

RESOLUTION NO. R-2020-105

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF HOLLYWOOD, FLORIDA, APPROVING AND AUTHORIZING THE APPROPRIATE CITY OFFICIALS TO RENEW THE AGREEMENT WITH CIRCUIT TRANSIT INC., FORMALLY KNOWN AS THE FREE RIDE, FOR CIRCULATOR SERVICES UNDER THE SAME TERMS AND CONDITIONS IN AN ESTIMATED ANNUAL AMOUNT OF \$885,360.00.

WHEREAS, on October 17, 2018, City Commission passed and adopted Resolution No. R-2018-335, authorizing the execution of an agreement with Free Ride, now known as Circuit Transit Inc. ("Circuit"), for circulator services to and from Downtown Hollywood, Hollywood Beach, and the City's parking garages; and;

WHEREAS, the current agreement expired on March 4, 2020, but included the option to renew for three one year periods upon mutual agreement of the parties; and

WHEREAS, due to the current state of events relating to the COVID-19 virus, the City Manager, pursuant to Section 38.48(B) of the Purchasing Code, extended the current agreement for operational purposes for a period of 90 days, which brings the agreement date to June 4, 2020; and

WHEREAS, the parties desire to renew the existing agreement under the same terms and conditions for a one year period, which retroactively will commence on March 5, 2020 and expire on March 4, 2021; and

WHEREAS, on September 4, 2019, the Community Redevelopment Agency Board ("CRA") passed and adopted Resolution No. R-CRA-2019-38, approving and authorizing funding payments for cost sharing of the related transportation services; and

WHEREAS, Circuit continues to provide satisfactory services for circulator efforts to residents and tourists, as well as providing essential services during the COVID-19 pandemic; and

WHEREAS, as established in 2019, the circulator services are jointly funded by the CRA and the City; and

WHEREAS, funding for this effort will be distributed as follows: CRA will contribute 2/3rd of costs from account numbers 163.638504.55200.548060.000000.000.000 and 166.668602.55200.548060.000000.000.000, and the City will contribute the remaining 1/3 of the costs, which will be split between the Parking Fund in account number

446.150101.54500.531170.000000.000.000 and the Gas Tax Fund in account number 336.140201.54100.531170.000000.000.000; and

WHEREAS, the CRA will seek approval for its contribution amount through the CRA Board.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF HOLLYWOOD, FLORIDA:

Section 1: That the foregoing "WHEREAS" clauses are ratified and confirmed as being true and correct and are incorporated in this Resolution.


Section 2: That it authorizes and approves the renewal of the Professional Services Contract for Circulator Services commencing on March 5, 2020 through March 4, 2021 with Circuit Transit Inc., under the same terms and conditions of the Agreement.

Section 3: That this Resolution shall be in full force and effect immediately upon its passage and adoption.

PASSED AND ADOPTED this 20 day of May, 2020.

  
\_\_\_\_\_  
JOSH LEVY, MAYOR

ATTEST

  
\_\_\_\_\_  
PATRICIA A. CERNY, MMC  
CITY CLERK

APPROVED AS TO FORM AND LEGAL  
SUFFICIENCY for the use and reliance of  
the City of Hollywood, Florida, only.

  
\_\_\_\_\_  
DOUGLAS R. GONZALES  
CITY ATTORNEY

RESOLUTION NO. R-CRA-2020 18

A RESOLUTION OF THE HOLLYWOOD, FLORIDA COMMUNITY REDEVELOPMENT AGENCY ("CRA"), APPROVING THE RENEWAL OF THE AGREEMENT FOR CIRCULATOR SERVICES WITH CIRCUIT TRANSIT INC., FORMERLY KNOWN AS THE FREE RIDE, AS WELL AS FUNDING FOR SUCH SERVICES IN AN ESTIMATED ANNUAL AMOUNT OF \$590,240.00.

WHEREAS, on October 17, 2018, the City Commission passed and adopted Resolution No. R-2018-335, authorizing the execution of an agreement with Free Ride, now known as Circuit Transit Inc. ("Circuit"), for circulator services to and from Downtown Hollywood, Hollywood Beach, and the City's parking garages; and

WHEREAS, on September 4, 2019, the Community Redevelopment Agency ("CRA") passed and adopted Resolution No. R-CRA-2019-38, authorizing 2/3 of the cost of circulator services to be paid for by the CRA, with the City paying the remaining 1/3 of the cost; and

WHEREAS, the total estimated annual cost of circulator services is \$885,360.00; and

WHEREAS, the current agreement expired on March 4, 2020, but included the option to renew for three one year periods upon mutual agreement of the parties; and

WHEREAS, the parties desire to renew the existing agreement under the same terms and conditions for a one year period, which retroactively will commence on March 5, 2020 and will expire on March 4, 2021; and

WHEREAS, funding for this Project will continue to be shared jointly by the CRA and the City; and

WHEREAS, funding for the CRA's portion of this expenditure (\$590,240.00) is available in account numbers 163.638504.55200.548060.000000.000.000 and 166.668602.55200.548060.000000.000.000.

NOW, THEREFORE, BE IT RESOLVED BY THE HOLLYWOOD, FLORIDA COMMUNITY REDEVELOPMENT AGENCY:

Section 1: That the foregoing "WHEREAS" clauses are ratified and confirmed as being true and correct and are incorporated in this Resolution.

Section 2: That it approves and authorizes the renewal of the agreement with Circuit, as well as the CRA's portion of the funding for the circulator services in the amount of \$590,240.00, subject to such non-material changes deemed appropriate by the Executive Director of the CRA and approved as to legal sufficiency by the Board's General Counsel..

Section 3: That this Resolution shall be in full force and effect immediately upon its passage and adoption.

PASSED AND ADOPTED this 20<sup>th</sup> day of May, 2020.

ATTEST:

HOLLYWOOD, FLORIDA COMMUNITY  
REDEVELOPMENT AGENCY



PHYLLIS LEWIS, BOARD SECRETARY

  
JOSH LEVY, CHAIR

APPROVED AS TO FORM AND LEGAL  
SUFFICIENCY for the use and reliance  
of the Hollywood, Florida Community  
Redevelopment Agency only.

  
DOUGLAS R. GONZALES  
GENERAL COUNSEL

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RESOLUTION NO. R-CRA-2019-38

A RESOLUTION OF THE HOLLYWOOD, FLORIDA, COMMUNITY REDEVELOPMENT AGENCY ("CRA"), AUTHORIZING THE PAYMENT OF FEES TO CIRCUIT TRANSIT INC., FORMERLY KNOWN AS THE FREE RIDE, TO PROVIDE CIRCULATOR SERVICES IN AN ESTIMATED ANNUAL AMOUNT OF \$593,191.20; PROVIDING FOR A TOTAL ESTIMATED ANNUAL COST OF \$885,360.00 TO BE SHARED BY THE CRA AND THE CITY OF HOLLYWOOD.

WHEREAS, the City of Hollywood ("City") required circulator services to provide residents and tourists with alternative transportation to and from Downtown Hollywood, Hollywood Beach, and the City's parking garages; and

WHEREAS, on March 3, 2018, RFP No. 4579-18-PB was posted on Bidsync in accordance with the City's Purchasing Ordinance, and resulted in responses from six proposers; and

WHEREAS, after all responses were evaluated, Circuit Transit Inc., formerly known as The Free Ride, was determined to be the highest ranking firm to provide circulator services; and

WHEREAS, on October 17, 2018, via Resolution R-2018-335, the City Commission authorized the appropriate City officials to negotiate and execute an agreement with Circuit Transit Inc.; and

WHEREAS, the total estimated annual cost of \$885,360.00 for the service is to be jointly funded by the CRA (2/3<sup>rd</sup>) and City (1/3<sup>rd</sup>); and

WHEREAS, funding for the CRA's portion of this expenditure (\$593,191.20) is available in account numbers 163.638504.55200.548060.000000.000.000 and 166.668602.55200.548060.000000.000.000.

NOW, THEREFORE, BE IT RESOLVED BY THE HOLLYWOOD, FLORIDA COMMUNITY REDEVELOPMENT AGENCY:

Section 1: That the foregoing "WHEREAS" clauses are ratified and confirmed as being true and correct and are incorporated in this Resolution.


Section 2: That it approves and authorizes the payment, by the appropriate CRA officials, of fees, pursuant to the attached agreement between the City and Circuit Transit Inc. for circulator services, in an estimated amount of \$593,191.20.

A RESOLUTION AUTHORIZING THE PAYMENT OF FEES TO CIRCUIT TRANSIT INC., FORMERLY KNOWN AS THE FREE RIDE TO PROVIDE CIRCULATOR SERVICES IN AN ESTIMATED ANNUAL AMOUNT OF \$593,191.20.

Section 3: That this Resolution shall be in full force and in effect immediately upon its passage and adoption.

PASSED AND ADOPTED this 4<sup>th</sup> day of September, 2019.

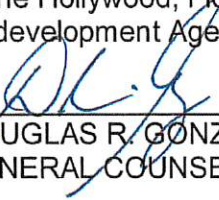
ATTEST:

  
\_\_\_\_\_  
PHYLLIS LEWIS  
BOARD SECRETARY

HOLLYWOOD, FLORIDA  
COMMUNITY REDEVELOPMENT  
AGENCY

  
\_\_\_\_\_  
JOSH LEVY, CHAIR

APPROVED AS TO FORM AND LEGAL  
SUFFICIENCY for the use and reliance  
of the Hollywood, Florida Community  
Redevelopment Agency only.

  
\_\_\_\_\_  
DOUGLAS R. GONZALES  
GENERAL COUNSEL

AT

10/17/18

**PROFESSIONAL SERVICES CONTRACT  
FOR OPERATION OF DOWNTOWN CIRCULATOR**

THIS CONTRACT is being entered into this 14 day of MARCH, 2019 (hereinafter the "Effective Date"), by and between the CITY OF Hollywood (hereinafter the "City"), a municipal corporation of the State of Florida and TFR Transit Inc., a/k/a The Free Ride (hereinafter the "Company"), [a corporation organized and existing under the laws of the State of Florida], [a partnership consisting of \_\_\_\_\_], [an individual doing business as \_\_\_\_\_], of the City of \_\_\_\_\_, in the State of \_\_\_\_\_, [a limited liability company] having its principal office at insert address.

**SECTION A – Contract Overview**

**A-1 Summary of Contract**

- (a) The subject matter of this Contract is to provide the vehicles, operate and manage a circulator service in the Service Areas as defined in Exhibit "C" and RFP No. 4579-18-PB. This Contract along with the City's RFP No. 4579-18-PB and the Company's proposal sets forth the terms and conditions for the performance of services described herein, and the execution hereof by the parties hereto forms a legally binding contract. In the event of a conflict, the City's RFP Documents shall prevail unless otherwise stated in this Contract.
- (b) The Contract type is. This is a Non-Exclusive Contract.
- (c) The following documents are hereby incorporated into this Contract:
  - (i) Exhibit "A" - City's RFP No. 4579-18-PB
  - (ii) Attachment 1 to Exhibit "A"- Additional Scope of Work
  - (iii) Exhibit "B" - The Free Ride Company's Proposal/Oral Presentation
  - (iv) Attachment 1 to Exhibit "B"- Certificate Disclosure of Ownership/Principals
  - (v) Exhibit "C" - Service Areas and Routes
  - (vi) Exhibit "D"- Pricing
  - (vii) Exhibit "E"- Revenue Sharing

**A-2 Contract Amount**

The Contract Amount shall not exceed \$885,000 USD for the performance period. The pricing allocation for the circulator services are based upon the breakdown set forth in Exhibit "D". The cost for all items as quoted shall remain firm for the first term of the contract. Subsequently, Cost Adjustments for the Contract shall be as set forth in Exhibit "A" Section 1.70 and/or Pricing Revisions for the Contract shall be set forth in section C-3 "Pricing Revisions" herein.

**A-3 Performance Period**

- (a) The performance period commences from the Effective Date plus 120 days and continues through March 4, 2020. This Agreement may be renewed by the parties for three one year periods upon mutual agreement of the parties and said renewal shall be in writing in accordance with Section D of this Contract.

**SECTION B – Statement of Work**

**B-1 Scope of Work**

Services will be provided in accordance with the Scope of Work set forth in Exhibits "A", "B" and Attachment 1 to Exhibit "A".

## SECTION C - Special Conditions

### C-1 Project Manager/Company Representative

- (a) The City designates the City Engineer as the Project Manager for this Contract. The City will provide written notice to the Company should there be a subsequent Project Manager change. The Project Manager will be the Company's principal point of contact at the City regarding any matters relating to this Contract, will provide all general direction to the Company regarding Contract performance, and will provide guidance regarding the City's goals and policies. The Project Manager is not authorized to waive or modify any material scope of work changes or terms of the Contract.
- (b) The Company designates James Mirras as the Company Representative for this Contract. The Company will provide written notice to the City should there be a subsequent Company Representative change. The City has the right to assume that the Company Representative has full authority to act for the Company on all matters arising under or relating to this Contract.

### C-2 Pricing and Payment

- (a) Payment. Payment to the Company will be made only for the actual Services performed upon receipt of an invoice submitted in accordance with Section C-4, "Invoices".
- (b) The City will pay the Company in accordance with the pricing set forth in "Exhibit D - Pricing" to this Contract.
- (c) Reimbursable Travel Expenses. There are no reimbursable travel expenses payable under this Contract.

### C-3 Pricing Revisions

- (a) After the initial term, any pricing revisions to the pricing rates set forth in Exhibit "D" will require an amendment to the Contract and shall be based upon the reasons below:
- Change in minimum wage
  - Approved decision for types of vehicles
  - Approved decision to add additional vehicles
  - Approved decision to add service hours

The parties hereby agree that the contract price is based upon the number of service hours, the number of vehicles and the number of days of operation for the service, whereby the total Contract Amount will be based upon these factors.

- (b) Each pricing revision permitted herein may be approved in writing by the Project Manager and, if approved, shall become effective thirty (30) days after notice of the change has been received by the City, or on such earlier or later date as may be agreed upon by the parties. However, any pricing revision will be governed by the City's Purchasing Ordinance and dependent upon the revisions, City Commission approval may be required along with an amendment to the Contract.
- (c) Any pricing revision permitted pursuant to this section may be delayed or denied if the Company fails to submit a written request, or fails to provide adequate documentation in support thereof.

### C-4 Invoices

The Company will submit a detailed invoice to the City to be defined by Project Manager as negotiated with Company. Each Invoice shall contain the following information:

- (i) the date of the invoice and invoice number;
- (ii) the purchase order number;
- (iii) the Contract Item(s) against which charges are made; and,
- (iv) performance dates, number of vehicles, and hours of service covered by the invoice.



(v) service credits offered from advertising dollars received by the Company, along with documentation substantiating the service credits and revenue to be received by the City (i.e. - advertiser name, agreements etc.).

(vi) Invoices are to be emailed to [AccountsPayable@hollywoodfl.org](mailto:AccountsPayable@hollywoodfl.org)

Upon reconciliation of all errors, corrections, credits, and disputes, payment to the Company will be made in full within 45 calendar days in accordance with the Florida Prompt Payment Act. Invoices received without a valid purchase order number will be returned unpaid. The Company shall submit the original invoice to:

[AccountsPayable@hollywoodfl.org](mailto:AccountsPayable@hollywoodfl.org)

### **C-5 Insurance**

(a) The Company shall procure and maintain, at its own expense, during the entire term of the Contract, the below coverage(s). The below coverages shall supersede the insurance coverage limits set forth in Exhibit "A" only. All other requirements relating to insurance coverage shall adhere to the provisions in Exhibit "A" Section 1.56.

#### **General Liability**

General liability insurance to cover liability for bodily injury and property damage. Coverage must be written on an occurrence basis, with no less than the following limits of liability:

Each Occurrence	\$1,000,000
Personal & Adv. Injury	\$1,000,000
Products Comp/OP	\$1,000,000
General Aggregate	\$1,000,000

The City of Hollywood shall be named as an Additional Insured.

#### **Automobile Liability**

Coverage shall be for all owned, non-owned and hired vehicles with not less than the following limits:

Combined Single Limit: \$1,000,000

The City of Hollywood shall be named as an Additional Insured for the Automobile Liability Insurance.

#### **Workers Compensation**

Workers compensation insurance covering the contractor and the contractor's employees not less than the following limits:

Bodily Injury by Accident - \$100,000

Bodily Injury by Policy Limit - \$500,000

Bodily Injury by Employee - \$100,000

Company shall adhere to the insurance requirements as set forth in Exhibit "A" and submit certificates of insurance to:

City of Hollywood  
Procurement Services, Room # 303

2800 Hollywood Blvd  
PO Box 229045  
Hollywood, FL 33022-9045

A certified, true and exact copy of each of the project specific insurance policies (including renewal policies) required under this Section C-5 shall be provided to the City.

- (b) The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer and licensed by the State of Florida. Each insurance carrier's rating as shown in the latest A.M. Best's Key Rating Guide shall be fully disclosed and entered on the required certificate of insurance. The City requires insurance carriers to maintain A.M. Best's Key a minimum rating of A- VII. The adequacy of the insurance supplied by the Company, including the rating and financial health of each insurance carrier providing coverage, is subject to the approval of the City.
- (c) Any subcontractor or sub consultant approved by the City shall be required to procure, maintain and submit proof of insurance to the City of the same insurance requirements as specified above, and as required in this paragraph.
- (d) The Company is encouraged to purchase any additional insurance it deems necessary. However, the City reserves the right to require additional insurance in order to meet the full value of the Contract.
- (e) The Company is required to make its best efforts to remedy all injuries to persons and damage or loss to any property of the City caused in whole or in part by the Company, its subcontractors or anyone employed, directed or supervised by the Company.

#### **C-6 Warranty - Services**

The Company warrants that the services shall be performed in full conformity with this Contract and Exhibits "A" and "B", with the professional skill and care that would be exercised by those who perform similar services in the commercial marketplace, and in accordance with accepted industry practice. In the event of a breach of this warranty, or in the event of non-performance or failure of the Company to perform the services in accordance with this Contract, the Company shall, at no cost to the City, re-perform or perform the services so that the services conform to the warranty. However, if Company fails to perform, City may terminate this Agreement with or without cause consistent with Exhibit "A".

### **SECTION D - General Conditions**

#### **D-1 Legal Notice**

- (a) All legal notices required pursuant to the terms and conditions of this Contract shall be in writing, unless an emergency situation dictates otherwise. Any notice required to be given under the terms of this Contract shall be deemed to have been given when (i) received by the party to whom it is directed by hand delivery or personal service, (ii) transmitted by facsimile with confirmation of transmission, (iii) transmitted by email with confirmation of receipt by addressee, or (iv) sent by U.S. mail via certified mail-return receipt requested at the following addresses:

FOR THE CITY:

Project Manager, Luis Lopez  
City Engineer, Room 308  
2800 Hollywood Blvd.

Hollywood, FL 33020  
City of Hollywood  
Email: [llopez@hollywoodfl.org](mailto:llopez@hollywoodfl.org)

WITH A COPY TO:

City Attorney  
2800 Hollywood Blvd., Rm. 407  
Hollywood, FL 33020

FOR THE COMPANY:

Attn: James Mirras  
TFR Transit Inc  
777 S. Flagler Drive, Suite 800w  
West Palm Beach, FL 33401  
Fax: 631-725-8282  
Email: [gnlta@thefreeride.com](mailto:gnlta@thefreeride.com)

- (b) The parties shall provide written notification of any change in the information stated above.
- (c) An original signed copy, via U. S. Mail, shall follow facsimile transmissions.
- (d) For purposes of this Contract, legal notice shall be required for all matters involving potential termination actions, litigation, indemnification, and unresolved disputes. This does not preclude legal notice for any other actions having a material impact on the Contract.
- (e) Routine correspondence should be directed to the Buyer or the Company Representative, as appropriate.

**D-2 Notice of Delay**

- (a) If timely performance by the Company is jeopardized by the non-availability of City provided personnel, data, or equipment, the Company shall notify the City immediately in writing of the facts and circumstances causing such delay. Upon receipt of this notification, the City will advise the Company in writing of the action which will be taken to remedy the situation.
- (b) The Company shall advise the City in writing of an impending failure to meet established milestones or delivery dates based on the Company's failure to perform. Notice shall be provided as soon as the Company is aware of the situation; however, such notice shall not relieve the Company from any existing obligations regarding performance or delivery.

**D-3 Termination for Convenience**

This Contract shall be governed by the Termination for Convenience and Suspension of Work provision in Exhibit "A" Section 1.62. On the effective date of the termination, the Company shall terminate all work and take all reasonable actions to mitigate expenses. The Company shall submit a written request for incurred costs for services performed through the date of termination, and shall provide any substantiating documentation requested by the City. In the event of such termination, the City agrees to pay the Company within thirty (30) days after receipt of a correct, adequately documented written request. The City's sole liability under this Section is for payment of costs for services requested by the City and actually performed by the Company.

**D-4 Event of Default**

- (a) If, during the term of this Contract, the Company (i) fails to deliver services that comply with the specifications; (ii) fails to deliver the services within the time specified in this Contract including Exhibit "A" (iii) fails to make progress so as to endanger the performance of this Contract, (iv) becomes insolvent, bankrupt or makes an assignment for the benefit of creditors, or if a receiver or trustee in bankruptcy is appointed for the Company, or if any proceeding in bankruptcy, receivership, or liquidation is instituted against the Company and is not dismissed within 30 days following commencement thereof, or (v) fails to perform any of the other obligation or requirement of this Contract, then any of the aforementioned failures shall constitute an "Event of Default" under this Contract. Events of Default shall also include those items set forth in Exhibit "A" specifically Section 1.63.
- (b) If there occurs an Event of Default, the Company shall be entitled to 10 calendar days from written notice thereof to remedy the Event of Default; provided, however, such is capable of being remedied within that period. If the Event of Default

can be remedied, but the remedy cannot be completed within the 10 day period, the Company may be allowed such additional time as may be reasonably necessary to remedy the Event of Default, provided, however, the remedy is commenced within the 10 day period and is diligently pursued to completion. If the Event of Default is incapable of remediation, or is not remedied as required herein, the City may, in addition to any other remedies available in law or equity, invoke any of the remedies provided for under Section D-5, "Termination for Default", below and as set forth in Exhibit "A" Section 1.64.

#### **D-5 Termination for Default**

- (a) If the Event of Default is not remedied as required pursuant to Section D-4, "Event of Default", the City may, by written notice to the Company pursuant to Section D-1, "Legal Notice", terminate this Contract in whole or in part.
- (b) If this Contract is terminated in whole or in part because the Company has failed to provide services in compliance with the specifications by the deadline of remediation period, the City may acquire, under reasonable terms and in a manner it considers appropriate, replacement goods that are comparable to the services that the Company failed to deliver to the City, and the Company shall be liable to the City for any excess costs related thereto. If the City terminates this Contract only in part, the Company shall continue to perform the un-terminated obligations or portions of this Contract.
- (c) Force Majeure. This Contract shall be governed by the Force Majeure provision in Exhibit "A" Section 1.34.
- (d) The City retains the right to terminate for default immediately if the Company fails to maintain the required levels of insurance, fails to comply with applicable local, state, and Federal statutes governing performance of these services, or fails to comply with statutes involving health or safety.
- (e) In the event that City fails to perform any of its obligations under this Contract, the Company may terminate this Contract for cause if the City fails to cure any event of default within 90 days after written notice from the Company identifying the breach. Notice of termination shall be in accordance with the Notice provisions of this Contract.

#### **D-6 Limitation of Funding**

Company acknowledges that the obligation of City to pay Company is limited to the availability of funds appropriated in a current fiscal year period, and continuation of Contract into a subsequent fiscal year is subject to the appropriation of funds, unless otherwise authorized by law. The City reserves the right to reduce estimated or actual quantities, in whatever amount necessary, without prejudice or liability to the City, if funding is not available or if legal restrictions are placed upon the expenditure of monies for the services required under this Contract. In the event of a decrease or limitation in funding the Company reserves the right to reduce service levels or suspend service as needed. Limitation of Funding includes the provisions as set forth in Exhibit "A" Section 1.69.

#### **D-7 Changes – Service Area and Routes**

- (a) The City may at any time, by written modification to this Contract, make changes within the general scope of this Contract in any one or more of the following:
  - (i) Description of services to be performed.
  - (ii) Time of performance (i.e., hours of the day, days of the week, etc.).
  - (iii) Place of performance of the services.
- (b) The Company must assert its right to an adjustment under this clause within thirty (30) days from the date of receipt of the written modification

#### **D-8 Entire Contract, Section and Paragraph Headings**

- (a) This Contract, including all Exhibits, represents the entire and integrated agreement between the City and the Company. It supersedes all prior and contemporaneous communications, representations, and agreements, whether oral or written, relating to the subject matter of this Contract.

- (b) The section and paragraph headings appearing in this Contract are inserted for the purpose of convenience and ready reference. They do not purport to define, limit or extend the scope or intent of the language of the sections and paragraphs to which they pertain.

#### **D-9 Severability**

The invalidity, illegality, or unenforceability of any provision of this Contract or the occurrence of any event rendering any portion or provision of this Contract void shall in no way affect the validity or enforceability of any other portion or provision of this Contract. Any void provision shall be deemed severed from this Contract, and the balance of this Contract shall be construed and enforced as if this Contract did not contain the particular portion or provision held to be void. The parties further agree to amend this Contract to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this clause shall not prevent this entire Contract from being void should a provision which is of the essence of this Contract be determined void.

#### **D-10 Waiver**

Waiver of any of the terms of this Contract shall not be valid unless it is in writing signed by each party. The failure of the City to enforce any of the provisions of this Contract, or to require performance of any of the provisions herein, shall not in any way be construed as a waiver of such provisions or to affect the validity of any part of this Contract, or to affect the right of the City to thereafter enforce each and every provision of this Contract. Waiver of any breach of this Contract shall not be held to be a waiver of any other or subsequent breach of this Contract.

#### **D-11 Modification/Amendment**

This Contract shall not be modified or amended except by the express written agreement of the parties, signed by a duly authorized representative for each party. Any other attempt to modify or amend this Contract shall be null and void, and may not be relied upon by either party.

#### **D-12 Assignment**

Neither party may assign their rights nor delegate their duties under this Contract without the written consent of the other party. Such consent shall not be withheld unreasonably. Any assignment or delegation shall not relieve any party of its obligations under this Contract.

#### **D-13 Indemnification**

(a) In addition to the insurance requirements set forth in Section C-5, "Insurance", the Company shall protect, indemnify and hold harmless the City, its officers, employees, agents, and consultants (collectively herein the "City") from any and all claims, liabilities, damages, losses, suits, actions, decrees, and judgments including, attorney's fees, court costs or other expenses of any and every kind or character (collectively herein the "Liabilities") which may be recovered from or sought against the City, as a result of, by reason of, or as a consequence of, any act or omission, negligent or otherwise, on the part of the Company, its officers, employees, or agents in the performance of the terms, conditions and covenants of the Contract. This provision includes the indemnity requirements set forth in Exhibit "A", Section 1.46. The provisions and obligations under this section shall survive the expiration or earlier termination of this Contract. Nothing in this Contract shall be construed to affect in any way the City's rights, privileges, and immunities under the doctrine of "sovereign immunity" and as set forth in Section 768.28, Florida Statutes.

(b) It is expressly agreed that the Company shall defend the City against the Liabilities and in the event that the Company fails to do so, the City shall have the right, but not the obligation, to defend the same and to charge all direct and incidental costs, including attorney's fees and court costs, to the Company.

#### **D-14 Patent Indemnity**

The Company hereby indemnifies and shall defend and hold harmless the City and its representatives respectively from and against all claims, losses, costs, damages, and expenses, including attorney's fees, incurred by City and its representatives, respectively, as a result of or in connection with any claims or actions based upon infringement or alleged infringement of any patent and arising out of the use of the equipment or materials furnished under the contract by the Company, or out of the processes or actions employed by, or on behalf of the Company in connection with the performance of the Contract. The Company shall, at its sole expense, promptly defend against any such claim or action unless directed otherwise by the City or its representative; provided that the City or its representatives shall have notified the Company upon becoming aware of such claims or actions, and provided further that the Company's aforementioned obligations shall

not apply to equipment, materials, or processes furnished or specified by the City or its representatives. Said Patent Indemnity includes the provisions set forth in Exhibit "A", Section 1.47.

#### **D-15 Audit of Records**

- (a) In addition to the Audit requirements set forth below, the parties shall be governed by the Audit requirements set forth in Exhibit "A" Section 1.28. The Company agrees to maintain the financial books and records (including supporting documentation) pertaining to the performance of this Contract according to standard accounting principles and procedures. The books and records shall be maintained for a period of three years after completion of this Contract, except that books and records which are the subject of an audit finding shall be retained for three years after such finding has been resolved. If the Company goes out of business, the Company shall forward the books and records to the City to be retained by the City for the period of time required herein.
- (b) The City or its designated representative(s) shall have the right to inspect and audit (including the right to copy and/or transcribe) the books and records of the Company pertaining to the performance of this Contract during normal business hours. The City will provide prior written notice to the Company of the audit and inspection. If the books and records are not located within Broward County, the Company agrees to deliver them to the City, or to an address designated by the City within Broward County. In lieu of such delivery, the Company may elect to reimburse the City for the cost of travel (including transportation, lodging, meals and other related expenses) to inspect and audit the books and records at the Company's office. If the books and records provided to the City are incomplete, the Company agrees to remedy the deficiency after written notice thereof from the City, and to reimburse the City for any additional costs associated therewith including, without limitation, having to revisit the Company's office. The Company's failure to remedy the deficiency shall constitute a material breach of this Contract. The City shall be entitled to its costs and reasonable attorney fees in enforcing the provisions of this Section.
- (c) If at any time during the term of this Contract, or at any time after the expiration or termination of the Contract, the City or the City's designated representative(s) find the dollar liability is less than payments made by the City to the Company, the Company agrees that the difference shall be either: (i) repaid immediately by the Company to the City or (ii) at the City's option, credited against any future billings due the Company.

#### **D-16 Confidentiality - City Information**

- (a) The parties acknowledge that this Contract is subject to Chapter 119, Florida Statutes, entitled the "Public Records Act".
- (b) All information, including but not limited to, oral statements, computer files, databases, and other material or data supplied to the Company is confidential and privileged. The Company shall not disclose this information, nor allow it to be disclosed to any person or entity without the express prior written consent of the City. The Company shall have the right to use any such confidential information only for the purpose of providing the services under this Contract, unless the express prior, written consent of the City is obtained. Upon request by the City, the Company shall promptly return to the City all confidential information supplied by the City, together with all copies and extracts.
- (c) The confidentiality requirements shall not apply where (i) the information is, at the time of disclosure by the City, then in the public domain; (ii) the information is known to the Company prior to obtaining the same from the City; (iii) the information is obtained by the Company from a third party who did not receive the same directly or indirectly from the City; or (iv) the information is subpoenaed by court order or other legal process, but in such event, the Company shall notify the City. In such event the City, in its sole discretion, may seek to quash such demand.
- (d) The obligations of confidentiality shall survive the termination of this Contract.

#### **D-17 Marketing Restrictions**

The Company may not publish or sell any information from or about this Contract without the prior written consent of the City. This restriction does not apply to the use of the City's name in a general list of customers, so long as the list does not represent an express or implied endorsement of the Company or its services.

#### **D-18 Taxes/Compliance with Laws**

- (a) The Company, in the performance of the obligations of this Contract, shall comply with all applicable laws, rules and regulations of all governmental authorities having jurisdiction over the performance of this Contract including, but not limited to, the Federal Occupational Safety and Health Act.

#### **D-19 Licenses/Registrations**

During the entire performance period of this Contract, the Company shall maintain all federal, state, and local licenses, certifications and registrations applicable to the work performed under this Contract, including maintaining an active City of Hollywood business license if required.

#### **D-20 Non-Discrimination and Fair Employment Practices**

- (a) **Discrimination:** The City of Hollywood is committed to promoting full and equal business opportunity for all persons doing business in Hollywood. The Company acknowledges that the City has an obligation to ensure that public funds are not used to subsidize private discrimination. Company recognizes that if the Company or their subcontractors or subconsultants are found guilty by an appropriate authority of refusing to hire or do business with an individual or company due to reasons of race, color, religion, sex, sexual orientation, gender identity or expression, age, disability, national origin, or any other legally protected status; City may declare the Company in breach of contract and terminate Contract.
- (b) **Fair Employment Practices:** In connection with the performance of work under this Contract, the Company agrees not to discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, sexual orientation, gender identity or expression, age, disability, national origin, or any other legally protected status. Such agreement 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.
- (c) The Company further agrees to insert this provision in all subcontracts hereunder. Any violation of such provision by a Company shall constitute a material breach of this Contract.

#### **D-21 Employment of Unauthorized Aliens**

In accordance with the Immigration Reform and Control Act of 1986, the Company agrees that it will not employ unauthorized aliens in the performance of this Contract.

#### **D-22 Conforming Services**

The services performed under this Contract shall conform in all respects with the requirements set forth in this Contract. The Company shall furnish the City with sufficient data and information needed to determine if the services performed conform to all the requirements of this Contract.

#### **D-23 Independent Contractor**

In the performance of services under this Contract, the Company and any other person employed by it shall be deemed to be an independent contractor and not an agent or employee of the City. The Company shall be liable for the actions of any person, organization or corporation with which it subcontracts to fulfill this Contract. The City shall hold the Company as the sole responsible party for the performance of this Contract. The Company shall maintain complete control over its employees and all of its subcontractors. Nothing contained in this contract or any subcontract awarded by the Company shall create a partnership, joint venture or agency with the City. Neither party shall have the right to obligate or bind the other party in any manner to any third party.

#### **D-24 Official, Agent and Employees of the City Not Personally Liable**

It is agreed by and between the parties of this Contract, that in no event shall any official, officer, employee, or agent of the City in any way be personally liable or responsible for any covenant or agreement therein contained whether expressed or implied, nor for any statement, representation or warranty made herein or in any connection with this Contract.

#### **D-25 Public Records**

The City is a public agency as defined by state law and is governed by Chapter 119, Florida Statutes, "Public Records Act". The City's Records are public records, which are subject to inspection and copying by any person (unless declared by law to be confidential).

The following provisions are required by Section 119.0701, Florida Statutes, and may not be amended. Company shall comply with the public records law. Company shall keep and maintain public records required by the City in the performance of services under this Contract. Upon request from City's custodian of records, Company shall provide City with a copy of

any requested public records or to allow the requested public records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law. Company shall ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Contract's term and following completion of the Contract if Company does not transfer the public records to City. Upon completion of the Contract, Company shall transfer, at no cost, to City, all public records in its possession or keep and maintain public records required by City to perform the services required under this Contract. If Company transfers all of the public records to City upon completion of the Contract, Company shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If Company keeps and maintains public records upon completion of the Contract, Company shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the city's custodian of public records, in a format that is compatible with the information technology systems of the City.

**IF A PARTY TO THIS CONTRACT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO ITS DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT PATRICIA A. CERNY, CITY CLERK CUSTODIAN OF PUBLIC RECORDS AT (954)921-3211, PCERNY@HOLLYWOODFL.ORG, 2800 HOLLYWOOD BLVD., HOLLYWOOD, FLORIDA 33020 AND PAUL BASSAR, DIRECTOR OF PROCUREMENT AT (954)921-PBASSAR@HOLLYWOODFL.ORG.**

#### **D-26 Use By Other Government Entities**

A governing body or its authorized representative and the State of Florida may join or use the contracts of local governments located within or outside this State with the authorization of the contracting vendor. In the event the Company allows another governmental entity to join the Contract, it is expressly understood that the City shall in no way be liable for the obligations of the joining governmental entity.

**D-27 Governing Law.** This Contract shall be governed by the Governing Law provision in Exhibit "A" Section 1.42. Also, the parties waive the privilege of venue and agree that all litigation between them in the state courts shall take place Broward County, Florida and that all litigation between them in the federal courts shall take place in the Southern District of Florida.

#### **D-28 Counterpart Signatures**


This Contract may be executed in counterparts. All such counterparts will constitute the same contract and the signature of any party to any counterpart will be deemed a signature to, and may be appended to, any other counterpart. Executed copies hereof may be delivered by facsimile or e-mail and upon receipt will be deemed originals and binding upon the parties hereto, regardless of whether originals are delivered thereafter.

[THIS SPACE LEFT INTENTIONALLY BLANK]





IN WITNESS WHEREOF, the parties hereto have caused this Contract to be executed by their duly authorized representatives.

ATTEST

  
Patricia A. Cerny, MMC, City Clerk

Approved As To Form & Legal Sufficiency  
for the use and reliance of the City of Hollywood,  
Florida, only.

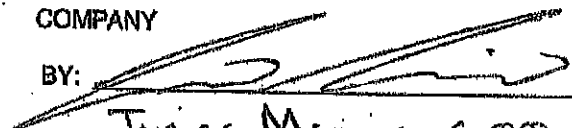
  
Douglas R. Gonzales, City Attorney 

CITY OF HOLLYWOOD, a municipal corporation  
of the State of Florida

BY:   
Josh Levy, Mayor

Approved By:   
Cintya Rablos, Director of  
Financial Services

COMPANY

BY:   
James Mirras, COO &  
Co-Founder

## ATTACHMENT 1 TO EXHIBIT "A" - ADDITIONAL SCOPE OF WORK

In accordance with the Scope of Work outlined in Exhibit "A", Company shall provide a year-round circulator transportation program for the service areas set forth in Exhibit "C" for the general public. This program may include supplementary services during special events requiring vehicles, personnel and resources of Company. The circulator services may also expand to other areas of the City pursuant to Exhibit "C" to support mobility options and reduction of traffic congestion as determined by the City and with consultation of the Hollywood Community Redevelopment Agency ("CRA").

The Company shall develop, implement and manage a circulator shuttle service in the service area identified in Exhibit "C". The circulator service will have the ability to be on demand and include a fixed route as specified in Exhibit "C".

The circulator service shall:

- Operate the approximate service area of Downtown Hollywood, Hollywood Beach, and City Parking Garages as outlined in Exhibit "C".
- Ability to supplement the service with a fixed route if deemed necessary through data and public needs.
- Hours of operation and headways are to be initially proposed by Offeror until the level of demand is identified after a few months of operation and data collection.
- Demonstrate the ability to scale up and down the fleet of vehicles and deploy them to various locations based on monthly, weekly, daily, and hourly fluctuations in demand in order to achieve a desired level of service.
- Operate vehicles that meet the Federal Motor Vehicle Safety Standards and Regulations.
- Provide a safe and pleasing passenger experience with capable, qualified and courteous drivers.
- Feature a mobile application with which the user will be able to locate his or her position and contact the next approaching Circulator Vehicle with approximate wait times.
- Provide circulator service that is free to the users.

Phase 1 - The Phase 1 start-up of the service will be on demand and may be extended to include a fixed route based on demonstrated need and availability of funding. The service will serve visitors, residents, and workers by providing a convenient, efficient mobility option to circulate throughout downtown Hollywood and to the Beach. The Circulator Service shall be fully operational 120 days from the Effective Date. For purposes of this Contract, full operational shall include but not be limited to vehicle procurement, financial operating plan, sufficient liability coverage and mobile application. Although Company will be fully operational within 120 days from the Effective Date, Company will provide partial circulator services for 50 % capacity within 60 days from the Effective Date for the service areas and routes set forth in Exhibit "C".

Phase 2 - Service will be adjusted based upon needs identified from 6 months data and the availability of funds. Once six months of data is received and analyzed per specifications in Data Reporting, City and Company shall meet and negotiate terms for year two of initial performance period. Ridership, service levels, service area, number of vehicles, ad revenue and overall contract performance will be determining factors in determining if service will remain the same, or expand based on ridership demand.

### 1.1

- a. Company to provide a mobile application, which allows riders to request pick up.
- b. At no cost to the City, Company shall maintain updates to the application, which shall be compatible to smart phones and other mobile devices.
- c. Provide users with approximate time until pick up.
- d. Allow users to rate drivers, and provide feedback.
- e. Feature a Google maps based map (or equivalent) that identifies the boundaries of the Service Area.
- f. After a ride request has been accepted by a driver, depict the real-time location of the driver's vehicle on a map of the Service Area.
- g. Ability to track party and usage data. City staff will also have ability to track data. City staff will also have the ability to track party and usage data.

### 1.2 Marketing and Branding

- a. In coordination with the City of Hollywood, Company shall develop and implement a branding strategy. Company will not implement any branding strategy without prior written approval from the City. Any changes to the branding strategy must be approved in writing by the City prior to implementation.
- b. Company shall develop and implement a marketing program to promote awareness of the program. The City will have the right to request changes to the marketing program.

- c. The City retains the right to review marketing materials prior to use and request changes or withdrawal of any marketing materials.

### 1.3 Vehicles and Infrastructure

- a. Company shall procure, store, license, operate and maintain vehicles and related infrastructure including charging stations used in the service in accordance with applicable laws and regulations with the following requirements. All vehicles shall adhere to requirements set forth in Exhibit "A".
  - i. Fleet Size. Unless the parties agree otherwise, Company will acquire and operate at its own expense no fewer than 10 vehicles as part of the Circulator Service. Company shall maintain and operate vehicles to satisfy the minimum levels of service as more specifically set forth in Exhibit "D" as well as ADA accessibility requirements.
- b. Specifications. All vehicles will:
  - i. Comply with all applicable laws and regulations.
  - ii. Meet all safety standards established by applicable law or regulation.
  - iii. Feature luggage carrying capacity.
- c. Branding. The branding strategy will be applied to all vehicles as follows:
  - i. At all times during operation of any vehicles pursuant to this Contract, Company will include but is not limited to branding to all wheels, hoods, front panels, coping, roof and rear fenders unless otherwise approved by the City.
  - ii. Company shall develop a default vehicle wrap to be used when no paying advertiser has been identified for any vehicle or vehicles for a period of 7 days or longer unless otherwise approved by the City.
  - iii. Exterior and interior advertising will not interfere with the placement or visibility of any branding required by this Contract, unless otherwise approved by the City.
- d. Licensing. Company shall obtain and maintain proper licensing and registration of all vehicles at all times.
- e. Charging. Company, at its sole expenses, shall acquire and maintain charging stations for vehicles. Company shall ensure charging stations are available to adequately service all vehicles in the fleet to satisfy the levels of service required by this Contract.
- f. Storing. The City may provide surface parking in an area west of Dixie Hwy and operation space in a City-owned parking facility during operational hours. Company will be responsible for storing and securing vehicles during times of non-operation.
- g. Maintenance and replacement. Company at its sole expense, shall maintain the interior and exterior of all vehicles in good working order, in accordance with all applicable laws and regulations and as set forth in Exhibit "A". Vehicles shall be free of graffiti, vandalism, defacement and other damage to the satisfaction of the City. Company will replace any vehicle at its sole expense when the vehicle cannot be maintained in good working order, in accordance with applicable laws and regulations or the vehicles are no longer able to be maintained in accordance with the requirements of this Contract. Company to use its best efforts to restore non-operational vehicles within 10 business days from the date of any incident requiring the vehicle to be removed from operation. Company shall provide verbal and written notice to the City of any delay in restoring a non-operational vehicle that extends beyond 10 business days from the date of malfunction. If the City determines that any such delay is due to Company's lack of diligence the City will have the right to pursue any remedy provided for in this Contract or at law or equity.

### 1.4 Staffing

- a. General. Company shall provide sufficient staffing to maintain levels of service required by this Contract. All persons providing services pursuant to this Contract will be employees, contractors or consultants hired by the Company. Company is solely responsible for all staffing decisions made pursuant to this Contract. Company shall ensure Drivers meet minimum requirements set forth in Exhibit "A".
- b. Drivers. Company shall obtain complete background checks on all drivers, including driving records, criminal checks and employment references, conduct initial drug testing, and provide a training program for newly hired drivers. Company will not hire a driver with more than three infractions relating to driving a motorized vehicle within the previous 24 months. Company to review each driver's driving and criminal records at least annually.

**1.5 Attaining and Maintaining Levels of Service (LOS)**

- a. General. Company shall provide LOS that meets customer demands at all times of Service operations. Service Level review. Company and City shall meet at least annually to review LOS and determine if any adjustments are necessary and any agreed upon adjustments shall be made in writing.

**1.6 Trip Sharing**

- a. The Services may permit drivers to transport more than one party but no more than five parties simultaneously under the following conditions:
  - i. Each passenger has a separate seatbelt.
  - ii. The total number of passengers, including the driver does not exceed the vehicle's legal capacity.

**1.7 Operational Requirements**

- a. Company and all its employees, officers, managers, staff, subcontractors and subconsultants shall comply with all applicable local, state and federal laws and regulations while performing work pursuant to this Contract including but not limited to all laws and regulations regarding the safe operation of vehicles. Company shall prohibit drivers from texting or using smartphones, or other mobile device, eating, drinking, wearing headphones, and engaging in any activity that may cause the driver to become distracted while driving the vehicle. The parties acknowledge and agree that (i) drivers will only be permitted to wear Bluetooth enabled device or similar technology to while operating the vehicles for the service provided pursuant to this Contract and in accordance with all laws governing such devices; and (ii) drivers may use smart phones mounted to the dashboard or windshield of the vehicles only in accordance with all laws governing such devices.
- b. Company must obtain all permits and approvals required in the ordinary course of business for the safe and legal operation of the Service, including without limitation, permits or approvals from the Florida Transportation Authority. Company is responsible for obtaining any permits and approvals required by the State of Florida for operation of the Service.
- c. Company shall require all persons using the Service to comply with applicable local, state and federal laws and regulations relating to the use of seatbelts and alcohol consumption in vehicles.
- d. Company and its drivers are permitted to refuse service when, in the driver's opinion, a passenger poses a threat to himself or herself, other passengers, the driver, the vehicle or other vehicles or persons.
- e. Company is permitted to establish reasonable restrictions on the provision of services to non-service animals.
- f.

**1.8 Operating Hours**

- a. Refer to Exhibit D

**1.9 Levels of Service Reporting**

- a. Company shall provide the City with monthly, quarterly and annual level of service reports. Upon request by the City, Company shall provide the City with weekly level of service reports.
- b. Reports to include:
  - i. Number of parties on a daily, weekly and monthly basis
  - ii. Number of vehicles not in operation on a daily, weekly and monthly basis
  - iii. Average wait time from request through the mobile app until arrival by assigned driver on a daily, weekly and monthly basis.
  - iv. Average trip duration on a daily, weekly and monthly basis.
  - v. Pick-up and drop off location for each trip.
  - vi. Average number of passengers per party per trip.
  - vii. Average number of parties per trip.
  - viii. Number of passenger complaints received on a daily, weekly and monthly basis.
- c. Quarterly Reports
- d. Annual Reports

**1.10 Operational/Financial Report Within 30 days after each month, quarter and year, as applicable and in accordance with Exhibit "A", Company shall submit to the City Operational/Financial Reports containing the following information:**

- a. Annual budget
- b. Annual and monthly financial information include revenue generated (including advertisement sales and miscellaneous revenue), expenses and capital resources.

**1.11 Financial Terms**

- a. For all advertising revenues refer to Exhibit E.

**EXHIBIT "A"**  
**CITY'S RFP NO. 4579-18-PB**

**EXHIBIT "A"**  
**CITY'S RFP NO. 4578-18-PB**