTOR shall follow all fare collection procedures of ATN. ATN shall be responsible for providing fare collection training to all CONTRACTOR’s staff. CONTRACTOR shall enforce all ATN’s Fare Collection practices and procedures.

18.4 CONTRACTOR shall provide:

- a. Monitor Fleet Operators to ensure that they follow ATN procedures

- b. Use tripsheets provided by ATN weekly if, and only if, a GFI farebox is experiencing difficulties or becomes non-functional

18.5 CONTRACTOR shall provide access to its personnel by ATN's training staff for training all Operators on proper GFI farebox usage and maintaining the unclassified revenue percentage to ATN's standards. All cash fares shall be deposited into GFI farebox and will be collected by ATN staff.

19. MONTHLY DATA COLLECTION AND REPORTING

19.1. CONTRACTOR must develop and implement tools and data reconciliation policies and processes that will assure integrity of the reporting data.

19.2. CONTRACTOR shall prepare and submit daily and monthly operating reports as indicated below. Monthly operating reports are to be submitted to ATN, with the monthly service invoice(s) on or before the 10th business day of the following month, by 16:59 pm Failure to submit reports as required by ATN shall result in liquidated damages of \$100 per day per report.

19.3. Monthly Run Level Detail Report and Service Summary. The Run Level Detail Report is to document daily, by run, the service date, run number, employee ID number, employee first name, employee last name, vehicle number, driver name, run pull out time, run pull out odometer, run start time, run start odometer reading, lunch start time, lunch end time, end of run time, end of run odometer, run pull in time, run pull in odometer, total hours, total miles, revenue vehicle hours, total deadhead hours and vehicle miles and missed service.

19.4. National Transit Data (NTD) Base Reporting. The Federal Transit Administration requires public transit fleet operators to annually report specified operating, performance and vehicle data as a condition of receipt of federal funding. CONTRACTOR will be required to assist ATN in the collection and development of the required NTD base reports. It is the intent of ATN to provide 100% reporting.

19.5. Employee Data. CONTRACTOR must provide a monthly summary (count) of employees by position and status (full-time/part time).

19.6. Safety and Security Reports. CONTRACTOR must report all safety and security related incidents as required by FTA on a monthly basis.

19.7. Monthly Accident Summary. CONTRACTOR shall submit a summary of all accidents and incidents that occurred during the month on an Accident and Incident Log. ATN uses TransTrack database system. CONTRACTOR shall be provided with access to the database and shall be responsible for all required ATN reporting functions.

20. INSPECTIONS

20.1. All work to be performed by CONTRACTOR hereunder (which shall include all services performed, material furnished or utilized in the performance of services) shall be subject to inspection and review by ATN to the extent practicable at all times and places during the term of this Agreement. All inspections by ATN shall be made in such a manner as to not unduly delay that work. ATN shall have the right to enter any area of the Facility used by CONTRACTOR for the purpose of inspecting and auditing all data and records which pertain to CONTRACTOR's work.

20.2. If any CONTRACTOR work is not performed in conformity with the requirements of this Agreement, ATN shall have the right to require CONTRACTOR to perform that work again in conformity with such requirements at no increase in the total due under the Agreement. When the work is of such a nature that the defect cannot be corrected by re-performing that work, ATN shall have the right to: (1) require CONTRACTOR to immediately take all necessary steps to ensure future performance in conformity with the requirements of the Agreement; and (2) reduce the compensation level to CONTRACTOR to reflect the reduced value of the work performed. In the event CONTRACTOR fails to promptly perform again or take necessary steps to ensure future performance in conformity with the requirements of this Agreement, ATN shall have the right to have the work performed by a third party and charge CONTRACTOR (by offset or otherwise) for any and all costs or expenses incurred by ATN that are directly related to the performance of such work, or terminate the Agreement as provided in Section 21.

20.3. Red Tagged Vehicles. If, in the opinion of ATN, the vehicle does not meet ATN safety standards, it may be "red tagged." A vehicle that has been "red tagged" shall not go into service.

20.4. Daily Pre-Op Inspection, Defect Report Cards. Each Operator shall inspect vehicles daily before pulling out of the yard in accordance with state requirements. If there are any defects, the Operator must enter the defects on a Defect Report Card (or some similar CONTRACTOR provided document) as required by the California Vehicle Code. If there are no defects, the Operator must sign and date the Defect Report Card prior to leaving the yard. Defect Report Cards shall remain with the vehicle for the duration of the day and shall be replaced on a daily basis. Vehicles with Defect Report Cards showing defects must be inspected and appropriate action taken on items noted on the card before vehicle returns to revenue service.

20.5. CHP Terminal Inspections. Every 12 months, a portion of the fleet shall be randomly selected by the California Highway Patrol (CHP) for inspection as part of their annual terminal inspection. ATN will be responsible for all repairs made in preparation for the inspection as well as those identified by the CHP inspection. ATN shall ensure that vehicles used in the service of this Agreement meet all applicable State and Federal safety requirements. CONTRACTOR shall be responsible for the preparation of personnel files, Coach Operator records and logbooks that may be requested during the inspection. In the event CONTRACTOR'S records are found in an unsatisfactory condition by the CHP, ATN will impose liquidated damages as follows:

1st unsatisfactory CHP finding	\$5,000
2nd unsatisfactory CHP finding	\$10,000
3rd unsatisfactory CHP finding	Termination of agreement for cause

21. OPERATING PERFORMANCE PENALTIES

21.1. During the term of this Agreement, ATN may, at its discretion, adjust standards, incentives and penalties to ensure and encourage increased efficiency and improved performance of services.

21.2. ATN shall have the right to monitor the services provided by CONTRACTOR in order to assess CONTRACTOR's performance in delivering its services hereunder. The monitoring activities shall

include, but not be limited to, a review and analysis of fleet vehicle cleanliness, completed vehicle trips, on-time submission of reports, and driver safe operations of each vehicle.

21.3. Assessment of Penalties. Before assessing penalties, ATN shall use the following procedure:

- a. ATN shall notify the CONTRACTOR of its intent to assess a penalty or incentive in writing within thirty (30) days of occurrence. No penalty may be assessed if timely written notice is not given to CONTRACTOR.
- b. The CONTRACTOR shall be given an opportunity to demonstrate that it could not reasonably have prevented the failure. Failures caused by actions of ATN staff, natural disasters, or extreme and unusual weather or traffic conditions shall be considered not preventable. Any such claim must be supported by adequate documentation provided by the CONTRACTOR. If ATN determines that the failure was not preventable, then the penalty shall be waived.
- c. ATN'S decision to waive the assessment of any penalty shall in no way affect ATN'S right or intent to assess a penalty for a similar failure in the future and shall in no way affect the CONTRACTOR's obligation to meet the associated performance standard. Continued non-performance by the CONTRACTOR and/or serious violation of service standards may result in assessment of penalties up to and including termination of contract. Penalties and liquidated damages are provided in Table 1.

21.4. Notwithstanding the above, the parties agree that no penalties will be assessed for the first one hundred twenty (120) days of this Agreement in Table 1 Penalties and Liquidated Damages. Furthermore, the parties agree that no penalties for "Failure to have adequate personnel available for service 15 minutes prior to service commencement" and "Missed Trips" as found in Table 1 Penalties and Liquidated Damages shall be assessed for such period of time that the driver starting wage is below \$15.00 per hour. In the event the starting wage increases to \$15.00 per hour at any time during the term of this Agreement, ATN may then start assessing the penalty for "Failure to have adequate personnel available for service 15 minutes prior to service commencement" and "Missed Trips" as found in Table 1 Penalties and Liquidated Damages ninety calendar (90) days after the driver starting wage increases to \$15.00 per hour.

21.5. All performance penalties assessed against CONTRACTOR will be deducted (offset) from the monthly payment due CONTRACTOR. That deduction or offset will normally be applied by ATN no later than 90 days following the month in which the performance penalty relates, although there may be occasions where additional time is reasonably needed such as where the circumstances giving rise to the performance penalty are not known to ATN. CONTRACTOR shall receive written notice of ATN's intent to assess performance penalties and will be provided an opportunity to present a written response thereto within (ten) days after receipt of written notice. Circumstances beyond the control of CONTRACTOR, causing CONTRACTOR to fail to comply with any stated performance requirement, will be considered as just cause and may result in no performance penalties.

22. MAINTENANCE PERFORMANCE RESPONSIBILITIES

22.1. ATN shall maintain all responsibility of a comprehensive maintenance program for all ATN owned vehicles. ATN shall provide all fuel for its compressed natural gas (CNG), liquefied propane gas (LPG) and liquefied natural gas (LNG) revenue vehicles assigned for operation under this contract. Should ATN deploy any other fuel types to its fleet, ATN shall be responsible for fuel provision. CONTRACTOR should be aware of fuel usage and other factors and shall exercise restraint and efficiency in all fuel operations and consumption.

22.2. Non-Revenue Vehicles. ATN shall provide an adequate number of non-revenue vehicles for CONTRACTOR's personnel. ATN shall perform maintenance and supply fuel for all non-revenue vehicles at no cost to CONTRACTOR.

22.3. Accident Repairs. Damaged vehicles due to accidents shall be promptly reported. All repairs will be done by ATN and billed against CONTRACTOR. Consistent with ATN'S standards, vehicles with body damage other than minor scratches shall not be released for operation until repairs have been completed.

22.4. Vehicle Communication and Fare Collection Equipment. ATN shall maintain all internal electronic, fare collection, voice annunciation, GPS/AVL and radio equipment.

22.5. CONTRACTOR shall be responsible for any damage caused by Operator negligence of any internal equipment. CONTRACTOR is responsible for operating equipment in a safe and proper manner. In the case of a repair resulting from Operator Negligence, ATN shall perform the repairs and deduct the cost of the repair from the most current unpaid invoice received from CONTRACTOR. Alternatively, with prior written approval from ATN, CONTRACTOR may be permitted to perform the repairs at their expense. Any repairs so undertaken shall be performed to ATN'S satisfaction. If said repairs are not performed to ATN'S satisfaction, ATN reserves the right to perform the corrective repairs and deduct the cost from the most current unpaid invoice received from CONTRACTOR. Whether to allow CONTRACTOR to self- perform any repair shall be evaluated on a case-by-case basis and only allowed with written advanced approval from ATN. Documentation in the form of a repair orders shall be generated for all maintenance and repairs performed. Repairs orders shall be maintained in the vehicle history file and made readily available if necessary.

22.6. Video Surveillance System (VSS). CONTRACTOR shall be responsible for the maintenance of the vehicle's on-board Video Surveillance System, such as DriveCam, or a compatible system. ATN may, if requested by the CONTRACTOR, maintain said equipment and bill CONTRACTOR for rendered maintenance services.

22.7. Fueling. The vehicles assigned for operation under this Agreement will be supplied with fuel and fueled by ATN. From time to time, CONTRACTOR's personnel maybe required to fuel vehicles. ATN will provide training shall CONTRACTOR need to perform this function

22.8. Engine Idling. ATN vehicles shall not idle for more than five minutes maximum to comply with State regulations. Unnecessary idling causes excess fuel consumption, shortened engine life and contributes to air pollution. Engines may be operated to supply heat or air conditioning necessary for passenger comfort and safety, in which case idling up to a maximum of 30 minutes is allowed. CONTRACTOR is responsible for all fines for violating State or County engine idling regulations.

22.9. Road Calls. In the event of a vehicle failure while in service, CONTRACTOR shall immediately contact ATN's dispatcher on duty to make arrangements to replace the failed vehicle to ensure the continuation of service. CONTRACTOR shall develop a plan that results in minimal service disruption to ensure service and on-time performance. The failed vehicle will be removed from the breakdown area by ATN. The Road Call Report or similar document shall be used and recorded in ATN TransTrack database.

22.10. Parking Facilities. The facility is designed to provide 40 employee parking stalls including designated handicap and carpooling stalls. Fleet parking will accommodate 44 revenue service vehicles. CONTRACTOR shall ensure that its personnel keeps parking areas shall be free of debris and trash. Trash receptacles shall be provided in selected areas to provide drivers a means to dispose of trash from ATN and their personal vehicles. Because of space constraints, it is CONTRACTOR's responsibility to limit the employee parking space assignments, encourage rideshare arrangements, and to discourage long term parking. Vehicles parked for over two weeks without written approval shall be subject to towing and vehicle owner shall be responsible for all cost.

23. TRANSITION TO SUBSEQUENT CONTRACTOR

23.1. CONTRACTOR must cooperatively participate in the transition of this service to a new CONTRACTOR if necessary. No less than sixty (60) days prior to a new CONTRACTOR starting, participation is necessary in meetings, transfer of records, access to property, access to equipment and other areas as deemed necessary by ATN'S contract administrator.

23.2. A transition period is defined as the sixty to ninety (60-90) day period prior to the expiration or termination of this Agreement. CONTRACTOR shall participate in the smooth transition of service to a new provider in such a manner as to ensure the transition results in minimum service disruption to the ART services.

23.3. During the transition phase, ATN staff shall conduct several meetings with CONTRACTOR and the new provider to discuss specific project, records and vehicle transition events and the period in which they must occur. As requested by ATN, CONTRACTOR must make pertinent records accessible to both ATN and new provider within three (3) days of ATN's request.

23.4. ATN-owned property and facilities shall be subject to a transition inspection and acceptance upon transition to a new provider.

**TABLE 1
PENALTIES & LIQUIDATED DAMAGES**

Category	Standard	Penalty	Comment
On Time Performance (OTP)	Depart from time points between zero minutes early and 5 minutes late 95% of the time	\$1,000 for each full percentage point below 95% on time	OTP will be measured utilizing report information generated from ATN's AVL system
Valid Complaints	No more than one(1) valid complaint per four (4) thousand passengers each month (as reported on the Monthly Customer Feedback of ATN's TransTrack Reporting System)	\$200 for each valid complaint over one per four (4) thousand passengers	Calculated as <i>monthly passengers</i> x 0.00025 = allowed v. comments before penalty
Accident	Every accident	\$1,000 per accident not timely reported	Penalty is calculated monthly
Accident Report	Report within 24 hours by verbal & written reporting	\$5,000 per accident not timely reported	Penalty is calculated monthly
Key Positions	Contractor shall fill all Key Positions as defined within the Scope of Work	Deduct salary and benefits plus \$200 per day, plus benefits, for each position unfilled beyond 30 days	Penalty is calculated monthly
Terminal Inspections	Meet CHP requirements	\$25,000 for each occurrence of failing a terminal inspection, "unsatisfactory" (U rating)	Based on the annual or any interim CHP Terminal Inspection
Reports	Contractor shall submit reports on time, as outlined within the RFP	\$100 per day for each late report	Penalty is calculated monthly
Vehicle Damage	ATN-owned equipment shall be free of accident or other damage	Cost of repairs	Cost of repairs is calculated at time of incident
Missed Trip	No scheduled trips are to be missed	\$500 per occurrence	Penalty is calculated monthly
Unsafe Operation of a vehicle		\$1,000 per vehicle	Penalty is calculated monthly
Report of Discourteous or Rude Driver Behavior		\$200 per occurrence	Penalty is calculated monthly
Failure to Comply with Federal and/or State Disability Laws	Every incident	\$1,000 per occurrence	Penalty is calculated monthly
Failure to have adequate personnel available for service 15 minutes prior to service commencement		\$200 per occurrence	Penalty is calculated monthly

REQUIRED FORMS

CIVIL RIGHTS REQUIREMENTS

Company Name: Transdev Services, Inc. ("Contractor")

Hereby certifies that:

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

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

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

(b) Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. Section 623 and Federal transit law at 49 U.S.C. Section 5332, Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, Contractor agrees to comply with any implementing requirements FTA may issue.

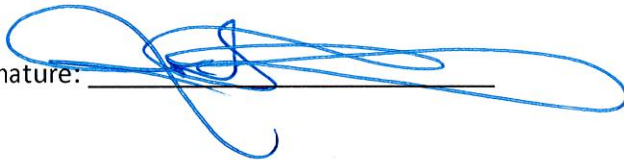
(c) Disabilities- In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. Section 12112, Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, Contractor agrees to comply with any implementing requirements FTA may issue.

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

I am authorized to make this verification on behalf of Contractor. The statements in the foregoing document are true of my own knowledge, except as to matters which are therein stated on information and belief, and as those matters I believe them to be true. I declare under the penalty of perjury that the foregoing is true and correct.

Executed on 1/3/17 at Lombard, Illinois
Date City

Signature: _____



Print Name: Michael C. Murray

Title: President Transit

CERTIFICATE OF COMPLIANCE WITH BYRD ANTI-LOBBYING AMENDMENT

I, hereby certify on behalf of Transdev Services, Inc. ("Contractor") that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions as amended by "Government wide Guidance for New Restrictions on Lobbying, 61 CFR 1413.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including sub-contracts, sub-grants, Contracts under grants, loans, and cooperative agreements) which exceed \$100,000 and that all such sub-recipients shall certify and disclose accordingly.

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

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

Certificate of Non-Compliance

Contractor hereby certifies that it cannot comply with the requirements of 49 U.S.C. Section 5323U(2)(C) and Section 165(b)(3) of the Surface Transportation Assistance Act of 1982, as amended, but may qualify for an exception to the requirements consistent with 49 U.S.C. Sections 5323U(2)(B) or (j)(2)(D), Sections 165(b)(2) or (b)(4) of the Surface Transportation Assistance Act, as amended, and regulations in 49 C.F.R. 661.7.

Executed on 1/3/17 at Lombard, Illinois
Date City

Signature:  Print Name: Michael C. Murray

Title: President Transit

STATE OF CALIFORNIA DRUG FREE WORKPLACE CERTIFICATION

Company/Organization Name: Transdev Services, Inc. ("Contractor")

Contractor named above hereby certifies compliance with U.S. DOT regulations 49 CFR Part 29, Subpart F and Government Code Section 8355 in matters relating to providing a drug-free workplace. The above named Contractor or grant recipient will:

1. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations of the prohibition.
2. Establish an on-going Drug-Free Awareness Program as required to inform employees about all the following:
 - (a) The dangers of drug abuse in the workplace,
 - (b) The person's or organization's policy of maintaining a drug-free workplace,
 - (c) Any available drug counseling, rehabilitation, and employee assistance Programs,
 - (d) Penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.
3. Every employee who works on the proposed contract or grant will receive a copy of the company's drug-free policy statement.
4. Notify each employee that as a condition of employment financed with Federal assistance provided in the proposed contract, the employee will be required to:
 - (a) Abide by the terms of the company's policy statement, and
 - (b) Notify the employer (Contractor) in writing of any conviction for a violation of a criminal drug statute occurring in the workplace no later than five (5) calendar days after that conviction.
5. Notify FTA in writing, within in ten (10) calendar days after receiving notice required by paragraph 4 (ii) from an employee or otherwise receiving actual notice of that conviction. Contractor, as employer of any convicted employee, must provide notice, including position title, to every project officer or other designee on whose project activity the convicted employee was working. Notice shall include the identification number(s) of each affected vehicle and related equipment and accessories.
6. Taking one of the following actions within thirty (30) calendar days of receiving notice under paragraph 4 (b) with respect to any employee who is convicted:

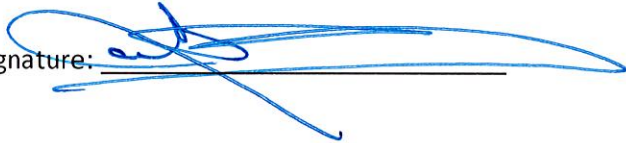
- (a) Taking appropriate personnel action against that employee, up to an including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended, or
- (b) Requiring the employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency; and
- (c) Making a good faith effort to continue to maintain a drug-free workplace through implementation of Paragraph 1,2,3,4,5, and 6 of this certification. Contractor agrees to maintain a list identifying its headquarters location and each workplace it maintains in which activities provided by this contract are conducted, and make that list readily accessible to the State Department of Transportation.

CERTIFICATION

I, the official named below, hereby swear that I am duly authorized legally to bind Contractor or grant recipient to the above-described certification. I am fully aware that this certification executed on the date and in the county below, is made under penalty of perjury under the laws of the State of California.

Executed on 1/3/17 at Lombard, California
Date City

Signature: _____



Print Name: Michael C. Murray

Title: President Transit

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY
EXCLUSION LOWER TIER COVERED TRANSACTIONS**

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

INSTRUCTIONS FOR CERTIFICATION

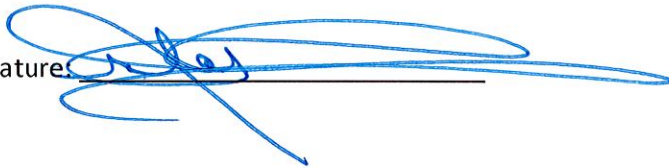
1. By signing and submitting this certification, the prospective recipient of Federal assistance funds is providing the certification as set out below.
2. The certification in this class is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective recipient of Federal assistance funds knowingly rendered an erroneous certification, in addition to other remedies available to procuring agency, the Federal Government, and/or the Department of Labor (DOL) may pursue available remedies, including suspension and/or debarment.
3. The prospective recipient of Federal assistance funds shall provide immediate written notice to the person to whom this certification is submitted if at any time the prospective recipient of Federal assistance funds learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded", as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549.
5. The prospective recipient of Federal assistance funds agrees by submitting this certification that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by DOL.
6. The prospective recipient of Federal assistance funds further agrees by submitting this certification that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligible and Voluntary Exclusion - Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may but is not required to check the List of Parties Excluded from Procurement or Non-procurement Programs.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government; the DOL may pursue available remedies, including suspension and/or debarment.

By signing below and submitting this certification, Contractor certifies as follows: (1) The lower tier participant certifies, by submission of this certification, that neither it, nor its principals as defined at 49 CFR Part 29.995 or affiliates, as defined by 49CFR 29.905, are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction as defined by 49 CFR 29.904, or by any Federal department or agency. (2) When the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this certification.

Executed on 1/3/17 at Lombard, California
Date City

Signature: _____



Print Name: Michael C. Murray

Title: President Transit

CERTIFICATE OF DISADVANTAGED BUSINESS ENTERPRISE ("DBE")

Company/Organization Name: Transdev Services, Inc. ("Contractor")
hereby certifies, under the penalty of perjury, that the following is true and correct as of the date of this
Certificate:

He or she or it is a for profit business concern:

- a. That is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals;
- b. Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it; and
- c. Has been certified as Disadvantaged in accordance with Title 49 CFR, Part 26 by a certifying member agency of the California Unified Certification Program.

Date: 1/3/17

Signature: 

Company: Transdev Services, Inc.

Name: Michael C. Murray

Title: President Transit

CERTIFICATE OF COMPLIANCE WITH BUY AMERICA REQUIREMENTS

Company/Organization Name: Transdev Services, Inc. ("Contractor")
hereby certifies that it will comply with the requirements of 49 U.S.C. 5323(j)(1), and the applicable regulations in 49 CFR part 661.

Date: 1/3/17

Signature: 

Company: Transdev Services, Inc.

Name: Michael C. Murray

Title: President Transit

CERTIFICATE OF NON-COMPLIANCE WITH BUY AMERICA REQUIREMENTS

Contractor hereby certifies that it cannot comply with the requirements of 49 U.S.C. 5323(j), but it may qualify for an exception to the requirement pursuant to 49 U.S.C. 5323(j)(2), as amended, and the applicable regulations in 49 CFR 661.7.

Date: _____

Signature: _____

Company: _____

Name: _____

Title: _____

CERTIFICATE OF COMPLIANCE WITH BUY AMERICA ROLLING STOCK REQUIREMENTS

Contractor hereby certifies that it will comply with the requirements of 49 U.S.C. 5323(j), and the applicable regulations of 49 CFR 661.11.

Date: 1/3/17

Signature: 

Company: Transdev Services, Inc.

Name: Michael C. Murray

Title: President Transit

CERTIFICATE OF NON-COMPLIANCE WITH BUY AMERICA ROLLING STOCK REQUIREMENTS

Contractor hereby certifies that it cannot comply with the requirements of 49 U.S.C. 5323(j), but it may qualify for an exception to the requirement pursuant to 49 U.S.C. 5323(j)(2)(C), and the applicable regulations in 49 CFR 661.7.

Date: _____

Signature: _____

Company: _____

Name: _____

Title: _____

MUTUAL EARLY TERMINATION, SETTLEMENT AND MUTUAL RELEASE AGREEMENT

THIS TERMINATION, SETTLEMENT, AND EARLY MUTUAL RELEASE AGREEMENT (the "Agreement") is made and entered into May 22, 2019, effective as of 11:59 p.m. August 31, 2019 (the "Effective Date"), by and between Anaheim Transportation Network, a California nonprofit public benefit corporation ("ATN") and Transdev Services, Inc., a Maryland corporation ("Contractor"). Collectively "ATN" and "Contractor" as the "Parties."

RECITALS

WHEREAS, ATN and Contractor entered into that certain Operation of Anaheim Resort Transportation Service Agreement dated January 3, 2017 and effective December 1, 2016 (the "Operations Agreement");

WHEREAS, ATN and Contractor wish to terminate the Operations Agreement early, settle any and all claims, disputes, and differences related to the Operations Agreement, and mutually release one another from any and all current or future liability arising from the Operations Agreement as provided below.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual promises, covenants, representations and warranties set forth herein, and for other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto agree as follows:

1. **Settlement Terms.**

a. **Performance through Effective Date.** Contractor agrees to continue providing services in accordance with the Operations Agreement through the Effective Date, and ATN agrees to pay for Contractor's services through the Effective Date. The mutual release below is contingent upon Contractor continuing to perform the services in good faith according to the Operations Agreement and the modifications to the Operations Agreement contained in this Agreement. Other than the obligations and terms of mutual termination under this Agreement, ATN and Contractor shall have no further obligations to each other under the Operations Agreement after the Effective Date.

b. **Contractor's Responsibilities After Effective Date.** After the Effective Date, Contractor shall not be responsible for any accrual of sick leave, vacation, floating holiday, holiday or any other form of PTO balances. Contractor shall remain liable for all amounts due at the Effective End Date of the contract under California law for terminated employees.

c. **Request for Proposal.** ATN shall issue a Request for Proposals to solicit a new contractor. This procurement document will be released within a reasonable time after the execution of this Agreement with the new contractor assuming operations of ART system in-around the Effective Date, allowing for this early termination of the Operations Agreement.

d. Shutdown/Transition Cost. ATN shall not to make any claim for any shutdown costs, transition costs, RFP cost, or any claim against Contractor's performance bond under Section 26 – Bonding Requirements of the Operations Agreement.

e. Additional Contractor Costs. Transdev shall continue to fill shifts and communicate no later than 48 hours prior with ATN any shifts/runs that cannot be covered. To the extent necessary, but in no case more than undergoing now in the normal and ordinary course of business, ATN shall hire additional contractors necessary to cover unfilled shifts/runs, with ATN paying directly the cost any additional contractor cost (e.g., National Tours, PCA, etc.).

f. Wage Order (WO) 9 Penalties. ATN agrees to accept responsibility for any WO9 penalties that is a result of a documented incident of an ATN dispatcher adjusting a driver's schedule or as a result of ATN not abiding by runcut provided and recommended by Transdev from April 15, 2019 to the Effective Date. ATN agrees to reimburse Transdev for any such penalty, lawsuits and/or settlements.

g. Insurance. ATN shall provide Transdev proof of primary general liability/ auto liability insurance either through ATN's policies or that of the additional contractor, for any time an additional contractor's employees are operating the vehicles. Transdev shall be added as an additional insured to any insurance provided by an additional contractor or ATN.

h. Indemnification and Liability. ATN shall indemnify, protect, defend, and hold Transdev Services, Inc., Transdev North America, Inc., and the Funding Entity and their respective directors, officers, agents, employees, volunteers, Board Members and the successors and assigns of each (referred to collectively and individually as "Indemnitees") harmless from and against all claims, actions, suits, proceedings, costs, expenses, damages, injuries, death, and liabilities, including legal expenses and reasonable attorney's fees, and to pay and satisfy any judgments of any kind or nature whatsoever, imposed upon, incurred by, or asserted against Indemnitees by any person, persons, or entity arising out of the use of the vehicles by any subcontractor hired by ATN.

i. Additional Contractor Staffing. ATN agrees that any additional contractor shall not utilize drivers that Transdev has previously terminated and/or considers a safety risk.

j. Monthly Invoices. Transdev invoices shall be paid within 30 days of invoice/backup documentation being received and approved by ATN after any revisions necessary to correct errors in the initial submission by Transdev. ATN shall notify Transdev of any revisions necessary within 10 business days of receipt of invoice/backup documentation. If ATN does not pay within 30 days of the revised submission, Transdev shall have the ability to charge interest on any unpaid invoices at 18% per annum.

k. Liquidated Damages. ATN agrees to the suspension of all liquidated damages (Section 21-Operating Performance Penalties) from April 15, 2019 forward, until the end of the Effective Date, provided Contractor shall still be responsible for any damage caused by

operator negligence in operating any internal equipment and for operating all equipment in a safe and proper manner as per Section 22.5 and Table 1 of the Operations Agreement.

l. Unreported Damages. Transdev will be notified in writing within 1 business day of when ATN staff is made aware of any unreported damage claims/charges that may be levied against Transdev. Transdev local staff and ATN staff shall work together on damage/incident investigation to determine how/who may have led to such damage, and the Parties shall work to seek mutually agreeable quotes to repair said damage.

m. Parking Lot. ATN shall repair any parking lot issues brought forth by Transdev in writing. As of first date that ATN was notified of parking lot concern, ATN shall be responsible for all repairs to the parking lot and any damage caused to the vehicles by the parking lot which is proven to be a direct result of the parking lot condition and no other cause.

n. Recruitment of Transdev Staff. ATN shall not recruit any Transdev employees through the Effective Date.

o. Separation/Release of Claims Payment. In executing this Agreement, and in exchange for the early termination and release of all claims, ATN agrees to pay Transdev on or before the Effective Date the sum of \$200,000.

p. Additional items. Any other items, such as proper use of VDS, safety concerns, etc. shall be further discussed and mutually agreed upon by the Parties.

2. Mutual General Release. Except for the continuing obligations set forth in this Agreement, and except for the respective rights, duties, and obligations of Contractor with respect to the indemnification duties to ATN, as provided for within Section 28 of the Operations Agreement, which such rights, duties and obligations shall remain in full force and effect until their expiration as provided for within the Operations Agreement, upon the Effective Date under the Operations Agreement, each party hereby irrevocably and unconditionally releases and discharges the other party, and its officers, directors, partners, affiliates, employees, principals, contractors, and attorneys, from any and all rights, claims, complaints, actions and/or causes of action, losses, debts, demands, acts, agreements, liabilities, obligations, damages, costs, and expenses, including attorneys' fees, of any nature whatsoever, both at law and equity, known or unknown, that either party now has or may claim to have with respect to the Operations Agreement. This section does not apply to and Contractor specifically reserve the right to bring any claim it may now have and/or may develop in the future for any Wage Order 9 violation, penalties, lawsuits and/or settlement that arise/arose from an ATN dispatcher adjusting a driver's schedule or as a result of ARN not abiding by a solution/plan provided and recommended by Transdev.

3. Assignability. ATN shall have the right to assign the remaining portion of the Operations Agreement. After the Effective Date, Contractor shall have no obligations, responsibilities, duties, exposure, liability or otherwise have any connection with the Operations Agreement, ATN or any contractor that ATN may assign the Operations Agreement to.

4. Section 1542 Waiver. To the extent necessary to give full effect to the limited mutual release set forth in Paragraph 3 above, the Parties acknowledge that they are familiar with California Civil Code §1542, which provides as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

Each party executing this Agreement hereby waives the provisions of this Section 1542 of the California Civil Code and the provisions of any other applicable laws restricting the release of claims which the releasing parties do not know or suspect to exist at the time of the release, which, if known, would have materially affected their decision to grant the releases and waivers.

5. Representations and Warranties. The Parties represent and warrant to each other as follows:

a. Each party has received, or has had the opportunity to receive, independent legal advice from its attorneys with respect to the advisability of making the settlement provided for herein.

b. Each party has carefully read this Agreement and understands the contents and legal effects of each provision hereof, including the releases contained herein.

c. Each party hereby represents and warrants to the other parties hereto that it is the sole and lawful owner of all right, title and interest in and to every claim released herein and that it has the right and authority to enter into this Agreement.

6. No Admission of Liability. Each party understands and acknowledges that this Agreement constitutes a compromise and settlement of any and all actual or potential disputed claims between them. No action taken by any party hereto, either previously or in connection with this Agreement, shall be deemed or construed to be an admission of the truth or falsity of any actual or potential claims or an acknowledgment or admission by any party of any fault or liability whatsoever to the other party or to any third party.

7. No Pending Claims. ATN represents and warrants that it has not filed any complaints, charges or lawsuits against the Contractor with any governmental agency or any court. Contractor represents and warrants that it has not filed any complaints, charges or lawsuits against ATN with any governmental agency or any court.

8. No Assignment of Claims. The Parties represent and warrant that they have not heretofore assigned or otherwise transferred or subrogated, or purported to assign, transfer, or subrogate, to any person or entity, claim, or portion thereof or interest therein they may have against the other party.

9. Further Acts. The Parties, without further consideration, shall execute and deliver such other documents and take such other action as may be necessary to achieve the objectives of this Agreement.

10. Joint Participation in Preparation of Agreement. Each party has had the opportunity to revise, comment upon, and redraft this Agreement. Accordingly, it is agreed that no rule of construction shall apply against any party or in favor of any party. This Agreement shall be construed as if the parties jointly prepared this Agreement, and any uncertainty or ambiguity shall not be interpreted against any one party and in favor of the other.

11. Binding Effect of Agreement. This Agreement shall be binding upon the parties and upon their respective heirs, administrators, representatives, executors, successors, and assigns, and shall inure to the benefit of the releasees, and to each of their respective spouses, heirs, administrators, representatives, executors, successors, assigns, and related entities.

12. Entire Agreement. This Agreement sets forth the entire agreement between the parties, and fully supersedes any and all prior or contemporaneous agreements or understandings between the parties hereto pertaining to the subject matter of this Agreement. This Agreement may not be modified, waived, rescinded, or amended in any manner except by a writing and executed by all parties to the Agreement that clearly and specifically modifies, waives, rescinds, or amends this Agreement.

13. Severability. The provisions of this Agreement are severable, in whole or in part, and if any part of it is found to be unenforceable, the other parts shall remain fully valid and enforceable.

14. Attorneys' Fees and Costs to Enforce This Agreement. If any act is necessary to enforce or interpret the terms of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees and costs in addition to any other relief to which that party may be entitled.

15. Governing Law. This Agreement shall be construed in accordance with and be governed by the laws of the State of California. Any action arising out of this Agreement shall be filed in the Superior Court of Orange County, California, and the Parties agree to submit to the jurisdiction and venue of that court.

16. Counterparts. This Agreement may be executed in one or more duplicates or counterparts, any one of which shall be deemed to be the original.

17. Section Headings. Section headings in this Agreement are included herein for convenience of reference only and shall not constitute a part of this Agreement for any other purpose.

18. Authority. Each person who signs this Agreement represents and warrants that he/she has the authority to sign the agreement on behalf of the party on whose behalf he/she is

signing the Agreement, is acting within the course and scope of such authority in executing this Agreement, and that this Agreement shall be binding on said party.

IN WITNESS HEREOF, the Parties have approved and executed this Agreement on the date first set forth above.

ATN:

Anaheim Transportation Network



By: _____
Diana Kotler, Executive Director

CONTRACTOR:

Transdev Services, Inc.

By: _____
Michael Setzer, President of Transit