



CITY COUNCIL AGENDA REPORT



DEPARTMENT: Public Works

MEETING DATE: November 19, 2024

STAFF REFERENCE: Alex Tachiki, Public Works Director
Sophia Sousa, Management Analyst

AGENDA LOCATION: AR-1

GOVERNMENT CODE SECTION 84308 APPLIES: Yes

TITLE: Revisions to the GoMonrovia Service Hours and Lyft Pass Payment Structure, and Agreement with Pro Park, LLC, for the Provision of Americans with Disabilities Act (ADA) Compliant Transportation and Dispatch Services as part of GoMonrovia in an Amount not to Exceed \$1,738,884.00 for the Period Ending June 30, 2026, with Four (4) One-Year Options to Extend

OBJECTIVE: To modify GoMonrovia service hours, change the Lyft, Inc. (Lyft) Pass payment structure, and approve an Agreement with Pro Park, LLC (Pro Park) for the provision of ADA Compliant Transportation and Dispatch Services

BACKGROUND: The City Council adopted the GoMonrovia Mobility Plan in 2018, establishing the City's current transportation program. Today, GoMonrovia offers two main services:

1. GoMonrovia Lyft Pass

- \$3.00 Lyft rides within Monrovia and to approved medical locations in Arcadia and Duarte
- Available to anyone, regardless of age or ability
- Access 24/7 subject to Lyft driver availability

The City partners with Lyft to provide the GoMonrovia Lyft Pass. Currently, the pass offers rides within Monrovia and to select medical locations in Arcadia and Duarte at \$3.00 per trip. The City pays for the remaining cost of each trip, which varies based on factors like trip distance, time of day, and market demand for rideshare.

2. Monrovia Transit

- \$0.50 trips within Monrovia and Bradbury and to approved medical locations in Arcadia and Duarte via contracted transit services
- Available only to individuals with disabilities and seniors 62 years and older
- Access 24/7 through prescheduled trips or same-day requests through the Lyft app

The City contracts with Pro Park to provide Monrovia Transit and handle dispatch services related to GoMonrovia. Previously, Monrovia Transit operated from 7:00 a.m. to 10:00 p.m. on weekdays, 8:30 a.m. to 6:00 p.m. on weekends, and was unavailable on federal holidays. After securing \$600,000 from the Los Angeles Metropolitan Transportation Authority's (Metro) Federal Section 5310 competitive grant program in 2021, the City entered into a new agreement with Pro Park to expand service availability and eligibility requirements for up to three years. In 2023, the City obtained an additional \$600,000 through the same grant program, increasing the total funding available to \$1,200,000.

Under these two one-time grants, the City extended service hours, broadened eligibility for seniors, and partnered with Lyft to provide same-day wheelchair-accessible services. This expansion ensured GoMonrovia's compliance with the Americans with Disabilities Act, which requires the City to provide

accessible transit services that match the Lyft Pass’s availability. The expansion also allowed the City to study ridership trends over time, planning to adjust the program’s service hours accordingly.

ANALYSIS: After a year of operating the expanded version of Monrovia Transit, staff analyzed trip and cost data for both services and presented findings to the City Council during a Study Session on September 17, 2024.

In Fiscal Year (FY) 2023-2024, GoMonrovia completed 162,310 trips – a 30 percent increase from FY 2022-2023. Monrovia Transit experienced the most significant growth, with annual trips rising from 8,716 to 14,601, likely due to expanded eligibility and increased program outreach during the first half of FY 2023-2024.

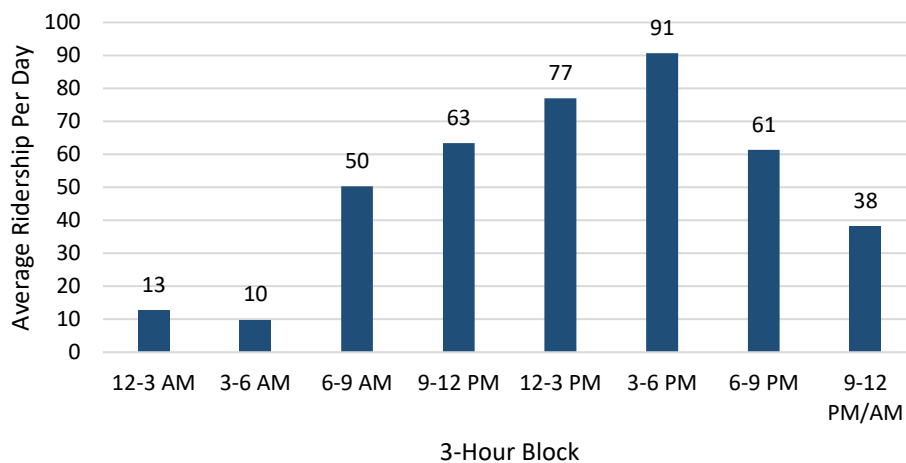
Most Monrovia Transit trips took place during “standard hours” – a term used to describe Monrovia Transit service hours prior to the July 1, 2023 expansion. For GoMonrovia Lyft Pass trips, peak usage occurred between 6:00 a.m. and 12:00 a.m., with the highest frequency of trips between 3:00 p.m. and 6:00 p.m. The following chart and graph provide a breakdown of trips by service option:

Monrovia Transit Average Daily Ridership Q4* FY 2023-2024	
Standard Hours**	45
Non-Standard Hours	4

*Because expanded hours were introduced in July 2023, staff analyzed Q4 FY 2023-2024 to ensure a more accurate calculation.

**Weekdays 7:00 a.m. to 10:00 p.m.; Weekends 8:30 a.m. to 6:00 p.m.

GoMonrovia Lyft Pass – FY 2023-2024 Average Daily Ridership per 3-Hour Block



In FY 2023-2024, it is estimated that the City spent \$1,965,748 on GoMonrovia: \$818,773 for the Lyft Pass (accounting for collected and expected fare box revenue) and \$1,146,705 for Monrovia Transit (accounting for collected fare box revenue). This represents a significant increase from FY 2022-2023’s total expenditures of \$1,247,971.00, primarily due to expanded Monrovia Transit service hours and increased Lyft Pass ridership as the City recovered from the COVID-19 Pandemic. The proposed changes aim to reduce additional costs associated with operating a 24/7 dispatch and driving staff.

The table below compares annual ridership and program costs for the Lyft Pass and Monrovia Transit over the past two fiscal years. The displayed costs do not account for grants and other revenues generated through agreements with public entities Monrovia Transit serves, including the City of Bradbury and Los Angeles County:

		FY 2022-2023 Actuals	FY 2023-2024 Estimated Actuals
Lyft Pass	Cost	\$766,406	\$818,773
	Ridership	116,413	147,709
Monrovia Transit*	Cost	\$481,565	\$1,146,705
	Ridership	8,716	14,601

*Staff previously reported that the City spent \$1,160,396 on Monrovia Transit in FY 2023-2024 due to Lyft invoices for Monrovia Transit rides requested through the Lyft app. Staff has since negotiated with Lyft to remove these charges for future operations, as Pro Park pays Monrovia Transit drivers for the hours they dedicate to Monrovia Transit on Lyft services. Staff expects to receive a full refund for Lyft invoices related to Monrovia Transit operations.

The City funds the Lyft Pass using restricted local return transportation funds. Monrovia Transit is funded by a portion of the same funds, Metro grants, and contract reimbursements from the City of Bradbury, Los Angeles County, and Metro. In FY 2023-2024, the City used its first round of Section 5310 funding to offset Monrovia Transit expenses by \$600,000. The second round of funding will support expenditures incurred in FY 2024-2025.

These grants, however, are competitive – Metro does not guarantee that the City will receive funding in future iterations of the 5310 grant program. Furthermore, the same local return funds that support GoMonrovia also fund several City capital improvement projects, including major roadway improvements. Continuing GoMonrovia as it currently operates could lead the City to a deficit, limiting available funds for street-based capital improvements. Over time, the City would risk running out of funding for GoMonrovia, as current expenditures, including budgeted expenses for annual debt payments, exceed the expected yearly revenue of local return transportation funds.

Since GoMonrovia is operating at a deficit without grant support, staff proposed potential program changes at both October 2024 City Council meetings. Based on direction from the City Council, staff is recommending the following modifications to GoMonrovia:

1. Modified Service Hours

Based on observed ridership and the City Council’s desire to continue subsidizing late-night transportation services, staff proposes the following GoMonrovia service hours to be applied to both the Lyft Pass and Monrovia Transit:

- Sunday through Thursday: 7:00 a.m. – 10:00 p.m.
- Friday and Saturday: 7:00 a.m. – 1:00 a.m.
- Available during holidays

2. Modified Lyft Pass Fare Structure

To manage costs impacted by Lyft’s pricing model, staff proposes a new Lyft Pass structure, which offers pass-holders a \$3.00 discount per trip. Under the proposed pass structure, if a standard Lyft trip costs \$10.00, the rider would pay \$7.00, and the City would pay \$3.00. The average ride in FY 23-24 cost roughly \$8.54 (the pass-holder paying \$3.00 per trip and the City paying \$5.54 per trip).

Considering ridership trends, the need for cost reduction to maintain financial sustainability, and the City Council’s interest in preserving late-night service, staff recommends that the City Council approve the proposed program changes and the proposed agreement with Pro Park to continue providing Monrovia Transit and GoMonrovia dispatch services with the revised services hours. In addition, following City Council approval, staff will work with Lyft to develop a custom Lyft Pass, which can proceed without requiring an additional amendment to the City’s March 17, 2018 Agreement with Lyft. Staff will report back to the City Council after implementing the revised program to provide status updates, including details on actual expenditures and ridership summaries.

If the City Council approves the proposed changes and the agreement with Pro Park, staff expects to implement these adjustments by January 1, 2025. Staff has prepared an outreach plan, including direct mailers to current Monrovia Transit riders, utility bill inserts, social media posts, updates in the City Manager’s weekly article, an excerpt in *Monrovia Today*, general public meetings, and presentations at existing community meetings.

In addition to the service changes requested by City Council, the scope of work in the proposed agreement details the operations to be implemented by Pro Park, including driving and dispatching staff management, transit vehicle maintenance, data collection and provision for required annual reports (e.g. the National Transit Database annual report), and additional services as requested; for example, assisting with transportation during the City’s Holiday Parade. Staff revised the scope of work allowing for flexible operations that can be adjusted based on observed ridership and City needs.

ENVIRONMENTAL IMPACT: There is no environmental impact associated with the approval of GoMonrovia changes and the related agreement with Pro Park.

FISCAL IMPACT: In the first quarter of FY 2024-2025, the City spent an estimated \$633,249.39 on GoMonrovia: \$314,536.44 toward the Lyft Pass and \$318,712.95 toward Monrovia Transit (both account for fares collected). With program changes expected to begin January 1, 2025, the City estimates total GoMonrovia expenditures for FY 2024-2025 not to exceed \$2,151,369.83. The table below demonstrates the proposed cost breakdown:

FY 2024-2025 GoMonrovia Expenditures				
Service	Jul - Sept (estimated actuals)	Oct - Dec (estimated)	Jan - June (estimated)	Total
GoMonrovia Lyft Pass	\$314,536.44	\$314,536.44	\$196,250.00	\$825,322.88
Monrovia Transit (Pro Park)	\$302,639.10	\$496,684.00	\$469,400.00	\$1,268,723.10
Monrovia Transit (Fuel)	\$16,073.85	\$13,750.00	\$27,500.00	\$57,323.85
Total	\$633,249.39	\$824,970.44	\$693,150.00	\$2,151,369.83

Should the City Council continue the proposed programmatic changes and agreement with Pro Park, the City will realize partial cost savings in FY 2024-2025 and full cost savings in FY 2025-2026. The estimated FY 2025-2026 cost is \$1,386,300.00, freeing up an estimated \$450,000.00 in the budget for other priorities:

FY 2025-2026 GoMonrovia Estimated Expenditures	
GoMonrovia Lyft Pass	\$392,500.00
Monrovia Transit (Pro Park)	\$938,800.00
Monrovia Transit (Fuel)	\$55,000.00
Total	\$1,386,300.00

In addition, the proposed agreement includes four (4) one-year options to extend. Should those options be exercised, a four percent rate increase to Pro Park fees will be applied to each extension beginning FY 2026-2027. The proposed rate increase would provide a fixed cost for future terms and help staff budget for this service should the Council want to continue with this service.

Funding for GoMonrovia is available in the FY 2024-2025 budget. If approved, staff will include adequate funding in the FY 2025-26 budget. The City funds the Lyft Pass using restricted local return transportation funds from Propositions A and C and Measures R and M; Monrovia Transit is funded by Proposition A, Section 5310 Grants, and contract reimbursements from the City of Bradbury, Los Angeles County, and Metro.

The proposed agreement with Pro Park shall not exceed \$1,738,884.00. This amount includes an additional \$330,684 to cover the costs of maintaining 24/7 service in November and December 2024, as detailed in the Fee Schedule in Attachment B of the July 1, 2023 agreement with Pro Park. The remaining 18-month period costs shall not exceed \$1,408,200.00, as described in Pro Park's cost proposal.

Due to the specialized nature of the GoMonrovia program, requiring collaboration with Lyft to provide same-day, wheelchair-accessible transportation services, staff negotiated the proposed contract with Pro Park, who successfully provided these services in FY 2023-2024.

The City does not expend General Fund monies on this operation.

OPTIONS: The following options are presented for consideration:

1. Approve the Proposed Revisions to GoMonrovia Service Hours and the Lyft Pass Payment Structure and the Agreement with Pro Park, LLC, for the Provision of Americans with Disabilities Act (ADA) Compliant Transportation and Dispatch Services as part of GoMonrovia in an Amount not to Exceed \$1,738,884.00 for the Period Ending June 30, 2026, with the four (4) one-year options to extend
2. Reject the proposed revisions and agreement and provide staff with additional direction.

RECOMMENDATION: Staff recommends that the City Council approve the proposed revisions to the GoMonrovia Service Hours and the Lyft Pass Payment Structure and the Agreement with Pro Park.

COUNCIL ACTION REQUIRED: If the City Council concurs, the appropriate action would be a motion to approve the proposed revisions to GoMonrovia Service Hours and the Lyft Pass Payment Structure and the Agreement with Pro Park, LLC, for the provision of Americans with Disabilities act (ADA) compliant transportation and dispatch services as part of GoMonrovia in an amount not to exceed \$1,738,884.00 for the period ending June 30, 2026, with four (4) one-year options to extend, and authorize the City Manager to execute the necessary documents in a form approved by the City Attorney.

CONTRACTOR SERVICES AGREEMENT

This Contractor Services Agreement (“Agreement”) is dated January 1, 2025 (“Effective Date”), and is between the City of Monrovia, a California municipal corporation (“City”) and Pro Park, LLC, a Connecticut limited liability company (d/b/a Propark Mobility) (“Contractor”).

RECITALS

A. City desires to utilize the services of Contractor to provide GoMonrovia dispatch and transportation services that meet the requirements of the Americans with Disabilities Act (“ADA”) and are accessible to persons with disabilities

B. Contractor represents that it is fully qualified to perform such services by virtue of its experience and the training, education and expertise of its principals and employees.

C. City desires to retain Contractor and Contractor desires to serve City to perform these services in accordance with the terms and conditions of this Agreement.

The parties therefore agree as follows:

1. Contractor’s Services.

A. Scope of Services. Contractor shall perform the services described in the Scope of Services, attached as **Exhibit A**. City may request, in writing, changes in the scope of services to be performed. Any changes mutually agreed upon by the parties, and any increase or decrease in compensation, shall be incorporated by written amendments to this Agreement.

B. Party Representatives. For the purposes of this Agreement, the City Representative shall be the City Manager, or such other person designated in writing by the City Manager (the “City Representative”). For the purposes of this Agreement, the Contractor Representative shall be:

Bertha Aguirre, Chief Operating Officer (the “Contractor Representative”)
BAguirre@emprtransportation.com

The Contractor Representative shall directly manage Contractor’s services under this Agreement. Contractor shall not change the Contractor Representative without City’s prior written consent.

C. Time for Performance. Contractor shall commence the services on the Effective Date and shall perform all services by the deadline established by the City Representative or, if no deadline is established, with reasonable diligence.

D. Standard of Performance. Contractor shall perform all services under this Agreement in accordance with the standard of care generally exercised by like professionals under similar circumstances and in a manner reasonably satisfactory to City.

E. Personnel. Contractor has, or will secure at its own expense, all personnel required to perform the services required under this Agreement. All of the services required under this Agreement shall be performed by Contractor or under its supervision, and all personnel engaged in the work shall be qualified to perform such services.

F. Compliance with Laws. Contractor shall comply with all applicable federal, state and local laws, ordinances, codes, regulations and requirements applicable to this Agreement.

G. Permits and Licenses. Contractor shall obtain and maintain during the Agreement term all necessary licenses, permits and certificates required by law for the provision of services under this Agreement, including a business license.

2. Term of Agreement. The term of this Agreement shall be from the Effective Date through June 30, 2026, with four (4) one-year options to extend, permitted at the City's sole option, unless sooner terminated as provided in Section 13 of this Agreement or extended.

3. Compensation.

A. Compensation. As full compensation for Contractor's services provided under this Agreement, City shall pay Contractor a sum not to exceed One Million Seven Hundred Thirty Eight Thousand Eight Hundred Eighty Four Dollars (\$1,738,884.00) (the "maximum compensation"), based on the rates set forth in the Approved Fee Schedule, attached hereto as **Exhibit B**.

B. Expenses. The amount set forth in paragraph A shall include reimbursement for all actual and necessary expenditures reasonably incurred in the performance of this Agreement.

B. Additional Services. City shall not allow any claims for additional services performed by Contractor, unless the City Council and the Contractor Representative authorize the additional services in writing prior to Contractor's performance of the additional services or incurrence of additional expenses. Any additional services or expenses authorized by the City Council shall be compensated at the rates set forth in **Exhibit B**, or, if not specified, at a rate mutually agreed to by the parties. City shall make payment for additional services and expenses in accordance with Section 4 of this Agreement.

4. Method of Payment.

A. **Invoices.** Contractor shall submit to City an invoice, on a monthly basis or less frequently, for the services performed pursuant to this Agreement. Each invoice shall itemize the services rendered during the billing period, hourly rates charged, if applicable, and the amount due. City shall review each invoice and notify Contractor in writing within ten (10) business days of receipt of any disputed invoice amounts.

B. **Payment.** City shall pay all undisputed invoice amounts within thirty (30) calendar days after receipt up to the maximum compensation set forth in Section 3 of this Agreement. City shall not withhold federal payroll, state payroll or other taxes, or other similar deductions, from payments made to Contractor.

C. **Audit of Records.** Contractor shall make all records, invoices, time cards, cost control sheets and other records maintained by Contractor in connection with this Agreement available during Contractor's regular working hours to City for review and audit by City.

5. Ownership of Documents. All reports, documents or other written material ("written products") developed by Contractor in the performance of this Agreement shall be and remain City's property without restriction or limitation upon its use or dissemination by City. Contractor may take and retain copies of the written products as desired, but the written products shall not be the subject of a copyright application by Contractor.

6. Independent Contractor. Contractor is, and shall at all times remain as to City, a wholly independent contractor. Contractor shall have no power to incur any debt, obligation, or liability on behalf of City. Neither City nor any of its agents shall have control over the conduct of Contractor or any of Contractor's employees, except as set forth in this Agreement. Contractor shall not, at any time, or in any manner, represent that it or any of its officers, agents or employees are in any manner employees of City.

7. Confidentiality. All data, documents, discussion, or other information (collectively "data") developed or received by Contractor or provided for performance of this Agreement are deemed confidential. Contractor shall keep all data confidential and shall not disclose any data to any person or entity without City's prior written consent. City shall grant such consent if disclosure is legally required. Contractor shall return all data to City upon the expiration or termination of this Agreement. Contractor's covenant under this Section 7 shall survive the expiration or termination of this Agreement.

8. Conflicts of Interest. Contractor and its officers, employees, associates and subcontractors, if any, shall comply with all conflict of interest statutes of the State of California applicable to Contractor's services under this Agreement, including the Political Reform Act (Gov. Code § 81000, *et seq.*) and Government Code Section 1090. During the term of this Agreement, Contractor may perform similar services for other clients, but Contractor and its officers, employees, associates and subcontractors shall not, without the City Representative's prior written approval, perform work for another person or entity for whom Contractor is not currently performing work that would require Contractor or one of its officers, employees, associates or subcontractors to abstain from a decision under this Agreement pursuant to a conflict of interest statute. Contractor shall incorporate a

clause substantially similar to this Section 8 into any subcontract that Contractor executes in connection with the performance of this Agreement.

9. Indemnification.

A. Indemnities for Third Party Claims.

1) To the fullest extent permitted by law, Contractor shall, at its sole cost and expense, defend, hold harmless and indemnify City and its elected officials, officers, attorneys, agents, employees, designated volunteers, successors, assigns and those City agents serving as independent contractors in the role of City officials (collectively "Indemnitees"), from and against any and all damages, costs, expenses, liabilities, claims, demands, causes of action, proceedings, expenses, judgments, penalties, liens, and losses of any nature whatsoever, including fees of accountants, attorneys, or other professionals and all costs associated therewith and the payment of all consequential damages (collectively "Liabilities"), in law or equity, whether actual, alleged or threatened, which arise out of, are claimed to arise out of, pertain to, or relate to the acts or omissions of Contractor, its officers, agents, servants, employees, subcontractors, materialmen, contractors or their officers, agents, servants or employees (or any entity or individual that Contractor shall bear the legal liability thereof) in the performance of this Agreement, including the Indemnitees' active or passive negligence, except for Liabilities arising from the sole negligence or willful misconduct of the Indemnitees, as determined by final arbitration or court decision or by the agreement of the parties. Contractor shall defend the Indemnitees in any action or actions filed in connection with any Liability with counsel of the Indemnitees' choice, and shall pay all costs and expenses, including all attorneys' fees and experts' costs actually incurred in connection with such defense. Contractor shall reimburse the Indemnitees for any and all legal expenses and costs incurred by Indemnitees in connection therewith. Contractor's duty to defend, hold harmless and indemnify the Indemnitees shall include, without limitation, any claim, investigation, administrative action or legal proceeding regarding the City's compliance with the ADA in the provision of transportation services during the term of this Agreement.

2) Contractor shall pay all required taxes on amounts paid to Contractor under this Agreement, and indemnify and hold City harmless from any and all taxes, assessments, penalties, and interest asserted against City by reason of the independent contractor relationship created by this Agreement. Contractor shall fully comply with the workers' compensation law regarding Contractor and Contractor's employees. Contractor shall indemnify and hold City harmless from any failure of Contractor to comply with applicable workers' compensation laws. City may offset against the amount of any fees due to Contractor under this Agreement any amount due to City from Contractor as a result of Contractor's failure to promptly pay to City any reimbursement or indemnification arising under this Subparagraph A. 2).

3) Contractor shall obtain executed indemnity agreements with provisions identical to those in this Section 9 from each and every subcontractor or any other person or entity involved by, for, with or on behalf of Contractor in the performance

of this Agreement. If Contractor fails to obtain such indemnity obligations, Contractor shall be fully responsible and indemnify, hold harmless and defend the Indemnitees from and against any and all Liabilities in law or equity, whether actual, alleged or threatened, which arise out of, are claimed to arise out of, pertain to, or relate to the acts or omissions of Contractor's subcontractor, its officers, agents, servants, employees, subcontractors, materialmen, contractors or their officers, agents, servants or employees (or any entity or individual that Contractor's subcontractor shall bear the legal liability thereof) in the performance of this Agreement, including the Indemnitees' active or passive negligence, except for Liabilities arising from the sole negligence or willful misconduct of the Indemnitees, as determined by final arbitration or court decision or by the agreement of the parties.

B. Workers' Compensation Acts not Limiting. Contractor's indemnifications and obligations under this Section 9, or any other provision of this Agreement, shall not be limited by the provisions of any workers' compensation act or similar act. Contractor expressly waives its statutory immunity under such statutes or laws as to City, its officers, agents, employees and volunteers.

C. Insurance Requirements not Limiting. City does not, and shall not, waive any rights that it may possess against Contractor because of the acceptance by City, or the deposit with City, of any insurance policy or certificate required pursuant to this Agreement. The indemnities in this Section 9 shall apply regardless of whether or not any insurance policies are determined to be applicable to the Liability, tax, assessment, penalty or interest asserted against City.

D. Survival of Terms. Contractor's indemnifications and obligations under this Section 9 shall survive the expiration or termination of this Agreement.

10. Insurance.

A. Minimum Scope and Limits of Insurance. Contractor shall procure and at all times during the term of this Agreement carry, maintain, and keep in full force and effect, insurance as follows:

1) Commercial General Liability Insurance with coverage at least as broad as Insurance Services Office form CG 00 01. with a minimum limit of Two Million Dollars (\$2,000,000) per occurrence for bodily injury, personal injury and property damage and a general aggregate limit of Four Million Dollars (\$4,000,000) per project or location. If Contractor is a limited liability company, the commercial general liability coverage shall be amended so that Contractor and its managers, affiliates, employees, agents and other persons necessary or incidental to its operation are insureds.

2) Comprehensive Vehicle Liability Insurance for any owned, non-owned or hired vehicle used in connection with the performance of this Agreement with a combined single limit of Ten Million Dollars (\$10,000,000) per accident for bodily injury and property damage. If Contractor does not use any owned, non-owned or hired vehicles in the performance of services under this Agreement, Contractor shall obtain a

non-owned auto endorsement to the Commercial General Liability policy required under Subparagraph A. 1) of this Section 10.

3) Workers' Compensation Insurance as required by the State of California and Employer's Liability Insurance with a minimum limit of One Million Dollars (\$1,000,000) per accident for bodily injury or disease. If Contractor has no employees while performing services under this Agreement, workers' compensation policy is not required, but Contractor shall execute a declaration that it has not employees.

4) Sexual Abuse/Molestation Liability Insurance with limits of not less than One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) general aggregate. Coverage may be provided as part of commercial general liability coverage, professional liability coverage, or as a separate policy.

B. Acceptability of Insurers. The insurance policies required under this Section 10 shall be issued by an insurer admitted to write insurance in the State of California with a rating of A:VII or better in the latest edition of the A.M. Best Insurance Rating Guide. Self insurance shall not be considered to comply with the insurance requirements under this Section 10.

C. Additional Insured. The commercial general and automobile liability policies shall contain an endorsement naming the City, its officers, employees, agents and volunteers as additional insureds.

D. Primary and Non-Contributing. The insurance policies required under this Section 10 shall apply on a primary non-contributing basis in relation to any other insurance or self-insurance available to City. Any insurance or self-insurance maintained by City, its officers, employees, agents or volunteers, shall be in excess of Contractor's insurance and shall not contribute with it.

E. Contractor's Waiver of Subrogation. The insurance policies required under this Section 10 shall not prohibit Contractor and Contractor's employees, agents or subcontractors from waiving the right of subrogation prior to a loss. Contractor hereby waives all rights of subrogation against City.

F. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be approved by City. At City's option, Contractor shall either reduce or eliminate the deductibles or self-insured retentions with respect to City, or Contractor shall procure a bond guaranteeing payment of losses and expenses.

G. Cancellations or Modifications to Coverage. Contractor shall not cancel, reduce or otherwise modify the insurance policies required by this Section 10 during the term of this Agreement. The commercial general and automobile liability policies required under this Agreement shall be endorsed to state that should the issuing insurer cancel the policy before the expiration date, the issuing insurer will endeavor to mail thirty (30) days' prior written notice to City. If any insurance policy required under this Section 10 is canceled or reduced in coverage or limits, Contractor shall, within two (2) business days

of notice from the insurer, phone, fax or notify City via certified mail, return receipt requested, of the cancellation of or changes to the policy.

H. City Remedy for Noncompliance. If Contractor does not maintain the policies of insurance required under this Section 10 in full force and effect during the term of this Agreement, or in the event any of Contractor's policies do not comply with the requirements under this Section 10, City may either immediately terminate this Agreement or, if insurance is available at a reasonable cost, City may, but has no duty to, take out the necessary insurance and pay, at Contractor's expense, the premium thereon. Contractor shall promptly reimburse City for any premium paid by City or City may withhold amounts sufficient to pay the premiums from payments due to Contractor.

I. Evidence of Insurance. Prior to the performance of services under this Agreement, Contractor shall furnish City's Risk Manager with a certificate or certificates of insurance and all original endorsements evidencing and effecting the coverages required under this Section 10. The endorsements are subject to City's approval. Contractor may provide complete, certified copies of all required insurance policies to City. Contractor shall maintain current endorsements on file with City's Risk Manager. Contractor shall provide proof to City's Risk Manager that insurance policies expiring during the term of this Agreement have been renewed or replaced with other policies providing at least the same coverage. Contractor shall furnish such proof at least two (2) weeks prior to the expiration of the coverages.

J. Indemnity Requirements not Limiting. Procurement of insurance by Contractor shall not be construed as a limitation of Contractor's liability or as full performance of Contractor's duty to indemnify City under Section 9 of this Agreement.

K. Subcontractor Insurance Requirements. Contractor shall require each of its subcontractors that perform services under this Agreement to maintain insurance coverage that meets all of the requirements of this Section 10.

11. Mutual Cooperation.

A. City's Cooperation. City shall provide Contractor with all pertinent data, documents and other requested information as is reasonably available for Contractor's proper performance of the services required under this Agreement.

B. Contractor's Cooperation. In the event any claim or action is brought against the City relating to Contractor's performance or services rendered under this Agreement, Contractor shall render any reasonable assistance that City requires.

12. Records and Inspections. Contractor shall maintain full and accurate records with respect to all matters covered under this Agreement for a period of five (5) years. Contractor shall, without charge, provide City with access to the records during normal business hours. City may examine and audit the records and make transcripts therefrom, and inspect all program data, documents, proceedings and activities.

13. Termination of Agreement.

A. Right to Terminate. City may terminate this Agreement at any time, at will, for any reason or no reason, after giving written notice to Contractor at least five (5) calendar days before the termination is to be effective. Contractor may terminate this Agreement at any time, at will, for any reason or no reason, after giving written notice to City at least sixty (60) calendar days before the termination is to be effective.

B. Obligations upon Termination. Contractor shall cease all work under this Agreement on or before the effective date of termination specified in the notice of termination. In the event of City's termination of this Agreement due to no fault or failure of performance by Contractor, City shall pay Contractor based on the percentage of work satisfactorily performed up to the effective date of termination. In no event shall Contractor be entitled to receive more than the amount that would be paid to Contractor for the full performance of the services required by this Agreement.

14. Force Majeure. Contractor shall not be liable for any failure to perform its obligations under this Agreement if Contractor presents acceptable evidence, in City's sole judgment, that such failure was due to strikes, lockouts, labor disputes, embargoes, acts of God, inability to obtain labor or materials or reasonable substitutes for labor or materials, governmental restrictions, governmental regulations, governmental controls, judicial orders, enemy or hostile governmental action, civil commotion, fire or other casualty, or other causes beyond Contractor's reasonable control and not due to any act by Contractor.

15. Notices. Any notice, consent, request, demand, bill, invoice, report or other communication required or permitted under this Agreement shall be in writing and conclusively deemed effective: (a) on personal delivery, (b) on confirmed delivery by courier service during Contractor's and City's regular business hours, or (c) three business days after deposit in the United States mail, by first class mail, postage prepaid, and addressed to the party to be notified as set forth below:

If to City:
Attn: Alice D. Atkins, City Clerk
City of Monrovia
415 South Ivy Avenue
Monrovia, California 91016

If to Contractor:
Pro Park, LLC.
Attn: Bertha Aguirre,
Chief Operating Officer
8800 Park Street
Bellflower, California 90706

With a courtesy copy to:

Craig A. Steele, City Attorney
Richards, Watson & Gershon
350 South Grand Avenue, 37th Floor
Los Angeles, CA 90071

16. Non-Discrimination and Equal Employment Opportunity. In the performance of this Agreement, Contractor shall not discriminate against any employee, subcontractor or applicant for employment because of race, color, religious creed, sex, gender, gender identity, gender expression, marital status, national origin, ancestry, age, physical disability, mental disability, medical condition, genetic information, sexual orientation or other basis prohibited by law. Contractor will take affirmative action to ensure that subcontractors and applicants are employed, and that employees are treated during employment, without regard to their race, color, religious creed, sex, gender, gender identity, gender expression, marital status, national origin, ancestry, age, physical disability, mental disability, medical condition, genetic information or sexual orientation.

17. Prohibition of Assignment and Delegation. Contractor shall not assign any of its rights or delegate any of its duties under this Agreement, either in whole or in part, without City's prior written consent. City's consent to an assignment of rights under this Agreement shall not release Contractor from any of its obligations or alter any of its primary obligations to be performed under this Agreement. Any attempted assignment or delegation in violation of this Section 17 shall be void and of no effect and shall entitle City to terminate this Agreement. As used in this Section 17, "assignment" and "delegation" means any sale, gift, pledge, hypothecation, encumbrance or other transfer of all or any portion of the rights, obligations, or liabilities in or arising from this Agreement to any person or entity, whether by operation of law or otherwise, and regardless of the legal form of the transaction in which the attempted transfer occurs.

18. No Third Party Beneficiaries Intended. This Agreement is made solely for the benefit of the parties to this Agreement and their respective successors and assigns, and no other person or entity may have or acquire a right by virtue of this Agreement.

19. Exhibits. Exhibits A, B, C, D and E constitute a part of this Agreement and are incorporated into this Agreement by this reference. If any inconsistency exists or arises between a provision of this Agreement and a provision of any exhibit, the provisions of this Agreement shall control.

20. Entire Agreement and Modification of Agreement. This Agreement and all exhibits referred to in this Agreement constitute the final, complete and exclusive statement of the terms of the agreement between the parties pertaining to the subject matter of this Agreement and supersede all other prior or contemporaneous oral or written understandings and agreements of the parties. No party has been induced to enter into this Agreement by, nor is any party relying on, any representation or warranty except those expressly set forth in this Agreement. This Agreement may be modified only by a writing signed by both parties.

21. Headings. The headings in this Agreement are included solely for convenience of reference and shall not affect the interpretation of any provision of this Agreement or any of the rights or obligations of the parties to this Agreement.

22. Word Usage. Unless the context clearly requires otherwise, (a) the words “shall,” “will” and “agrees” are mandatory and “may” is permissive; (b) “or” is not exclusive; and (c) “includes” or “including” are not limiting.

23. Time of the Essence. Time is of the essence in respect to all provisions of this Agreement that specify a time for performance; provided, however, that the foregoing shall not be construed to limit or deprive a party of the benefits of any grace or use period allowed in this Agreement.

24. Governing Law and Choice of Forum. This Agreement, and any dispute arising from the relationship between the parties to this Agreement, shall be governed by and construed in accordance with the laws of the State of California, except that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be applied in interpreting this Agreement. Any dispute that arises under or relates to this Agreement (whether contract, tort or both) shall be resolved in a municipal, superior or federal court with geographic jurisdiction over the City of Monrovia.

25. Attorneys’ Fees. In any litigation or other proceeding by which on party seeks to enforce its rights under this Agreement (whether in contract, tort or both) or seeks a declaration of any rights or obligations under this Agreement, the prevailing party shall be awarded reasonable attorneys’ fees together with any costs and expenses, to resolve the dispute and to enforce the final judgment.

26. Severability. If a court of competent jurisdiction holds any provision of this Agreement to be illegal, invalid or unenforceable for any reason, the validity of and enforceability of the remaining provisions of this Agreement shall not be affected and continue in full force and effect.

[SIGNATURE PAGE FOLLOWS]

The parties, through their duly authorized representatives are signing this Agreement on the date stated in the introductory clause.

City:

City of Monrovia,
a California municipal corporation

Contractor:

Pro Park, LLC,
a Connecticut limited liability company

By: _____

Name: Dylan Feik
Title: City Manager

By: _____

Name: David Schmid
Title: CEO
Email:

ATTEST:

By: _____

Name: Alice D. Atkins, MMC
Title: City Clerk

By: _____

Name: Stephen Duffy
Title: President
Email: Stephen.Duffy@propark.com

APPROVED AS TO FORM:

(Two signatures of corporate officers required for corporations under Corporations Code Section 313, unless corporate documents authorize only one person to sign this Agreement on behalf of the corporation.)

By: _____

Name: Craig A. Steele
Title: City Attorney

EXHIBIT A SCOPE OF SERVICES

Pro Park shall provide transportation services to support the City's transportation program, GoMonrovia. This shall include Americans with Disabilities Act (ADA)-compliant transportation via Monrovia Transit and dispatch services related to GoMonrovia. The following sections describe the scope of work in detail:

SECTION 1: DEFINITIONS

Advanced Reservation – Describes the process of requesting trips and receiving trip confirmation prior to the day service is requested.

Americans with Disabilities Act of 1990 (ADA) – Federal civil rights legislation which mandates accessibility for people with disabilities. Included is a requirement that all public transit agencies operating fixed route bus service provide complementary paratransit service to persons functionally unable to use accessible fixed route systems.

City – Shall signify the City of Monrovia.

Contractor – Shall signify Pro Park, LLC (Pro Park).

Deadhead – For paratransit services, refers to either miles or hours when a vehicle is not in revenue service including travel from the yard to the first pick-up, from the last drop-off back to the yard when released by the dispatcher and travel during driver breaks and other "out of service" times. The travel between scheduled pickups and drop offs, regardless of whether a passenger is on board, is not deadhead.

Demand Responsive – Describes a service that does not require advance reservation and trips can be requested the same day [also referred to as "same day," "real-time" or "immediate response"].

Dwell Time – The amount of time spent by vehicle and driver at each pick-up and drop-off waiting for the passenger(s) to appear, during passenger boarding, deboarding and wheelchair securement. Dwell time is included in the Vehicle Revenue Hour computation.

Federal Transit Administration (FTA) – A branch of the U.S. Department of Transportation (USDOT) established to improve transportation throughout the nation. The FTA provides funding and assistance to regional transportation agencies, among various other programs.

Late Trip – For Monrovia Transit, any trip on which the vehicle arrives for the pick up more than 10 minutes after the scheduled time. For fixed route service, any arrival at a time point more than 3 minutes after the scheduled time.

Missed Trip – Any scheduled trip on which the Monrovia Transit vehicle arrives more than 60 minutes after the scheduled pick up time or does not arrive at all.

No-Show – A scheduled passenger who does not appear at the designated location for vehicle boarding within 5 minutes of an on-time vehicle arrival or calls the Monrovia Dial-A-Ride to cancel the trip less than one (1) hour before the scheduled pick-up time.

On-Time Pickup – For paratransit services, a vehicle shall be on-time if it arrives at the designated pickup location no more than 5 minutes prior to the scheduled pickup time or no more than 10 minutes after that time. For fixed route services, a vehicle shall be on-time if it arrives at a designated bus stop not earlier than or no more than 3 minutes after the scheduled arrival time.

Revenue Vehicles – Refers to vehicles used to transport passengers in transit and paratransit revenue services.

Vehicle Revenue Hour – For the Monrovia Transit service, a vehicle revenue hour shall be defined as any sixty-minute increment of time, or portion thereof, that a vehicle is available for passenger transport within the established hours of service. A vehicle is available for passenger transport from the time it arrives at its first pick-up address and ends when it has completed its last passenger drop-off and is released from service by the dispatcher. If the first scheduled pickup is a no-show, the vehicle arrival time at that stop shall still be used for computation of vehicle revenue hours, however, this rule shall not apply to late trip cancellations. For breaks or lunches, vehicle revenue hours shall stop when the vehicle is released to go on break or lunch and resume when the vehicle arrives on-time at the first pick-up location following the break or lunch. Vehicle revenue hours are also known as “revenue vehicle hours” and “vehicle service hours.” [This definition is intended to be identical to that required in NTD reporting.]

For fixed route services, a vehicle revenue hour shall be defined as any sixty-minute increment of time, or portion thereof, that a vehicle is in revenue service, including layover/recovery time but excluding deadhead, training operators prior to revenue service and road tests.

Vehicle revenue hours, for both services, shall exclude any meal breaks, service breaks, mechanical breakdowns and time a vehicle is down due to an accident.

Vehicle Revenue Miles – The mileage incurred by a vehicle while operating a Vehicle Revenue Hour.

SECTION 2: CITY DUTIES AND RESPONSIBILITIES: GoMonrovia

City shall accept the following responsibilities and perform the following duties with respect to Monrovia Transit. To the extent reasonable and feasible, Contractor shall assist City in this regard.

2.1 Monrovia Transit Revenue Vehicles

The Contractor shall provide a fleet sufficient for the operation of Monrovia Transit services. The vehicles shall be minivans with capacity for up to five (5) ambulatory passengers plus the driver or one (1) to two (2) wheelchairs with ambulatory passengers

plus the driver or equivalent and/or cutaway paratransit buses with the ability to transport a minimum of nine (9) ambulatory passengers and two (2) wheelchairs. The City shall provide one (1) Class B Glaval cutaway paratransit bus. The bus is configured to transport nine (9) ambulatory passengers and two (2) wheelchairs. The Contractor must register applicable vehicles on the Lyft application for same-day service. Contractor shall provide the vehicles as set forth in Exhibit C of this Agreement.

Vehicles provided pursuant to this Agreement will be reserved for exclusive use in the operation of Agreement and will not be used for hire by other groups or organizations except under arrangements established by City. Dedicated vehicles must prominently display the Monrovia Transit logo and the transit service name "Monrovia Transit." Contractor agrees that the vehicles will not be operated on public streets for any purpose other than as required for daily transit service, or any other activity associated with the system's operations unless specifically authorized by City.

For all City-provided vehicles, City shall provide fareboxes with spare vaults and vehicle licenses.

2.2 System Planning and Administration

City shall be responsible for all policy decisions and activities relative to Monrovia Transit services, schedules, days and hours of operations, stop locations, street furnishings, preparation of planning documents, budgets, grant applications and related documentation, and other such activities related to overall system administration.

2.3 Information, Advertising and Promotion

City shall host, maintain and control the content of the GoMonrovia website. All information regarding GoMonrovia, including Monrovia Transit, will be resident on that website, including service schedules, fares, service and route maps, and service policies.

City shall prepare, place, schedule, and pay for all advertising and promotional materials designed to inform the public of Monrovia Transit operations and to promote ridership.

City shall also be responsible for all signage, graphics and/or vinyl wraps placed on the exteriors or interiors of all vehicles used in Monrovia Transit service, with the exception of vehicle signage required by law and regulation.

2.4 Fuel

City shall provide all gasoline for operation of the Monrovia Transit vehicles at the Monrovia Public Works Yard located at 600 S. Mountain Avenue, Monrovia. Contractor-provided vehicles for the operation of Monrovia Transit, shall be fueled at the City's Corporation Yard. City shall be responsible for the cost of fuel for all Monrovia Transit vehicles.

City shall establish and communicate to Contractor such operating, administrative, and accounting procedures as necessary to control and record fuel operations. City shall issue Contractor employee codes, access cards, and/or other media needed for access to the City Corporation Yard and operation of the fueling station.

2.5 Schedules, Passes, Tickets,

At City's discretion, City may develop and implement a form of fare media that will be accepted in lieu of cash fares. City shall prepare, print, and provide to Contractor all schedules, passes, tickets, and like materials required by Monrovia Transit operations. Contractor shall distribute and disseminate such materials in accordance with the provisions of the Agreement and any directions supplemental thereto provided by City.

2.6 Bus Stop Signs and Street Furnishings

City shall be responsible for the purchasing, installation and maintenance of all transit related street furnishings. Contractor and its employees shall cooperate with City by advising City of any such irregular conditions to street furnishings observed during Monrovia Transit operations.

2.7 Complaints and Comments

City shall enter any complaints and comments received regarding Monrovia Transit services into a complaint/comment database. Within one business day of receiving a complaint or comment, City shall email a copy of the transcribed complaint or comment to Contractor for investigation as appropriate. City shall maintain a chronological record of all complaints and comments received, the results of Contractor's investigation, and any action taken to resolve the complaint.

Contractor shall also record any complaints and comments regarding Monrovia Transit received, providing a chronological record, the results of Contractor's investigation, and any action taken to resolve the complaint. This record shall be an attachment to the City's monthly invoice.

2.8 Notification: Potential Interference with Monrovia Transit Operations

City shall make a reasonable effort to notify Contractor in advance of any road closures, detours, parades, or other events under City jurisdiction that may interfere with Monrovia Transit operations or require deviations from routes or schedules.

SECTION 3: CONTRACTOR DUTIES AND RESPONSIBILITIES-OPERATIONS

Contractor shall perform the duties and accept the responsibilities set forth below in connection with its operation of GoMonrovia. The failure of the City to specifically identify a duty or responsibility below shall not relieve Contractor of its obligation to perform such duty or accept such responsibility, so long as it is usual, customary, and generally accepted within the public transportation industry as being an integral element of

operating a public transportation system and services of a kind and character such as GoMonrovia.

3.1 General Operations

3.1.1 Monrovia Transit

Contractor shall provide the necessary management, technical, and operating services for the operation of Monrovia Transit services as specified by the City.

Contractor shall assist and cooperate with City in meeting the objectives of providing quality transportation services. Contractor shall establish and maintain close liaison activities, coordination, and cooperation with City on matters relating to operations, monitoring, reporting and service performance measurements.

All staff, facilities, vehicles, equipment, supplies and services required for the operation and management of Monrovia Transit shall be furnished by Contractor unless City specifically identifies an element of equipment or aspect of service to be its responsibility.

3.1.2 Lyft Concierge

Contractor shall provide the necessary management, technical, and operating services for the operation of Lyft Dispatch/Concierge as specified by the City.

Contractor shall assist and cooperate with City in meeting the objectives of providing quality concierge service for the Lyft app. Contractor shall establish and maintain close liaison activities, coordination, and cooperation with City on matters relating to operations, monitoring, reporting and service performance measurements.

3.2. Operations

3.2.1 Monrovia Transit

Contractor shall provide the necessary management, technical, and operating services for the operation of Monrovia Transit services as specified by the City.

Contractor shall assist and cooperate with City in meeting the objectives of providing quality transportation services. Contractor shall establish and maintain close liaison activities, coordination, and cooperation with City on matters relating to operations, monitoring, reporting and service performance measurements.

All staff, facilities, vehicles, equipment, supplies and services required for the operation and management of Monrovia Transit shall be furnished by Contractor unless City specifically identifies an element of equipment or aspect of service to be its responsibility.

Monrovia Transit functions as a traditional, dial-a-ride system for passengers with disabilities and seniors (62+).

Monrovia Transit will operate during the following service hours:

- Sunday through Thursday, 7:00 a.m. to 10:00 p.m.
- Friday and Saturday, 7:00 a.m. to 1:00 a.m.
- Service available during federal holidays

City reserves the right to make schedule adjustments with prior communication provided to the Contractor.

Monrovia Transit trips may be requested in advance, same-day, and as immediate requests:

- Advance Reservations: Non-medical reservations can be made up to 2 service days in advance;
- Medical Trips: Medical reservations can be made up to one month in advance;
- Same-Day Trips: Same-day trip requests may be made prior to the desired pick-up time, depending on driver availability; and
- On-Demand Trips: On-demand request trip requests may be made at any time during the service day through the Lyft app using the “Mon Transit” Lyft Pass) or by phone call.

City reserves the right to change scheduling policies with prior communication provided to the Contractor.

3.2.2 Lyft Concierge and Dispatch Services

City provides subsidized Lyft rides for all residents and visitors who apply the coupon codes using Lyft within the service area boundaries. Riders who have entered the coupon code into their Lyft account will pay a discounted price per Lyft ride within the City boundaries.

Contractor will provide call center dispatching staff for those users who use Lyft services and/or Monrovia Transit but do not own or have access to a cellular phone capable of operating the Lyft app. These specified users may request Lyft rides and/or Monrovia Transit rides by calling the Monrovia Transit number.

Lyft dispatch services will have the same operating hours as Monrovia Transit.

- Lyft trips may be requested in advance, same-day, and as immediate requests.

Contractor will provide rides by dispatching service vehicles to users who request them via the Lyft application or concierge service. In order for the Contractor to manage the program, Contractor will have access to an online portal owned and hosted by Lyft (the “Dashboard”). Contractor shall request Lyft rides on behalf of approved callers through the Dashboard. Each request will include all relevant ride information, including, but not

limited to, the user's first and last name, pick-up and drop-off location, and telephone number. Contractor will transmit the request via the Lyft platform to available drivers.

In the event a Lyft ride is scheduled for a future date and time, Contractor will schedule the ride through Lyft by submitting the request to drivers ("Request") within a reasonable time from the desired pick-up time. If the Request is not accepted by a Lyft driver, a notification of non-acceptance will be sent.

3.3 Service Areas

3.3.1 Service Area – Monrovia Transit

Contractor shall operate Monrovia Transit services in the following service areas:

- Within the City of Monrovia
- Within the City of Bradbury
- County Unincorporated Service Areas located south of the City of Monrovia in unincorporated Los Angeles County. Funding of this service area is provided from the Los Angeles County Department of Public Works and Metro Proposition A Incentive Grant funding. Operation of service in this service area and payment of such service is contingent on City's receipt of such funds. If City does not receive funding for transit services in the out-of-city service area, City shall notify Contractor in writing and Contractor will immediately cease providing transit service in the out-of-City service area.
- Approved facilities in neighboring/nearby cities.
- City reserves the right to modify the service area as necessary for fiscal, jurisdictional, geographic, or passenger travel pattern requirements.

3.3.2 Service Area – Lyft

Contractor shall dispatch Lyft rides within the City of Monrovia and to approved facilities in neighboring/nearby cities.

3.4 Special Services

In addition to regular Monrovia Transit and Lyft Concierge Dispatch operations, Contractor, upon receiving specific written authorization by City, may provide special transportation services within the City of Monrovia using Monrovia Transit vehicles, provided that such special services are determined by City to be in the public interest, do not interfere with regular Monrovia Transit operations, and are in compliance with applicable federal and state statutes. Contractor shall be entitled to compensation beyond the established maximum obligation for such services at the normal rate per vehicle revenue hour specified in the Agreement.

3.5 Personnel

3.5.1 General Provisions

Contractor shall provide the necessary management and administrative personnel whose expertise will ensure efficient operation of Monrovia Transit:

- Contractor shall be solely responsible for the satisfactory work performance of all employees designated to provide services to Monrovia Transit or of any reasonable performance standard established by City.
- Contractor shall be solely responsible for payment of all employee's wages, benefits and payroll taxes. Contractor's wages and work hours shall be in accord with local, County, State and Federal regulations affecting such personnel.
- Contractor shall hold harmless City, City of Bradbury, County of Los Angeles, and the Los Angeles County Metropolitan Transportation Authority of any liability, damages, claims, costs and expenses of any nature arising from alleged violations of personnel practices affecting Contractor's employees.

3.5.2 Operations Management

Contractor shall provide operations management at a level and capability sufficient to oversee its functions and employees.

Contractor shall designate and provide the services of a Project Manager who shall provide overall management and supervision of Monrovia Transit under the terms of the Agreement. The Project Manager shall work cooperatively with City's assigned transit staff in matters relating to service quality, providing operational and other data as described in this Scope of Work, responding to comments from Monrovia Transit riders and the general public, and responding to specific requests for other assistance if the need arises.

The Contractor may further designate one or more Operations Supervisor(s) or other supervisory positions to assist the Project Manager in carrying out all oversight activities relative to Monrovia Transit operations.

The office of the Project Manager shall be physically located at the facility designated by Contractor for management and operation of Monrovia Transit. During all times when Monrovia Transit services are in operation, either the Project Manager or a supervisory-level employee designated to act for the Project Manager shall be on duty and available either by phone or in person at the Contractor's facility to make management and operational decisions regarding Monrovia Transit operations and provide coordination, as necessary, and shall be authorized to act on behalf of Contractor regarding all matters pertaining to this Scope of Work.

3.5.3 Employee Selection and Supervision

Contractor shall be responsible for the employment and supervision of all employees necessary to perform Monrovia Transit operations. Such responsibilities shall include employee recruitment, screening, selection, training, supervision, employee relations, evaluation, retention and termination.

Contractor shall use appropriate driver screening and selection criteria in order to employ drivers. These criteria will include Department of Motor Vehicles license check and physical examination sufficient to meet all applicable requirements for Monrovia Transit vehicle operations.

Contractor shall develop, implement, and maintain an employee substance abuse/alcohol abuse testing program for all employees in safety-sensitive positions including personnel engaged in the operation, maintenance and control of Monrovia Transit vehicles and equipment. Such program will meet all applicable federal requirements promulgated to implement the Omnibus Transportation Employee Test Act of 1991 and related supplements and amendments.

Contractor shall make all reasonable efforts to ensure that employees having contact with the public in the course of their duties are of good moral character. Any such employee who is convicted of a felony or a crime involving moral turpitude before or during the time of his/her employment shall not be permitted to continue operating Monrovia Transit services.

Contractor shall endeavor to recruit a sufficient number of Spanish speaking dispatch employees to accommodate Monrovia Transit requests and transit information calls during all service hours.

Contractor shall at all times comply with applicable state and federal employment laws, including section 1735 of the California Labor Code and Title VI of the Civil Rights Act of 1964, as amended.

Nothing in this section shall be construed by either Contractor or City to be in conflict with the language and intent of Section VI, Personnel, of the Agreement.

3.5.4 Training of Drivers and Operations Personnel

Contractor shall develop, implement, and maintain a formal training and retraining program that shall be subject to review and approval by City.

An outline of the training program, including periodic updates, shall be on file with the City. All drivers, dispatchers, telephone information personnel, and supervisors shall participate in the program.

Contractor shall implement and maintain a specific training and retraining program for all drivers. The program must provide a fixed minimum number of hours of training for new employees, including classroom instruction, behind the wheel training under supervision of a certified instructor, and in-service training. The program shall include, but not necessarily be limited to, instruction covering applicable laws and regulations and defensive driving practices, Monrovia Transit operating policies and procedures, employee work rules, vehicle safety inspection, equipment care and maintenance, customer relations and passenger conduct. Drivers shall be trained in ADA policies and

to operate all types of vehicles, wheelchair lifts and lock systems, and other equipment that they may be expected to use in the Monrovia Transit services to competency.

All drivers shall be certified as having completed Contractor's formal training course for new drivers or experienced drivers as approved by City and be licensed as required by the State of California for the vehicles being operated. All drivers shall be licensed with a valid California operator's licenses with appropriate certification(s) and medical card as required for the vehicles being operated. Contractor shall ensure that sufficient drivers possess valid Class B licenses to meet Monrovia Transit staffing requirements at all times. Drivers shall meet all applicable requirements as established by the California Highway Patrol (CHP).

Contractor shall prepare and distribute to all drivers, dispatchers, telephone operators, and supervisors proper training and reference materials, including: driver's rules; accident/incident policies; radio policies and procedures; farebox policies and procedures; vehicle inspection, care and maintenance policy and procedures, reporting procedures and pertinent sample forms.

Dispatchers, telephone operators, supervisors, and any other personnel who may be assigned to provide telephone information on the Monrovia Transit telephone reservation lines shall be trained in customer relation skills, telephone manners, accident/incident procedures, fares, Monrovia Transit reservation procedures, general information about Access Services and other transit services and Monrovia Transit operating policies. Operations control personnel assigned to Monrovia Transit trip scheduling and vehicle dispatching duties shall have a detailed knowledge of applicable demand response scheduling procedures and professional techniques and shall be specifically trained in the operation and use of any computerized system provided for the administration of Monrovia Transit.

3.5.5 Drivers' Responsibilities

Drivers will, when requested by City, hand out notices to passengers or otherwise render assistance in City's customer relations, promotion, monitoring, and supervisory functions.

Drivers may be required to honor special passes; collect, cancel and/or validate passes and tickets as determined by City. Drivers will verify cash fares deposited in farebox, but will not handle money. Drivers will record ridership information in accordance with procedures approved by City.

Drivers shall have an accurate time piece available at all times during operation of any vehicle.

The following shall be minimum service requirements and vehicle operator responsibilities. Failure to carry out these responsibilities shall result in a vehicle operator being prohibited from driving any vehicle covered by this contract, unless subsequently approved in writing by City. Contractor shall ensure vehicle operators shall:

- Appear neat, clean, well groomed, and in an acceptable uniform;

- Always be helpful and courteous to passengers;
- Operate the vehicle safely and legally;
- Assist elderly and physically impaired passengers in boarding and deboarding (Monrovia Transit drivers);
- In cases of emergency, shall immediately contact the Contractor Project Manager or Operations Supervisor for assistance;
- Notify passengers of stops and when transfers are required;
- Ensure that all passengers wear seatbelts and shall assist, if necessary, the passenger in fastening the seatbelt;
- Must allow any passenger who requests to use the passenger lift to board the vehicle to do so without explaining or justifying their request;
- Not allow animals in vehicle except service animals or small animals contained in an accepted transport cage, box or carrier;
- Not deviate from route and schedule without City's permission;
- Notify City and Contractor in cases of emergencies or breakdowns;
- Make sure the vehicle stays on schedule but never ahead of schedule;
- Vehicle operators shall observe a dwell time of ninety (90) seconds, at any point after sounding horn or when the patron has signaled acknowledgment of the vehicle arrival;
- Not smoke in the vehicle and enforce no smoking rules;
- Enforce Monrovia Transit passenger rules;
- Not carry or make change;
- Not accept tips;
- Not eat or drink aboard Monrovia Transit vehicles with the exception of beverages in a closed-top, secured container. Alcoholic beverages may never be consumed aboard Monrovia Transit vehicles;
- Not use any device that plays video, music or amplifies sound aboard Monrovia Transit vehicles, unless the device is being used for directional/dispatching services (for example, completing Monrovia Transit rides requested through the Lyft app);
- Not use cellular telephones, pagers, or other communications devices (including text messaging) while operating Monrovia vehicles – unless the device is being used for directional/dispatching services (for example, completing Monrovia Transit rides requested through the Lyft app);
- If a passenger becomes unruly after boarding and is not a threat to the vehicle operator may request that the passenger exit the vehicle. If the passenger refuses to disembark, the driver may contact dispatch for assistance;
- If a passenger becomes unruly after boarding and is a threat to the safety of the vehicle operator and/or passengers, the vehicle operator shall contact dispatch for emergency assistance, when it is safe to do so; and
- Take charge of a safety and security incident scene until the arrival of supervisory or emergency personnel

3.5.6 Removal of Employee from Project

The City may require the immediate removal of any of Contractor's employees from Monrovia Transit service for any reason, including, but not limited to, the following:

- Committing unsafe or inappropriate acts while providing service;
- Revocation, suspension, or non-renewal of a valid California driver's license;
- Conviction of any felony criminal offense;
- Unacceptable customer service as reported by customers, other vehicle operators, or directly observed by City staff or its agents;
- Non-compliance with City-specified appearance standards; or
- Failure to comply with any criteria or standards in the Scope of Work.

3.6 Uniforms

Drivers and other operating staff shall be in uniform at all times while in service or otherwise on duty. Contractor shall provide driver uniforms to its employees. The design, type, and logo of the uniforms shall be subject to City's approval. Moderate-heeled, closed-toe shoes shall be worn at all times. Only City approved uniform caps may be worn. While performing their duties, vehicle operators shall wear nametags clearly displaying their names.

3.7 Safety Program

Contractor shall assume full responsibility for assuring that the safety of passengers, operations personnel, and Monrovia Transit vehicles and equipment are maintained at the highest possible level throughout the term of the Agreement. Contractor shall comply with all applicable FTA, CHP and OSHA requirements.

Contractor shall develop, implement, and maintain in full compliance with California Law (SB 198) a formal safety illness and injury prevention program including periodic safety meetings, participation in safety organizations, safety incentives offered by Contractor to drivers and other employees, and participation in risk management activities under the auspices of Contractor's insurance carrier or other organization.

Contractor shall provide, upon request, a copy of said Safety Program, including evidence of compliance with SB-198, and subsequent program update to City.

Contractor shall participate in the State of California Department of Motor Vehicles "Employer Pull Program" for appropriate monitoring of employer driver license activity.

Contractor will require all drivers, control room personnel, vehicle maintenance mechanics, and supervisors to participate in the safety program.

3.8 Road Supervision

Contractor shall provide road supervision as necessary to monitor drivers and vehicles and assist drivers in revenue service.

3.9 Accident, Incident, and Complaint Procedures

Prior to initiating services under the Agreement, Contractor shall develop, implement and maintain formal procedures, subject to City review and approval, for response to accidents, incidents, service interruptions, and complaints. Such occurrences to be addressed include, but are not necessarily limited to: vehicle accidents, passenger injuries, passenger disturbances, in-service vehicle failures, lift failures of vehicles in service, and Monrovia Transit vehicles operating more than thirty (30) minutes behind promised schedule. All traffic accidents involving transit system vehicles, irrespective of injury, shall be reported to the Monrovia Police Department. Contractor will advise such agency of the accident and request that a unit investigate the accident.

The City's City Manager or his designee shall be notified in person or by telephone within thirty (30) minutes of the occurrence of any accident or incident involving a Monrovia Transit vehicle or service that requires emergency services and/or the transport for medical treatment of a passenger, a member of the public or an employee of the Contractor. A written follow-up report shall be provided to the City within one (1) business day of such accident or incident. In the event of an accident or incident that results in property damage or loss only, Contractor shall notify the City in writing within 1 business day of the event and provide a written report within three (3) business days.

City shall enter any complaints and comments received regarding Monrovia Transit services into a complaint/comment database. Within one business day of receiving a complaint or comment, City shall enter any complaints and comments received regarding Monrovia Transit services into a complaint/comment database. Within one business day of receiving a complaint or comment, City shall email a copy of the transcribed complaint or comment to Contractor for investigation as appropriate. City shall maintain a chronological record of all complaints and comments received, the results of Contractor's investigation, and any action taken to resolve the complaint.

City shall email a copy of the transcribed complaint or comment to Contractor for investigation as appropriate. City shall maintain a chronological record of all complaints and comments received, the results of Contractor's investigation, and any action taken to resolve the complaint.

Contractor shall also record any complaints and comments regarding Monrovia Transit received, providing a chronological record, the results of Contractor's investigation, and any action taken to resolve the complaint. This record shall be an attachment to the City's monthly invoice.

3.10 Vehicle Scheduling and Dispatching

3.10.1 **General** Contractor shall utilize a systematic, organized and documented method to record, schedule and dispatch reservations for all Monrovia Transit trips. The method must be capable of accommodating advanced reservations, out-of-town medical, same-day and immediate service requests and of integrating all demand for service into efficient vehicle tours that maximize productivity and assure service quality to levels prescribed in this Scope of Work.

Contractor shall be responsible for all costs associated with any demand responsive reservation/scheduling/dispatch system proposed for the operation of GoMonrovia and accepted by City, including but not limited to: hardware, software, communication links, installation and set-up, implementation and on-going training of Contractor and City staff, updates and revisions, subscription charges or fees, and access by City staff.

3.10.2 **Staffing** Contractor shall provide an adequate number of trained and qualified persons to staff the Monrovia Transit scheduling and vehicle dispatching functions. Contractor shall endeavor to hire and schedule Spanish speaking reservations staff. Reservations/dispatch staff shall also be responsible for maintaining communication with all drivers/vehicles in service and for maintaining the daily dispatch log in a format to be proposed by Contractor.

Contractor will be required to provide the technical expertise and support staff necessary to:

- Train Monrovia Transit staff to proficiency in the use of provided scheduling and dispatch, computer, communications, and telephone systems;
- Provide customized performance reports and operating data;
- Ensure that all staff answering telephone calls for Monrovia Transit are educated and familiar with the City of Monrovia, City of Bradbury, County unincorporated islands, out-of-town medical destinations, and general information about regional public transit providers (Metro and Foothill) and adjacent municipal transit services; and
- Ensure that Monrovia Transit scheduling staff are knowledgeable of and apply the tools and techniques in provided system to optimize vehicle schedules.

3.10.3 **Compliance with Monrovia Transit Policies** Contractor shall implement and administer reservations, scheduling and dispatch procedures that shall be in compliance with City of Monrovia's policies as presented in the GoMonrovia – Monrovia Transit User's Guide.

3.10.4 **Monrovia Transit Application and Reservations** Monrovia Transit services require that all passengers complete an application, including providing back-up documentation showing disability or senior eligibility. Passengers must receive approval from the City before scheduling a ride. When placing a trip request, riders will be requested to give point of origin, point of destination and number of persons in the party. Upon making a trip reservation, riders will be advised of the promised pickup time for their trip and advised that the Monrovia Transit vehicle may arrive from 5 minutes before to 15 minutes after that promised time.

3.10.5 **Scheduling** within the requirements set forth within this Scope of Work, Contractor's scheduling staff will organize trip requests for Monrovia Transit service so as to meet or exceed the service standards defined herein. Monrovia Transit shall be operated as a shared-ride service.

3.10.6 **Lyft Concierge/Dispatch Operations** Contractor shall provide qualified staff to operate dispatch/concierge services for both Monrovia Transit and the City's on-demand ride-sharing program during the specified service hours, including holidays.

For both Monrovia Transit services and Lyft Concierge, dispatchers shall record the time calls are received, the estimated or scheduled pick-up time, the actual time the patron is picked up and the actual time the patron is dropped off. Dispatchers shall do everything possible to avoid undue delay of any patron, either at the point of pick up or en route.

3.11 Vehicles and Equipment

Contractor shall provide any and all vehicles and equipment necessary for the operation of the Monrovia Transit system other than what is indicated in Section 2, **City Duties and Responsibilities**. Prior to initiation of services under the Agreement, Contractor shall procure or otherwise provide the following vehicles and equipment, as appropriate:

3.11.1 **Non-Revenue Vehicles** Should the Contractor determine that the management and administration of Monrovia Transit requires non-service vehicles to be used in administrative and on-street support of the Monrovia Transit services, including but not limited to on-street shift changes, response to accidents/incidents, observation of in-service vehicles and administrative purposes, provision of such vehicles shall be the responsibility of the Contractor. All costs associated with any such non-revenue vehicle, including fuel, maintenance and licensing shall be the responsibility of the Contractor.

3.12 Operations and Maintenance Facility

Contractor shall be responsible for securing, establishing and maintaining a facility for the operation, maintenance, and administration of Monrovia Transit. With the approval of the City, such facility may be shared with operation of similar services for another client agency.

At a minimum, the operations and maintenance facility shall have the following:

- An enclosed workspace sufficient to allow maintenance personnel to service at least two (2) Type B transit vehicles and be protected from the weather.
- A paved shop floor capable of withstanding the weight of a Type B transit vehicle.
- Adequate area to clean the vehicles in accordance with the Agreement.
- Adequate secured storage area for tools, equipment and parts.
- A security-fenced, paved and lighted area for overnight vehicle parking with adequate space for all vehicles.
- Adequate appropriately equipped space for administrative personnel, dispatching and information staff, driver lounge or ready room, and training/safety meetings.
- A furnished control room, including computer equipment, maps, scheduling/dispatch equipment, adequate desks, tables, chairs, and other equipment as may be appropriate.

Although preferred, the City does not require that Contractor's facility be located within the city limits of Monrovia.

The location, use, and upkeep of such facilities shall be subject to periodic inspections and continued approval by the City during the term of Agreement. Any change in the originally-approved facility location is subject to written approval by City.

3.13 Telephone Reservation and Information System

Contractor shall provide telephone equipment and all telephone information and dispatch personnel necessary to effectively respond to incoming calls at a quality and level consistent with Monrovia Public Transit patron demand, and in strict accordance with the operating days and hours set forth herein.

Contractor shall make special efforts to respond to telephone service and information requests from patrons who have hearing disabilities or whose primary language is a language other than English. Contractor will provide Telecommunications Device for the Deaf (TDD) equipment for communications with patrons who have hearing disabilities and will provide the capability to receive and accommodate telephone calls from callers speaking languages other than English during all hours when Monrovia Transit reservations may be made.

The Contractor will be required to provide the following phone lines and service for Monrovia Transit:

- Monrovia Transit Reservations and General Information: The Monrovia Transit and Lyft Concierge reservations number – 626-358-3538 - shall also be used for general transit information calls. Additional lines may be required if complaints are received of callers receiving “busy” signals at peak times; and
- Telecommunications Device for the Deaf (TDD) Unit: A second number and separate line for connection to a TDD which will be provided by Contractor; and

Contractor is responsible for providing any additional telephone equipment and phone lines for support of its own business purposes. Upon termination of the Agreement of which this Scope of Work is a part, City reserves the rights to the Monrovia Transit reservations and TDD numbers as indicated above herein, and Contractor agrees to transfer said telephone numbers upon request.

Contractor shall provide an automatic call director (ACD) unit which shall answer all telephone calls for Monrovia Transit, including Monrovia Dial-A-Ride service request calls, calls to cancel Dial-A-Ride trips, and calls for information about Monrovia Transit services. If calls cannot be answered immediately, the ACD system shall hold the calls in a queue and cause the calls to be answered in the order in which they were received. Once answered by a human, Monrovia Transit calls are not to be terminated before the call is completed or placed on hold without the explicit approval of the caller. The ACD shall capture and allow for the reporting of data on telephone system performance, including, but not limited to, total calls received; total calls abandoned; average hold time; number of calls by length of time on hold and maximum hold time. Contractor shall provide ACD reports to the City monthly.

3.14 Fares; Fare Collection

3.15.1 Collection of Fares City shall establish all fares of any kind or character to be paid by Monrovia Transit patrons. Contractor shall ensure that each patron pays the appropriate fare prior to being provided transportation service. All cash fares will be paid by patrons in the exact amount due for their appropriate fare category and shall be deposited by patrons in locked fareboxes provided by City with each vehicle. Contractor will collect or otherwise process in the manner directed by City all non-cash fare such as passes or tickets.

3.15.2 Deposit and Crediting of Fare Revenues All fares collected by Contractor shall be retained by Contractor but credited to City. All fares shall be emptied from fareboxes daily and deposited on a timely basis into a local bank account approved by City for that purpose. On a monthly basis, collected fare revenue shall be deducted from the Contractor's invoice to the City. Contractor shall document and report the total amount of fare revenue to City and Foothill Transit.

3.15.3 Accounting for Fare Revenues Contractor shall maintain separate accounting for all fares collected and shall provide City with appropriate documentation of fares collected in each month's Monthly Management Report. Contractor shall investigate any discrepancies over \$10.00 per month and shall provide a report to City within seven (7) calendar days explaining such discrepancy. If Contractor cannot reasonably provide a satisfactory explanation for the discrepancy, Contractor shall be liable for any variances. Free fares, which result from a late pickup time (more than 5 minutes before or 10 minutes after scheduled time), shall be considered a variance, and shall be noted as such in the billing.

City reserves the right to audit fare revenue collection and accounting at reasonable times without prior notification to Contractor.

3.15.4 Training of Monrovia Transit Staff Contractor shall ensure that all vehicle drivers and reservations/dispatch staff are aware of and adhere to the fare structure, including the acceptance of passes, tickets, transfers and tokens. In addition, vehicle drivers shall be required to collect, cancel and/or validate passes and tickets, and issue and collect transfers.

3.15 Ticket Sales

City may elect to sell or provide tickets to Monrovia Transit patrons. In such case, Contractor shall collect, record, and deposit ticket sales according to instructions of the City.

3.16 Books, Records, and Reports

3.16.1 General Provisions

Contractor acknowledges that City receives funds from the Los Angeles Metropolitan Transit Authority (“METRO”) for joint City projects that require specific detailed information to be kept and reported in required formats. Accordingly, Contractor shall provide monthly or other reports requested by City to meet said reporting requirements. Contractor’s failure to provide the requested reports may jeopardize receipt of METRO funds by City. In such case, Contractor shall be liable for any funds not received by City due to Contractor’s failure to provide the reports in the format requested by City. City may from time-to-time request other additional information.

All records and data prepared and maintained by Contractor pertaining to Agreement shall be property of City and shall be made available to City for inspection and copying at no additional charge.

3.16.2 Record Retention and Audit

Contractor shall maintain all books, records, documents, accounting ledgers, and similar materials relating to work performed for City under the Agreement on file for at least three (3) years following the date of final payment to the Contractor by City.

Any duly authorized representative(s) of City shall have access to such records for the purpose of inspection, audit, and copying at reasonable times during Contractor’s usual and customary business hours. Contractor shall provide proper facilities to City representative(s) and City shall be permitted to observe and inspect any or all of Contractor’s facilities and activities during Contractor’s usual and customary business hours for the purposes of evaluating and judging the nature and extent of Contractor’s compliance with the provisions of the Agreement. In such instances, City’s representative(s) shall not interfere with or disrupt such activities.

In the event that an audit is conducted of Contractor specifically regarding Agreement by any Federal or State auditor, or by any other auditor or accountant employed by Contractor or otherwise, then Contractor shall file a copy of such audit report with City within thirty (30) days of Contractor’s receipt thereof, unless otherwise provided by applicable federal or state law. City shall make a reasonable effort to maintain the confidentiality of such audit report(s).

3.16.3 Required Operating and Performance Data

Contractor shall collect, record, and report all operational data required by the National Transit Database (NTD) and the City in a format approved by the City. Such data shall be collected and maintained by service type for Monrovia Transit. It shall include, at a minimum:

- Passenger count data by service, fare category and jurisdiction
- Number of seniors passengers
- Total vehicle hours
- Total vehicle miles
- Vehicle revenue hours
- Vehicle revenue miles

- Wheelchair boarding's
- Monrovia Transit (dial-a-ride) passenger no-shows and cancellations
- On-time performance Monrovia Transit (dial-a-ride)
- Average telephone hold time
- Number of calls on hold 3, 5, and 10 minutes or more
- Passenger mile sampling data in accordance with a method approved by the FTA for NTD purposes

Information concerning vehicle activity shall be collected daily on the Monrovia Transit driver's log, fixed route drivers report, dispatch log, and/or other forms as developed by Contractor and approved by City.

The operations data shall be collected and compiled daily, weekly, monthly, quarterly, and annually, and shall be recorded according to the individual routes, modes and total system.

Driver trip sheets, dispatch logs, daily logs, reports, fare box revenue records and summaries shall be available, upon request, for City review at the operations facility by 3:00 PM on the next business day following data collection.

3.16.4 Reporting

- Monthly Management Report Following the close of each calendar month, a Monthly Management Report shall be prepared by Contractor and submitted to the City no later than the 10th business day of the following month. The Monthly Management Report shall provide City with a clear and concise summary of Monrovia Transit performance during the prior month and for the reporting year to date, and shall include, but not be limited to, information on system performance, passenger complaints and compliments, and passenger fares. The City reserves the right to modify the Monthly Management Report and its required content at any time.
- National Transit Database (NTD) Reporting All public transit service provided by City must be reported annually to the Federal Transit Administration (FTA) in a completed National Transit Database (NTD) report. In accordance with FTA guidelines, City must submit a consolidated NTD Report to Metro of all its contracted service. Contractor is responsible for ensuring that all of the information reported meets FTA definitions and accuracy requirements. In addition, Contractor is responsible for keeping the NTD data collection procedures current with the most recent FTA guidelines.
- Annual Report Due In a format approved by the City, Contractor must provide an annual report on September 1st of each detailing the following:
 - List of all Contractor employees trained and qualified for Monrovia Transit operations over the past year, with each employee's name, position, recent

- photo, and, for vehicle operators, their current driver's license and certifications.
- List of work orders for all maintenance inspections, warranty repairs, and other vehicle repairs including materials, parts and labor consumed
- List of road call reports, or work order, for each road call identifying date and time, vehicle number, problem and mileage of vehicle
- Fleet summary listing each vehicle; vehicle mileage; vehicle year-to-date total miles; accident records; vehicle year-to-date maintenance costs and cost per mile; and Contractor's summary of maintenance problems, particularly components with high incidences of in-service failures, and steps taken or recommendations to reduce such problems and in-service failures
- Copy of the daily vehicle inspection and servicing checklist

Contractor shall collect, record, and report to the City on an annual basis all operating and financial data on a year-to-date cumulative basis for the Monrovia Transit operation in accordance with the National Transit Database, Section 99243 of the California Public Utilities Code, and/or as specified by the Los Angeles County Metropolitan Transportation Authority (Metro). All worksheets and detail information used to prepare these reports shall be available to City, upon request, within one month after the close of the reporting year.

3.17 System Promotion

All development, preparation and production of advertising and/or promotional activities with respect to Monrovia Transit shall be the responsibility of the City. Contractor shall, however, cooperate with City in any such activities initiated by the City by making available needed equipment, facilities, and reasonable levels of personnel assistance at no additional cost or expense to City. Contractor also shall dispense Monrovia Transit informational materials and publications, respond to patron requests for information, act as liaison and provider of information with and to community agencies and groups, and assist and support City's advertising and public informational efforts.

No paid advertising or promotional banners will be permitted on Monrovia Transit vehicles except with the written direction and approval of the City. Any related revenues shall be solely the property of the City.

3.18 System Recommendations

Contractor shall continually monitor Monrovia Transit operations, facilities, and equipment; and shall, from time to time and as warranted, advise City and make recommendations to City based upon observed deficiencies and needed improvements. City shall retain all authority, however, to make determinations and to take action on such recommendations.

3.19 ADA Compliance

In performance of the Agreement, Contractor shall ensure compliance at all times with the Provision of Service requirements of the Americans with Disabilities Act [37 CFR Subpart G, Sections 37.161 through 37.167] including, but not limited to:

- Maintenance of accessible features;
- Keeping vehicle lifts in operative condition;
- Lift and securement use;
- Assisting individuals with disabilities in use of securement systems, ramps and lifts;
- Permitting individuals who do not use wheelchairs, including standees, to use a vehicle's lift or ramp to enter the vehicle;
- Announcing of stops on fixed route buses;
- Permitting service animals to accompany individuals with disabilities in vehicles and facilities;
- Making available adequate information concerning transportation services in accessible formats or technology;
- Not prohibiting an individual with a disability from traveling with a respirator or portable oxygen supply;
- Ensuring that adequate time is allowed for individuals with disabilities to complete boarding or disembarking from the vehicle; and
- Adhering to the City's Reasonable Modification Policy.

Contractor shall ensure that all employees operating Monrovia Transit services, administering the reservations, scheduling and dispatch, and maintaining the revenue vehicles are trained to proficiency as appropriate for their positions and responsibilities.

3.20 Emergencies; Natural Disasters

In the event of an emergency or natural disaster, Contractor shall make available, to the maximum extent possible, transportation and communications services as directed by City. In the absence of direction from the City, Contractor shall follow directions of appropriate law enforcement/emergency management agencies. To the extent the City requires Contractor to provide such emergency services, Contractor shall be relieved of the obligation to fulfill the duties and responsibilities to operate Monrovia Transit as herein described until released from emergency response.

Contractor shall be reimbursed for documented and reasonable costs in excess of normal Monrovia Transit operating costs during an emergency response.

3.21 FTA Required Federal Provisions and Certifications.

The FTA Required Federal Provisions and Certifications set forth in **Exhibit D** are incorporated as part of this Agreement. Each contractor and subcontractor will be subject to these federal provisions and certifications. The contractor must include these provisions and certifications with all subcontracts.

3.22 RN-DBE Instructions for Metro Subrecipient Agencies.

The RN-DBE Instructions for Metro Subrecipient Agencies set forth in **Exhibit E** are incorporated as part of this Agreement. The City has not established a DBE contract goal for this Agreement. However, the City strongly encourages the contractor to include DBE subcontractors to the greatest extent possible. The contractor must include these RN-DBE instructions with all subcontracts.

SECTION 4: CONTRACTOR DUTIES AND RESPONSIBILITIES: MAINTENANCE

Contractor shall perform the duties and accept the responsibilities set forth below in connection with the maintenance of Monrovia Transit vehicles and equipment. The omission of a duty or responsibility herein below shall not relieve Contractor of its obligation to perform such duty or accept such responsibility, so long as it is usual, customary and generally accepted within the public transportation industry as being an integral element of operating a public transportation system of a kind and character such as Monrovia Transit.

Contractor's duty and responsibility to maintain all vehicles and equipment shall not be delegated to any other person, firm or corporation without explicit written City approval.

4.1 Maintenance – General

Contractor shall be responsible for the maintenance of all vehicles, communication systems, onboard camera system, fare box system, and all other equipment, furnishings, and accessories required in connection with its operation of Monrovia Transit in a clean, safe, sound, and operable condition at all times, and fully in accordance with any manufactured-recommended maintenance procedures and specifications, as well as with the applicable requirements of any federal or state statute or regulation. In this regard, Contractor shall provide all labor, repairs, parts, supplies, maintenance tools and equipment, lubricants, solvents, service facilities and such other components, and services which may be required to fulfill its maintenance responsibilities, at Contractor's sole cost and expense.

4.2 Maintenance and Operations Facility

Contractor shall establish and maintain an operations and maintenance facility as detailed in Section 3.13 herein. In addition to those requirements, said facility shall, at a minimum, meet the following requirements to support the maintenance of Monrovia Transit vehicles:

- All tools and equipment necessary to perform periodic repairs and the preventive maintenance activities for gasoline powered vehicles.
- All tools and equipment necessary to perform periodic service and adjustments and make mechanical repairs.
- Facilities and equipment necessary to clean the vehicles and equipment in accordance with this Scope of Work.

4.3 Maintenance Management and Personnel

4.3.1 Maintenance Management

Contractor shall designate and provide the services of a qualified Maintenance Manager. This individual may be the lead mechanic and shall be assigned to Monrovia Transit maintenance operations on an acceptable fleet to mechanic ratio. The Maintenance Manager shall provide proactive resource management including but not limited to:

- Preventive maintenance scheduling and supervision, repair supervision, technical training; and
- Such other activities as may be necessary to ensure the performance of Contractor's maintenance duties and responsibilities.

4.3.2 Maintenance Personnel

In addition to the Maintenance Manager, Contractor shall hire and employ other maintenance and service personnel as necessary to properly maintain and service the Monrovia Transit vehicles.

Maintenance personnel assigned to work on Monrovia Transit vehicles and equipment shall have the necessary skills to:

- Conduct preventive maintenance inspections and complete associated paperwork;
- Inspect vehicle engines, transmissions, and other mechanical, electric, and electric parts and components;
- Diagnose vehicle engine, transmission, electrical and electric component system problems; and
- Repair vehicle engines, transmissions, and other mechanical, electric, and electronic parts and components.

4.4 Preventive Maintenance

Contractor shall document a proactive preventive maintenance program. At a minimum, Contractor's preventive maintenance program shall adhere to the preventive maintenance schedules and standards of the industry, and shall be sufficient so as not to invalidate or lessen warranty coverage of any Monrovia Transit vehicle or associated equipment. Adherence to preventive maintenance schedules shall not be regarded as reasonable cause to defer maintenance in specific instances where Contractor's employees observe that maintenance is needed in advance of scheduled maintenance.

Contractor shall not defer maintenance for reasons of shortage of maintenance staff or operable vehicles, nor shall service be curtailed for the purpose of performing maintenance without prior written consent of City. Preventive maintenance and running repairs shall receive first priority in the use of Contractor's maintenance resources. Contractor shall adjust the work schedules of its employees as necessary to meet all scheduled services and complete preventive maintenance activities according to the schedule approved by City.

4.5 General Maintenance Policies

- All wheelchair lift-related equipment shall be inspected, serviced and lubricated at intervals necessary to insure that the wheelchair lifts are fully operational whenever the vehicle is used in revenue service.
- Brake inspections and adjustments shall be performed at intervals that insure the safe and efficient operation of the braking system.
- All components of the vehicle bodies, appurtenances, and frames shall be maintained in a safe, sound and undamaged condition at all times. Damage (including body, glass, and all appurtenances) shall be repaired in a professional manner within three weeks (21 calendar days) of occurrences.
- All mechanical, electrical, fluid, air, and/or hydraulic systems shall be maintained in a safe and fully functional, as designed, condition at all times.
- The interior passenger compartment shall be free of exhaust fumes from the engine, engine compartment, and exhaust system of the vehicle.
- Heating, ventilation and air conditioning (HVAC) systems shall be maintained and used to insure that the passenger compartment temperature is comfortably maintained under all climatic conditions at all times on all in-service hours. Contractor shall maintain the A/C systems in an operable condition throughout the entire year.
- All parts, materials, tires, lubricants, fluids, oils and procedures used by Contractor on all Monrovia Transit vehicles and equipment shall meet or exceed original equipment manufacturer specifications and requirements.

4.6 Daily Vehicle Servicing

Contractor shall perform daily vehicle servicing to all Monrovia Transit vehicles and equipment used in revenue service. For purposes of this Agreement, daily servicing shall include, but not be limited to:

- Fueling
- Engine oil, coolant, water and transmission fluid check/add
- Fare box check
- Passenger lift check
- Brake check
- Light and Flasher check
- Interior sweeping and dusting
- Exterior and interior visual inspection
- Check all vehicle performance defects reported by drivers to identify potential safety and reliability items requiring immediate attention.

Contractor shall develop, implement, and maintain a written checklist of items including in the daily servicing of each vehicle. The checklist shall be utilized and kept on file. This checklist requirement may incorporate or supplement CHP-required driver's pre-trip safety inspections.

4.7 Daily Driver's Inspection

13 California Code of Regulations (CCR) 1234 lists the records required by regulation to be kept by motor vehicle carriers. Section 1234, 13 CCR reads, in part:

(e) Daily Vehicle Inspection Reports. Motor carriers shall require drivers to submit a documented daily vehicle inspection report pursuant to section 1215(c). Reports shall be carefully examined, defects likely to affect the safe operation of the motor vehicle or combination or result in a mechanical breakdown shall be corrected before the vehicle or combination is driven on the highway, and carriers shall retain such reports for at least three months.

13 CCR 1215(b)(1)(A) requires that before driving a motor vehicle, the driver shall: "Inspect each vehicle daily to ascertain that it is in safe operating condition and equipped as required by all provisions of law, and all equipment is in good working order."

The requirement to perform a daily pre-trip inspection applies to all drivers of all vehicles listed in 34500 California Vehicle Code, without exception. There is no legal provision for this task to be delegated to someone other than the driver, such as to a mechanic who may arrive at work early to start all of the vehicles and "check them out".

The Drivers Daily Vehicle Inspection Report is not required to be submitted or otherwise documented until the end of the driver's work period. This is so that any defects that become apparent during the course of the work period can be included in the report. This report is required whether or not any defects are found.

4.8 Vehicle Cleaning

Contractor shall maintain Monrovia Transit vehicles in a clean and neat condition at all times.

The interior of all vehicles shall be kept free of litter and debris to the maximum practicable extent throughout the operating day. Vehicles shall be swept and dusted daily. Interior panels, windows, and upholstery shall be cleaned of marks as necessary. The interiors of all vehicles shall be thoroughly washed at least once per week, including all windows, seats, floor, stanchions and grab rails. All foreign matter such as gum, grease and dirt shall be removed from interior surfaces during the interior cleaning process. Any damage to seat upholstery and graffiti shall be repaired/ removed immediately upon discovery. Ceilings and walls shall be thoroughly cleaned at least once per month, or more often as necessary.

Exteriors of all Monrovia Transit vehicles shall be washed as required to maintain a clean, inviting appearance and in no event less than once per week. Exterior washing shall include vehicle body, all windows and wheels. Rubber or vinyl exterior components such as tires, bumper fascia, fender skirts and door edge guards shall be cleaned and treated with a preservative at least once per month, or as necessary to maintain an attractive appearance.

Vehicles shall be kept free of vermin and insects at all times. Contractor shall exterminate all vermin and insects from all vehicles immediately upon their discovery, utilizing safe and nonhazardous materials.

Contractor shall perform complete vehicle detailing on each vehicle, twice per year on a schedule approved by the City. Detailing shall include, at a minimum: the cleaning of all interior surfaces using an appropriate cleaner and treatment using an appropriate protectant; cleaning of the vehicle exterior followed by the application of an appropriate polish and wax; and cleaning, polishing and treatment of all wheels, rims and tires.

Contractor shall schedule vehicle detailing in a manner that does not adversely affect the Monrovia Transit services.

4.9 Fueling

Contractor and Contractor's employees shall be required to adhere to any and all operating, administrative, and accounting procedures required by City in connection with all fueling operations. City may issue Contractor employee codes, access cards, and/or other media needed for access to the City Corporation Yard and operation of the fueling station. Contractor shall be responsible for maintaining control of such access information and media and shall be responsible for any damages due to the misuse of or loss of control over access information/media issued to Contractor.

4.10 Vehicle Towing

In the event that towing of any Monrovia Transit vehicle is required due to mechanical failure or damage, Contractor shall be responsible to provide such towing at Contractor's sole expense.

4.11 Emissions Control Programs

Contractor shall perform and certify such tests of equipment required to meet City, other local, State, and Federal requirements related to exhaust smoke and engine emissions.

Contractor shall be responsible to maintain any applicable California Air Resources Board (CARB) Voluntary Compliance Program objectives subject to Monrovia Transit operations.

Contractor shall be responsible for administration of a Smog Check program for Monrovia Transit vehicles. Contractor shall be responsible for emissions testing and shall further be responsible to conduct repairs as required to meet emissions standards.

4.12 Maintenance Evaluations

Contractor shall allow City to access Contractor's facilities and records to monitor Contractor's maintenance performance, as City deems necessary. City perform regular, unannounced maintenance inspections of vehicles and equipment maintained by

Contractor that are used in this project using both City personnel and independent consultants to assist in determining Contractor's maintenance performance. City shall be permitted to view and copy any vehicle maintenance records, inspect vehicles and equipment, and request Contractor personnel to drive vehicles as is necessary to evaluate the condition of vehicles and equipment used in the performance of this Agreement.

4.13 Out-of-Service Designation

A vehicle shall be designated as unfit for revenue service if, upon inspection, any of the following conditions are found:

- Brakes out of adjustment
- Loose steering components
- Wheelchair lift and related equipment not functioning properly
- Air conditioner unable to maintain a temperature 20 degrees F lower than ambient 72 degrees F
- Heating or defrosting inoperable
- Missed Preventive Maintenance Inspection
- Tires with tread depth of less than 2/32"
- Failure to clean each vehicle as outlined above
- Failure to repair vehicle body damage within twenty-one days of the date damage occurred
- Inoperable Emergency Exits/Doors/Windows
- Inoperable fare box
- Failure to achieve a satisfactory rating in any category of the annual California Highway Patrol Safety Compliance report (CHP 343)
- Removal from road-worthy status by CHP of any vehicle used under this Agreement
- Any condition not in compliance with ADA
- Any condition not in compliance with applicable Federal or State Regulations

Vehicles shall continue to have the Out of Service Designation until it is brought into compliance.

Contractor shall not be paid for hours operated in Monrovia Transit revenue service by vehicles that are in an Out of Service condition. City may, at its sole discretion, correct any unresolved Out of Service condition, and withhold the costs related to such correction(s) from payment to the Contractor.

4.14 Maintenance Records and Reports

Contractor shall prepare, maintain, make available to City, and reduce to written form, records and data relative to Monrovia Transit vehicles and equipment maintenance. Maintenance records shall be maintained on all vehicles indicating all warranty work, preventive maintenance, and repairs performed on each vehicle. All such records and

reports shall be prepared and maintained in such a manner so as to fulfill any applicable state or federal requirements, as well as any needs of City to enable it to accurately evaluate Contractor's maintenance performance and the operating expense associated with various vehicles and equipment.

Records of all maintenance and inspections shall be made available to City when requested. City maintains the right to inspect, examine and test, at any reasonable time, any vehicles used in performance of this Agreement and any equipment used in the performance of maintenance work in order to ensure compliance with this Agreement. Such inspection shall not relieve the Contractor of the obligation to continually monitor the condition of all vehicles and to identify and correct all substandard or unsafe conditions immediately upon discovery.

Contractor shall transport any or all vehicles and equipment to any required inspection facilities when requested. In the event that the Contractor is instructed by City or any other regulatory agency to remove any equipment from service due to mechanical reasons, Contractor shall make any and all specified corrections and repairs to the equipment and resubmit the equipment for inspection and testing before it is again placed in service.

Contractor shall prepare maintenance records and reports in a form and according to a schedule approved by City. Such records and reports shall include, but not be limited to, the following:

- Daily vehicle inspection and servicing checklist
- Work orders for all maintenance inspections, warranty repairs and other vehicle repairs including materials, parts and labor consumed.
- Road call reports, or work order, for each road call identifying date and time, vehicle number, problem and mileage of vehicle.
- Monthly vehicle summary to be included as part of the Monthly Management Report, listing, at a minimum, the operation status of each vehicle, vehicle mileage, vehicle mileage since last preventive maintenance inspection, vehicle fuel and lubricants consumption, vehicle road calls and maintenance or repair work done during that month.
- Semi-annual fleet summary listing each vehicle; vehicle mileage; vehicle year-to-date total miles; vehicle year-to-date fuel consumption and miles per gallon; vehicle year-to-date maintenance costs and cost per mile; route service total road calls and miles per road call; Contractor's summary of maintenance problems, particularly components with high incidences of in-service failures, and steps taken or recommendations to reduce such problems and in-service failures.

4.15 Vehicle Maintenance Record Keeping

Contractor shall maintain an up-to-date vehicle file for each vehicle containing, at a minimum, the following information:

- Make
- Model
- Serial number/ fleet number

- License number
- Date received
- Date placed in service
- Lifetime miles
- Major vehicle repairs
- Preventive Maintenance Inspection Reports
- Daily "Vehicle Condition" Reports
- Work Orders

The "Preventive Maintenance Inspection" Reports shall be kept for two years. Daily "Vehicle Condition" Reports shall be kept for the period required by the CHP.

Copies of the "Preventive Maintenance Inspection" Reports shall be made available to City upon request. Including, all work accomplished with the manufacturer's instructions and warranty conditions, and daily "Vehicle Condition" Reports.

Contractor shall submit the entire vehicle file to the City upon request and upon expiration or termination of this Agreement.

4.16 Maintenance Inspections

City reserve the right to review maintenance records, inspect any vehicle and, by notice to Contractor, reject any vehicle temporarily or permanently for use in Monrovia Transit operations.

4.17 Environmental Compliance

For the purposes of this Section:

"Applicable Environmental Laws" means any and all laws concerning the protection of human health and the environment which include, but will not be limited to, the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§ 9601 et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901, et seq.; the Federal Water Pollution Control Act, 33 U.S.C. §§1251 et seq.; the Clean Air Act, 42 U.S.C. §§ 7401 et seq.; the Hazardous Materials Transportation Act, 49 U.S.C. §§ 1471 et seq.; the Toxic Substances Control Act, 15 U.S.C. §§ 2601 through 2629; and the Safe Drinking Water Act, 42 U.S.C. §§ 300f through 300j; as they have been or will be amended from time to time, and the regulations implementing such statutes; and any similar state, county, municipal or other local laws and ordinances concerning the protection of human health and the environment and the regulations implementing such statutes.

"Hazardous Substance(s)" means any substance, material, chemical or waste that is or will be listed or defined as hazardous, toxic or dangerous under any Applicable Environmental Law, or any petroleum products, or any substance, material, chemical or waste which is or may become, directly or indirectly, by chemical reaction or otherwise, hazardous, toxic or dangerous to life, health, property or the environment by reason of toxicity, flammability, explosiveness, corrosivity or any other reasons.

In performing its maintenance obligations under this Contract, Contractor shall be responsible for the proper storage, handling, use, transportation and disposal of all Hazardous Substances in accordance with Applicable Environmental Laws, including without limitation, all lubricants, solvents, motor oil and other petroleum products. Contractor shall only dispose of such materials at facilities which are permitted or licensed in accordance with Applicable Environmental Laws. Furthermore, in the event that Contractor engages the services of a disposal company for the transportation and disposal of any Hazardous Substances, Contractor shall ensure that such company is properly licensed and that it transports and disposes of Hazardous Substances in accordance with the terms of this Contract. Contractor shall maintain procedures for its employees and any subcontractors who handle Hazardous Substances and shall retain records regarding compliance with the responsibilities contained herein.

**EXHIBIT B
APPROVED FEE SCHEDULE**

The total cost for the first term of the Agreement (Term 1A and Term 1B) shall not exceed \$1,738,884.

Table 1 – Cost Breakdown of First Term

Term 1	Total Cost
Term 1A – November 1, 2024 – December 31, 2024 (2 months)	\$330,684
Term 1B – January 1, 2025 – June 30, 2026 (18 months)	\$1,408,200
	\$1,738,884

Term 1A reflects the prorated cost for two months during Period Two of the approved fee schedule in the July 1, 2023 Consolidated and Restated Contractor Services Agreement with Pro Park, LLC.

Table 2 – Fee Schedule for Term 1B

Term 1B	Revenue Hours	Hourly Rate	Fixed Monthly Costs	18-Month Total Cost*
January 1, 2025 – June 30, 2026	17,679	\$39.40	\$39,535	\$1,408,200

* Total cost rounded to nearest hundred

Term 1B reflects the proposed revenue hours, hourly rates, and fixed monthly rates for the 18-month period beginning in January 1, 2025 and ending June 30, 2026.

Hourly and monthly rates set forth in Table 2 are subject to a four percent increase per subsequent 12-month contract extension.

EXHIBIT C
APPROVED DRIVER SCHEDULE

Contractor shall provide the following:

- Sufficient vehicles and drivers to complete advanced reservation trips requested by phone call and demand responsive trips requested through the Lyft app during GoMonrovia service hours.
- A dedicated vehicle for demand responsive trips requested through the Lyft app on an as-needed basis.

Contractor shall use recent ridership data to recommend vehicle and staffing needs for both advanced reservation trips and demand responsive trips requested through the Lyft app. The determined number of vehicles and riders must be approved by City staff prior to any changes.

EXHIBIT D
FTA REQUIRED FEDERAL PROVISIONS AND CERTIFICATIONS

1. False or Fraudulent Statements and Related Acts
2. Breaches and Dispute Resolution
3. ITS Architecture
4. ADA Access
5. Assignability
6. Charter Bus and School Bus Requirements
7. Energy Conservation
8. Clean Water
9. Byrd Anti-Lobbying (Certification Required)
10. Access to Records and Reports
11. Federal Changes
12. Clean Air
13. Contract Work Hours and Safety Standards
14. No Government Obligation to Third Parties
15. Termination
16. Debarment and Suspension (Certification Required)
17. Civil Rights Requirements
18. Transit Employee Protective Agreements
19. Disadvantaged Business Enterprises (DBE)
20. Drug and Alcohol Testing
21. Incorporation of FTA Terms
22. Metric Requirements
23. Federal Tax Liability and Recent Felony Convictions
24. Safe Operation of Motor Vehicles
25. Trafficking in Persons

**The required certifications that need to be completed are at the end of this exhibit.
The following requirements apply to all contracts and subcontracts.**

1. Program Fraud and False or Fraudulent Statements or Related

1. The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. 3801 et seq. and the United States Department of Transportation (DOT) regulations, "Program Fraud Civil Remedies," 49 CFR Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Agency 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 contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Agency further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Agency to the extent the Federal Government deems appropriate.
2. The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under authority of 49 U.S.C. 5307, the Government reserves the right to impose the penalties of 18 U.S.C. 1001 and 49 U.S.C. 5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate.
3. The Contractor agrees to include the above two clauses in each subcontract financed as a whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified except to identify the subcontractor who will be subject to the provisions.

2. Breaches and Dispute Resolution

FTA does not prescribe the form or content of such provisions. What provisions are developed will depend on the circumstances and the type of contract. Recipients should consult legal counsel in developing appropriate clauses. The following clauses are examples of provisions from various FTA third party contracts.

Disputes - Disputes arising in the performance of this Contract which are not resolved by agreement of the parties shall be decided in writing by the authorized representative of the [City]. This decision shall be final and conclusive unless within ten (10) days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the City. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the City shall be binding upon the Contractor and the Contractor shall abide by the decision.

Performance During Dispute – Unless otherwise directed by the City, the Contractor shall continue performance under this Contract while matters in dispute are being resolved.

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

Remedies - Unless this Contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the City and the Contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State in which the City is located.

Rights and Remedies - The duties and responsibilities imposed by the Contract Document and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the City or Contractor shall constitute a waiver of any right of duty afforded by any of them under the contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

3. ITS Architecture

Intelligent transportation system (ITS) property and services must comply with the National Intelligent Transportation Systems (ITS) Architecture and Standards to the extent required by SAFETEA-LU Section 5307c), 23 U.S.C. Section 512 note, and FTA's published policies. Consequently, third party contracts involving ITS are likely to require provisions to facilitate compliance with Federal requirements.

4. ADA Access

The contractor agrees to comply with all applicable requirements of the Americans with Disabilities Act of 1990 (ADA), as amended, 42 USC 12101 et seq.; section 504 of the Rehabilitation Act of 1973, as amended, 29 USC 794; 49 USC 5301 (d); and any implementing requirements FTA may issue. These regulations provide that no handicapped individual, solely by reason of his or her handicap, be excluded from participations in, be denied the benefits of, or be subjected to discrimination under any program or activity included or resulting from this Agreement.

5. Assignability

The terms and conditions of this contract shall be binding upon the City and the contractor and their respective partners, assigns and legal representatives. The rights and obligations of the contractor under the contract may not be transferred, assigned, sublet, mortgaged, or otherwise disposed of in any way. The contractor may subcontract a portion of its obligations to other firms or parties, but only after having first obtained written approval from the City, which approval shall not be unreasonably withheld.

6. Charter Bus and School Bus Requirements

The contractor agrees to comply with 49 U.S.C 5323(d), 49 U.S.C. 5323(f), 5323(r), and 49 C.F.R. part 604, and not engage in charter and school bus operations using federally funded equipment or facilities in competition with private operators of charter and school buses, except as permitted under:

1. Federal transit laws, specifically 49 U.S.C. § 5323 (d) and 49 U.S.C. § 5323 (f);
2. FTA regulations, "Charter Service," 49 C.F.R. part 604;
3. FTA regulations, "School Bus Operations," 49 C.F.R. part 605;
4. Any other federal Charter Service regulations; or
5. Federal guidance, except as FTA determines otherwise in writing,

The contractor agrees that if it engages in a pattern of violations of FTA's Charter and School Bus Service regulations, the FTA may:

1. Bar the Contractor from receiving Federal assistance for public transportation; or
2. Require the Contractor to take such remedial measure as FTA considers appropriate.
3. When operating exclusive charter or school bus service under an allowable exemption, the contractor may not use federally funded equipment, vehicles, or facilities.

The contractor should also include the substance of this clause in each subcontract that may involve operating public transit services.

7. Energy Conservation

The Contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

8. Clean Water Requirements

(1) The Contractor agrees to 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. The Agency agrees to report each violation to the Department and understands and agrees that the Department will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

(2) The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

9. Byrd Anti-Lobbying (Certification Required)

Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, et seq.] - Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or

organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.

10. Access to Records and Reports

1. Where the Purchaser is not a State but a local government and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C. F. R. 18.36(i), the Contractor agrees to provide the Purchaser, the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor also agrees, pursuant to 49 C. F. R. 633.17 to provide the FTA Administrator or his authorized representatives including any PMO Contractor access to Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311.
2. Where the Purchaser is a State and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 633.17, Contractor agrees to provide the Purchaser, the FTA Administrator or his authorized representatives, including any PMO Contractor, access to the Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311. By definition, a major capital project excludes contracts of less than the simplified acquisition threshold currently set at \$100,000.
3. Where the Purchaser enters into a negotiated contract for other than a small purchase or under the simplified acquisition threshold and is an institution of higher education, a hospital or other non-profit organization and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 19.48, Contractor agrees to provide the Purchaser, FTA Administrator, the Comptroller General of the United States or any of their duly authorized representatives with access to any books, documents, papers and record of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.
4. Where any Purchaser which is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 U.S.C. 5325(a) enters into a contract for a capital project or improvement (defined at 49 U.S.C. 5302(a)1) through other than competitive bidding, the Contractor shall make available records related to

the contract to the Purchaser, the Secretary of Transportation and the Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.

5. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
6. The Contractor agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than three years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Contractor agrees to maintain same until the Purchaser, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 49 CFR 18.39(i)(11).
7. FTA does not require the inclusion of these requirements in subcontracts.

11. Federal Changes

The Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between City and FTA (via LACMTA), as they may be amended or promulgated from time to time during the term of this contract. The Contractor's failure to so comply shall constitute a material breach of this contract.

12. Clean Air

(1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. 7401 et seq. The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

(2) The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

13. Contract Work Hours and Safety Standards

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

2. **Violation; liability for unpaid wages; liquidated damages** - In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment or the overtime wages required by the clause set forth in paragraph (1) of this section.
3. **Withholding for unpaid wages and liquidated damages** - The City shall be upon its own action or upon written request of an authorized representative of the U.S. Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by contractor or subcontractor under any such contract or any Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.
4. **Subcontracts** - The contractor or subcontractor shall insert in any subcontracts the clauses set forth in this certification and also a clause requiring the subcontractor to include these clauses in any subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this section.

Section 107 (OSHA):

(This section is applicable to construction contracts only.)

Contract Work Hours and Safety Standards Act:

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

(ii) **Subcontracts:** The Contractor also agrees to include the requirements of this certification in each subcontract. The term "subcontract" under this certification is considered to refer to a person who agrees to perform any part of the labor or material requirements of a contract for construction, alteration or repair. A person who undertakes to perform a portion of a contract involving the furnishing of supplies or materials will be considered a "subcontractor" under this certification if the work in question involves the performance of construction work and is performed: (1) directly on or near the

construction site, or (2) by the employer for the specific project on a customized basis. Thus, a supplier of materials, which will become an integral part of the construction, is a “subcontractor” if the supplier fabricates or assembles the goods or materials in question specifically for the construction project and the work involved may be said to be construction activity. If the goods or materials in question are ordinarily sold to other customers from regular inventory, the supplier is not a “subcontractor.” The requirements of this certification do not apply to contracts or subcontracts for the purchase of supplies or materials or articles normally available on the open market.

14. No Government Obligation to Third Parties

1. The Purchaser and Contractor acknowledges and agrees that, notwithstanding any concurrences by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the Agency, or any other party (whether or not a party to the contract) pertaining to any matter resulting from the underlying contract.
2. The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

15. Termination

- a. **Termination for Convenience (General Provision)** The City may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in the Government's best interest. The Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The Contractor shall promptly submit its termination claim to the City to be paid the Contractor. If the Contractor has any property in its possession belonging to the City, the Contractor will account for the same and dispose of it in the manner the City directs.
- b. **Termination for Default [Breach or Cause] (General Provision)** If the Contractor does not deliver supplies in accordance with the contract delivery schedule, or if the contract is for services, the Contractor fails to perform in the manner called for in the contract, or if the Contractor fails to comply with any other provisions of the contract, the City may terminate this contract for default. Termination shall be effected by serving a notice of termination on the Contractor setting forth the manner in which the Contractor is in default. The Contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract. If it is later determined by the City that the Contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of the Contractor, the City, after

setting up a new delivery of performance schedule, may allow the Contractor to continue work, or treat the termination as a termination for convenience.

- c. **Opportunity to Cure (General Provision)** The City in its sole discretion may, in the case of a termination for breach or default, allow the Contractor thirty (30) days in which to cure the defect. In such case, the notice of termination will state the time period in which the cure is permitted and other appropriate conditions

If the Contractor fails to remedy to the City's satisfaction the breach or default or any of the terms, covenants, or conditions of this contract within [ten (10) days] after receipt by the Contractor of written notice from the City setting forth the nature of said breach or default, the City shall have the right to terminate the contract without any further obligation to the Contractor. Any such termination for default shall not in any way operate to preclude the City from also pursuing all available remedies against the Contractor and its sureties for said breach or default.

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

- e. **Termination for Convenience (Professional or Transit Service Contracts)** The City, by written notice, may terminate this contract, in whole or in part, when it is in the Government's interest. If this contract is terminated, the City shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.

- f. **Termination for Default (Supplies and Service)** If the Contractor fails to deliver supplies or to perform the services within the time specified in this contract or any extension or if the Contractor fails to comply with any other provisions of this contract, the City may terminate this contract for default. The City shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. The Contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner or performance set forth in this contract.

If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the City.

- g. **Termination for Default (Transportation Services)** If the Contractor fails to pick up the commodities or to perform the services, including delivery services, within the time specified in this contract or any extension, or if the Contractor fails to comply with any other provisions of this contract, the City may terminate this contract for default. The City shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of default. The Contractor will only

be paid the contract price for services performed in accordance with the manner of performance set forth in this contract.

If this contract is terminated while the Contractor has possession of City goods, the Contractor shall, upon direction of the City, protect and preserve the goods until surrendered to the City or its agent. The Contractor and the City shall agree on payment for the preservation and protection of goods. Failure to agree on an amount will be resolved under the Dispute clause.

If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the City.

- h. **Termination for Default (Construction)** If the Contractor refuses or fails to prosecute the work or any separable part, with the diligence that will ensure its completion within the time specified in this contract or any extension or fails to complete the work within this time, or if the Contractor fails to comply with any other provisions of this contract, the City may terminate this contract for default. The City shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. In this event, the City may take over the work and complete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work. The Contractor and its sureties shall be liable for any damage to the City resulting from the Contractor's refusal or failure to complete the work within specified time, whether or not the Contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the Recipient in completing the work.

The Contractor's right to proceed shall not be terminated nor the Contractor charged with damages under this clause if-

- a. The delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include acts of God, acts of the City, acts of another Contractor in the performance of a contract with the City, epidemics, quarantine restrictions, strikes, freight embargoes; and
- b. The contractor, within [10] days from the beginning of any delay, notifies the City in writing of the causes of the delay. If in the judgment of the City, the delay is excusable, the time for completing the work shall be extended. The judgment of the City shall be final and conclusive on the parties, but subject to appeal under the Disputes clauses.

If, after termination of the Contractor's right to proceed, it is determined that the Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been issued for the convenience of the City.

- i. **Termination for Convenience or Default (Architect and Engineering)** The City may terminate this contract in whole or in part, for the City's convenience or because of the failure of the Contractor to fulfill the contract obligations. The City shall terminate by delivering to the Contractor a Notice of Termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, the Contractor shall (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the Contracting Officer all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this contract, whether completed or in process.

If the termination is for the convenience of the City, the Contracting Officer shall make an equitable adjustment to the contract price but shall allow no anticipated profit on unperformed services.

If the termination is for failure of the Contractor to fulfill the contract obligations, the City may complete the work by contract or otherwise and the Contractor shall be liable for any additional cost incurred by the City.

If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the City.

- j. **Termination for Convenience or Default (Cost-Type Contracts)** The City may terminate this contract, or any portion of it, by serving a notice of termination on the Contractor. The notice shall state whether the termination is for convenience of the City or for the default of the Contractor. If the termination is for default, the notice shall state the manner in which the contractor has failed to perform the requirements of the contract. The Contractor shall account for any property in its possession paid for from funds received from the City, or property supplied to the Contractor by the City. If the termination is for default, the City may fix the fee, if the contract provides for a fee, to be paid the contractor in proportion to the value, if any, of work performed up to the time of termination. The Contractor shall promptly submit its termination claim to the City and the parties shall negotiate the termination settlement to be paid the Contractor.

If the termination is for the convenience of the City, the Contractor shall be paid its contract close-out costs, and a fee, if the contract provided for payment of a fee, in proportion to the work performed up to the time of termination.

- k. If, after serving a notice of termination for default, the City determines that the Contractor has an excusable reason for not performing, such as strike, fire, flood, events which are not the fault of and are beyond the control of the contractor, the City, after setting up a new work schedule, may allow the Contractor to continue work, or treat the termination as a termination for convenience.

16. Government Wide Debarment and Suspension (Certification Required)

This contract is a covered transaction for purposes of 49 CFR Part 29. As such, the contractor is required to verify that none of the contractor, its principals, as defined at 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.

The 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.

By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by City. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to City, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

17. Civil Rights Requirements

The following requirements apply to the underlying contract.

1. *Nondiscrimination* - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C., 2000d, 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, the Agency r agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age or disability. In addition, the Agency 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. 5332, the Agency r agrees to comply with all applicable equal employment opportunity requirements of the U.S. Department of Labor (USDOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 CFR Parts 60 et seq., (which implement Executive Order No. 11246 relating to Equal Employment Opportunity as amended by Executive Order 11375, "Amending executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C., 2000e note), and with any applicable Federal statutes, executive orders, regulations, and

Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Agency 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, the Agency 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, 1212, the Agency agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the 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, the Agency agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, “Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act,” 29 CFR Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
3. The Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

18. Transit Employee Protective Agreements

1. The Contractor agrees to comply with applicable transit employee protective requirements as follows:
 - a. General Transit Employee Protective Requirements
 - To the extent that FTA determines that transit operations are involved, the Contractor agrees to carry out the transit operations work on the underlying contract in compliance with terms and conditions determined by the U.S. Secretary of Labor to be fair and equitable to protect the interests of employees employed under this contract and to meet the employee protective requirements of 49 U.S.C. A 5333(b), and U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the letter of certification from the U.S. DOL to FTA applicable to the FTA Recipient's project from which Federal assistance is provided to support work on the underlying contract. The Contractor agrees to carry out that work in compliance with the conditions stated in that U.S. DOL letter. The requirements of this subsection (1), however, do not apply to any contract financed with Federal assistance

provided by FTA either for projects for elderly individuals and individuals with disabilities authorized by 49 U.S.C. § 5310(a)(2), or for projects for nonurbanized areas authorized by 49 U.S.C. § 5311. Alternate provisions for those projects are set forth in subsections (b) and (c) of this clause.

b. Transit Employee Protective Requirements for Projects Authorized by 49 U.S.C. § 5310(a)(2) for Elderly Individuals and Individuals with Disabilities

- If the contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5310(a)(2), and if the U.S. Secretary of Transportation has determined or determines in the future that the employee protective requirements of 49 U.S.C. § 5333(b) are necessary or appropriate for the state and the public body City for which work is performed on the underlying contract, the Contractor agrees to carry out the Project in compliance with the terms and conditions determined by the U.S. Secretary of Labor to meet the requirements of 49 U.S.C. § 5333(b), U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the U.S. DOL's letter of certification to FTA, the date of which is set forth Grant Agreement or Cooperative Agreement with the state. The Contractor agrees to perform transit operations in connection with the underlying contract in compliance with the conditions stated in that U.S. DOL letter.

c. Transit Employee Protective Requirements for Projects Authorized by 49 U.S.C. § 5311 in Nonurbanized Areas 93

- If the contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5311, the Contractor agrees to comply with the terms and conditions of the Special Warranty for the Nonurbanized Area Program agreed to by the U.S. Secretaries of Transportation and Labor, dated May 31, 1979, and the procedures implemented by U.S. DOL or any revision thereto.

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

19. Disadvantaged Business Enterprise (DBE) Provision.

This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs and with section 1101(b) of SAFETEA-LU, 23 U.S.C. § 101. A separate contract goal has not been established for this procurement. The City, as a recipient of federal financial assistance, is required to implement the Los Angeles County Metropolitan Transportation Authority's (Metro's) Disadvantaged Business Program in accordance with federal regulation 49 CFR Part 26 issued by the U.S. Department of Transportation (DOT). The City is required to include all other DBE

requirements and flow-down clauses in their solicitation and contract(s) as identified in the RN-DBE Instructions (Exhibit E) for DOT-Assisted Contracts and Disadvantaged Business Enterprise Implementation Agreement for Subrecipients.

20. Drug and Alcohol Testing

The Contractor and its subcontractors are not subject to FTA's drug and alcohol testing rules if the contract only receives federal assistance from the Section 5310 and/or Section 5317 programs but must comply with the Federal Motor Carrier Safety Administration (FMCSA) rule for all employees who hold commercial driver's licenses (49 CFR part 382). Contractors and its subcontractors that also receive funding under one of the covered FTA programs (Section 5307, 5309, or 5311) should include any employees funded under the Section 5310 and/or Section 5317 projects in their testing program.

21. Incorporation of Federal Transit Administration (FTA) Terms

Incorporation of Federal Transit Administration (FTA) Terms - The preceding provisions include, in part, certain Standard Terms and Conditions required by The United States Department of Transportation (DOT), whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in [FTA Circular 4220.1F](#), 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. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any the City requests which would cause the City to be in violation of the FTA terms and conditions.

22. Metric Requirements

To the extent required by DOT or FTA, the Contractor agrees to use the metric system of measurement in its Contract activities as may be required by 49 U.S.C. Section 205a et seq.; Executive Order No. 12770, "Metric Usage in Federal government Programs," 15 U.S.C. Sect 205a; and other regulations, guidelines and policies issued by DOT or FTA. To the extent practicable and feasible, the Contractor agrees to accept products and services with dimensions expressed in the metric system of measurement.

23. Federal Tax Liability and Recent Felony Convictions

- A. The contractor certifies that it:
- i. Does not have any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability; and
 - ii. Was not convicted of felony criminal violation under any Federal law within the preceding 24 months.
 - iii. If the contractor cannot so certify, PIH Health will refer the matter to Metro and the FTA and not enter into any Third-Party Agreement with the contractor without FTA's written approval.

B. Flow Down. The contractor is required to flow this requirement down to all subcontractors, without regard to the value of any subcontract.

24. Safe Operation of Motor Vehicles

Seat Belt Use- The Contractor is encouraged to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company owned vehicles, company rented vehicles, or personally operated vehicles. The terms “company owned” and “company leased” refer to vehicles owned or leased either by the Contractor or PIH Health.

Distracted Driving- The Contractor agrees to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle Contractor owns, leases, or rents, or a privately owned vehicle when on official business in connection with the work performed under this Contract.

25. Trafficking in Persons

The contractor agrees that it and its employees, may not:

- A. Engage in severe forms of trafficking in persons during the period of time that the contract is in effect;
- B. Procure a commercial sex act during the period of time that the contract is in effect; or
- C. Use forced labor in the performance of the contract or subcontract thereunder.

Byrd Anti-Lobbying

Certification for Contracts, Grants, Loans, and Cooperative Agreements

(To be submitted with each bid or offer exceeding \$100,000)

The undersigned [Contractor] certifies, to the best of his or her knowledge and belief, 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 an 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 making lobbying contacts to an officer or employee of any 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 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, *et seq.*.)]

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of the 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.

[Note: Pursuant to 31 U.S.C. § 1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure or failure.]

The Contractor, _____, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor

understands and agrees that the provisions of 31 U.S.C. A 3801, *et seq.*, apply to this certification and disclosure, if any.

_____ Signature of Contractor's Authorized Official

_____ Name of Contractor's Authorized Official

_____ Title of Contractor's Authorized Official

_____ Date

Certification for Suspension and Debarment

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY and VOLUNTARY EXCLUSION LOWER TIER COVERED TRANSACTION

(To be submitted with all bids exceeding \$25,000.)

- (1) The prospective lower tier participant (Bidder/Contractor) certifies, by submission of this bid or proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

- (2) The prospective Bidder/Contractor also certifies by submission of this bid or proposal that all subcontractors and suppliers (this requirement flows down to all subcontracts at all levels) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

- (3) Where the prospective lower tier participant (Bidder/Contractor) is unable to certify any of the statements in this certification, such prospective participant shall attach an explanation to this bid or proposal.

The lower tier participant (Bidder/Contractor), _____, certifies or affirms the truthfulness and accuracy of this statement of its certification and disclosure, if any.

_____ Signature of Contractor's Authorized Official

_____ Name of Contractor's Authorized Official

_____ Title of Contractor's Authorized Official

_____ Date

EXHIBIT E
RACE NEUTRAL DBE INSTRUCTIONS FOR METRO SUBRECIPIENT AGENCIES

The City has not established a DBE contract goal for this Agreement. However, the City strongly encourages all bidders/offerors to include DBE subcontractors in their bids/proposals to the greatest extent possible. The successful bidder/offeror that lists DBE firms in its bid/proposal will be required to submit required DBE forms with its bid/proposal and report its DBE participation obtained through race-neutral means throughout the period of performance.

1. DEFINITIONS

- a. The term “Disadvantaged Business Enterprise” or DBE means a for-profit small business concern owned and controlled by a socially and economically disadvantaged person(s) as defined in Title 49, Part 26.5, Code of Federal Regulations (CFR).
- b. The term “Disadvantaged Business Enterprise” or -DBE. DBE classes have been determined to have a statistically significant disparity in their utilization in previously awarded transportation contracts. RC-DBE’s include all DBE groups, specifically: Black Americans, Native Americans, Asian-Pacific Americans, Hispanic Americans, Subcontinent Asian Americans, and Women
- c. The term “Race-Neutral” means a measure or program that is used to assist all small businesses. For the purposes of the DBE Program, “race-neutral” includes gender-neutrality. In addition, race-neutral participation is DBE participation obtained when a DBE goal is not established.
- d. The term “Agreement” also means “Contract”.
- e. Agency also means the local entity entering into this contract with the Consultant.
- f. The term “Proposer” shall mean prime contractor or prime consultant submitting a bid or proposal to recipient organization. The terms “Bidder” or “Offeror” may also be used in lieu of “Proposer”.
- g. The term “Small Business” or “SB” is as defined in 49 CFR 26.65.

2. AUTHORITY AND RESPONSIBILITY

- a. DBE’s and other small businesses are strongly encouraged to participate in the performance of Agreements financed in whole or in part with federal funds (see 49 CFR Part 26, “Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance

Programs”). The Contractor should ensure that DBE’s and other small businesses have the opportunity to participate in the performance of the work that is the subject of this solicitation and should take all necessary and reasonable steps for this assurance. The Proposer shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of subcontracts.

- b. Proposers are encouraged to use services offered by financial institutions owned and controlled by DBE’s.

3. SUBMISSION OF RC-DBE INFORMATION

If there is a RC-DBE contract goal on this contract, the Proposer, in order to be considered responsible and responsive, must make good faith efforts to meet the goal established for the contract. If the goal is not met, the Proposer must document adequate good faith efforts and submit documentation at the time of bid or proposal due date. If the Proposer fails to submit good faith effort documentation at the time of bid or proposal due date, the Proposer will be considered non-responsive. Only RC-DBE firms certified through the CUCP will be counted towards the contract goal; however, all DBE participation shall be collected and reported.

For contracts with RC-DBE contract goals, the resulting contractor shall utilize the specific DBEs listed unless the contractor obtains City’s written consent and unless the City’s consent is provided, the contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE.

All Proposers are required to submit the following items to the City:

1. The name and addresses of DBE firms that will participate in the contract;
2. A description of the work that each DBE will perform. Each DBE must be certified in the NAICS code applicable to the work the firm will perform on the contract;
3. The dollar amount of the participation of each DBE firm;
4. Written documentation of the proposer’s commitment to use the DBE subcontractor (the signed RC-DBE Commitment Form and/or other documentation) whose participation it submits to meet a RC-DBE contract goal;
5. Written confirmation from each listed DBE firm that it is participating in the contract in the kind of work and amount of work provided in the proposer’s commitment; and
6. If the contract goal is not met, evidence of good faith efforts to do so.

The above information shall be provided at the time noted below:

1. Under sealed bids, as a matter of responsiveness, or with initial proposals under contract negotiation procedures, or
2. No later than 5 days after bid opening as a matter of responsibility.

4. DBE PARTICIPATION GENERAL INFORMATION

It is the Proposer's responsibility to be fully informed regarding the requirements of 49 CFR, Part 26, and Metro's DBE program developed pursuant to the regulations. Particular attention is directed to the following:

- a. A DBE must be a small business firm defined pursuant to 13 CFR 121 and be certified through the California Unified Certification Program (CUCP).
- b. A certified DBE may participate as a prime contractor, subcontractor, joint venture partner, as a vendor of material or supplies, or as a trucking company.
- c. A DBE Proposer not bidding as a joint venture with a non-DBE, will be required to document one or a combination of the following;
 - i. The Proposer is a DBE and will meet the goal by performing with its own forces.
 - ii. The Proposer will meet the goal through work performed by DBE subcontractors, suppliers or trucking companies.
 - iii. The Proposer, prior to bidding, made adequate good faith efforts to meet the goal.
- d. A DBE joint venture partner must be responsible for specific contract items of work or clearly defined portions thereof. Responsibility means actually performing, managing, and supervising the work with its own forces. The DBE joint venture partner must share in the capital contribution, control, management, risks and profits of the joint venture commensurate with its ownership interest.
- e. A DBE must perform a commercially useful function pursuant to 49 CFR 26.55, that is, a DBE firm must be responsible for the execution of a distinct element of the work and must carry out its responsibility by actually performing, managing and supervising the work.
- f. The Proposer shall list only one subcontractor for each portion of work as defined in their bid and all DBE subcontractors should be listed in the bid list of subcontractors. Firms to be counted toward the DBE Goal must be certified by bid/proposal due date.
- g. A prime contractor who is a certified DBE is eligible to claim all of the work in the agreement toward the DBE participation except that portion of the work to

be performed by non-DBE subcontractors.

- h. In order to identify certified DBEs, you must only use the California Unified Certification Program Database (CUCP). **Certifications from other agencies or organizations will not be accepted.**

5. RESOURCES

- a. The CUCP database includes the certified DBEs from all certifying agencies participating in the CUCP. If you believe a firm is certified that cannot be located on the database, please contact the Caltrans Office of Certification toll free number 1-866-810-6346 for assistance. Proposers may call (916) 440-0539 for web or download assistance.
- b. Access the CUCP database at: <https://californiaucp.dbesystem.com/>.
 - i. Click on Search for Certified Firms
 - ii. Searches can be performed by one or more criteria
 - iii. Follow instructions on the screen

6. MATERIALS OR SUPPLIES PURCHASED FROM DBEs COUNT TOWARDS DBE CREDIT UNDER THE FOLLOWING CONDITIONS:

- a. If the materials or supplies are obtained from a DBE manufacturer, 100 percent of the cost of the materials or supplies count towards the goal. A DBE manufacturer is a firm that operates, or maintains a factory, or establishment that produces on the premises that materials, supplies, articles, or equipment required under the Agreement and of the general character described by the specifications.
- b. If the materials or supplies purchased from a DBE regular dealer, count 60 percent of the cost of the materials or supplies. A DBE regular dealer is a firm that owns, operates or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specification and required under the Agreement are bought, kept in stock, and regularly sold or leased to the public in the usual course of doing business. To be a DBE regular dealer the firm must be an established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question. A person may be a DBE regular dealer, in such bulk items as petroleum products, steel, cement, gravel, stone or asphalt without owning, operating or maintaining a place of business provided in this section.
- c. If the person both owns and operates distribution equipment for the products, any supplementing of regular dealers' own distribution shall be, by a long-term lease agreement and not an ad hoc or Agreement-by-Agreement basis. Packagers, brokers, manufacturers' representatives, or other persons who

arrange or expedite transactions are not DBE regular dealers within the meaning of this section.

- d. Materials or supplies purchased from a DBE, which is neither a manufacturer nor a regular dealer, will be limited to the entire amount of fees or commissions charged for assistance in the procurement of the materials and supplies required or fees or transportation charges for the delivery of materials or supplies on the job site, provided the fees are reasonable and not excessive as compared with fees charged for similar services.

7. FOR DBE TRUCKING COMPANIES: CREDIT FOR DBEs WILL COUNT TOWARDS DBE CREDIT UNDER THE FOLLOWING CONDITIONS:

- a. The DBE must be responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular agreement, and there cannot be a contrived arrangement for the purpose of meeting the DBE contract goal.
- b. The DBE must itself own and operate at least one fully licensed, insured, and operational truck used on the agreement.
- c. The DBE receives credit for the total value of the transportation services it provides on the agreement using trucks it owns, insures, and operates using drivers it employs.
- d. The DBE may lease trucks from another DBE firm including an owner-operator who is certified as a DBE. A DBE who leases trucks from another DBE receives credit for the total value of the transportation services the lessee DBE provides on the agreement.
- e. The DBE may also lease trucks from a non-DBE firm, including an owner-operator. The DBE that leases trucks equipped with drivers from a non-DBE is entitled to credit for the total value of transportation services provided by non-DBE leased trucks equipped with drivers not to exceed the value of transportation services on the contract provided by DBE-owned trucks or leased trucks with DBE employee drivers. Additional participation by non-DBE owned trucks equipped with drivers receives credit only for the fee or commission it receives as a result of the lease arrangement.
- f. The DBE may lease trucks without drivers from a non-DBE truck leasing company. If the DBE leases trucks from a non-DBE truck leasing company and uses its own employees as drivers, it is entitled to credit for the total value of these hauling services.
- g. For the purposes of this section, a lease must indicate that the DBE has exclusive use 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, as 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.

8. TRANSIT VEHICLE MANUFACTURERS (TVM):

- a. The City shall require each Transit Vehicle Manufacturer (TVM), as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements, to complete a TVM Certification Form acknowledging that it has complied with the requirements of 49 CFR 26.49 section. The City shall maintain the TVM Certification Form on file for DBE Program compliance. The City shall check the FTA Civil Rights webpage (<https://www.transit.dot.gov/regulations-and-guidance/civil-rights-ada/eligible-transit-vehicle-manufacturers>) to validate TVMs that have an FTA approved DBE program and overall goal submissions. The City is required to submit TVM certification with its Semi-Annual Report when there is a TVM award during the reporting period.
- b. The City is required to submit within 15 days of making an award, the name of the successful bidder, and the total dollar value of the contract in the manner prescribed in the grant agreement. Metro's Grant Administration Department will complete the TVM Report and will submit the report on behalf of the City to FTA using the FTA Vehicle Award Form at the following website link: <https://www.surveymonkey.com/r/vehicleawardreportsurvey>. Please contact your Metro Grants representative regarding TVM reporting should you have any questions.

9. DBE SUBCONTRACTING FLOW DOWN REQUIREMENTS:

a. CONTRACT ASSURANCE

Each contract you sign with a contractor (and each subcontract the prime contractor signs with a subcontractor) must include the following assurance: The contractor, sub recipient or subcontractor 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 49 CFR Part 26 in the award and administration of DOT-assisted contracts. 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 the recipient deems appropriate, which may include, but is not limited to:

- (1) Withholding monthly progress payments;
- (2) Assessing sanctions;
- (3) Liquidated damages; and/or
- (4) Disqualifying the contractor from future bidding as non-responsible.

b. PROMPT PAYMENT PROVISIONS

The DBE Program, 49 CFR, Part 26, requires that any delay or postponement of payment over 30 days may take place only for good cause and with the City's prior written approval. The California Business and Professions Code, under Section 7108.5, requires that on public works projects, a prime contractor or subcontractor pay to any subcontractor not later than seven (7) days after receipt of each progress payment, unless otherwise agreed to in writing. Any violation of this provision shall subject the violating Contractor or Subcontractor to the penalties, sanctions and other remedies specified in Section 7108.5 of the Business and Professions Code. These requirements shall not be construed to limit or impair any contractual, administrative, or judicial remedies otherwise available to the Contractor or Subcontractor in the event of a dispute involving late payment or nonpayment by the Contractor, deficient subcontract performance, or noncompliance by a Subcontractor. Any delay or postponement of payment from the above-referenced timeframes may occur only for good cause following written approval from the City. Failure to comply with this provision without prior approval from the City will constitute noncompliance, which may result in the application of appropriate administrative sanctions, including, but not limited to, withholding of payment to the Contractor of two percent (2%) of the invoice amount due per month, for every month that full payment is not made in accordance with these prompt payment requirements.

Prompt Progress Payments to Subcontractors

Contractor will include a contract clause that will require Subcontractors to pay each lower tiered Subcontractor participating on the Project for satisfactory performance of its contract no later than 7 days from the receipt of each payment the Subcontractor receives from Contractor. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the City. This clause applies to both DBE and non-DBE Subcontractors.

You must ensure prompt and full payment of retainage from the prime contractor to the subcontractor no later than 30 days after the subcontractor's work is satisfactorily completed.

Prompt Payment of Withheld Funds to Subcontractors

The City shall identify one of the provisions below and include the selected provision in their federal-aid contracts to ensure prompt and full payment of retainage, if applicable, to subcontractors in compliance with 49 CFR 26.29.

Provision #1 – No retainage will be held by the agency from progress payments due to the prime contractor. Prime contractors and subcontractors are prohibited from holding retainage from subcontractors. Any delay or postponement of payment may take place only for good cause and with the agency's prior written approval. Any violation of these provisions shall subject the violating contractor or subcontractor to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and

Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the contractor, deficient subcontractor performance, and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.

□ Provision #2 – No retainage will be held by the agency from progress payments due the prime contractor. Any retainage kept by the prime contractor or by a subcontractor must be paid in full to the earning subcontractor in ___days (insert number of days and cannot be more than 30 days) after the subcontractor’s work is satisfactorily completed. Any delay or postponement of payment may take place only for good cause and with the agency’s prior written approval. Any violation of these provisions shall subject the violating contractor or subcontractor to the penalties, sanctions, and remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the contractor, deficient subcontractor performance, and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.

□ Provision #3 – The agency shall hold retainage from the prime contractor and shall make prompt and regular incremental acceptances of portions, as determined by the agency of the contract work and pay retainage to the prime contractor based on these acceptances. The prime contractor or subcontractor shall return all monies withheld in retention from all subcontractors within ___ days (insert number of days and cannot be more than 30 days) after receiving payment for work satisfactorily completed and accepted including incremental acceptances of portions of the contract work by the agency. Any delay or postponement of payment may take place only for good cause and with the agency’s prior written approval. Any violation of these provisions shall subject the violating prime contractor to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies otherwise available to the contractor or subcontractor in the event of: a dispute involving late payment or nonpayment by the contractor; deficient subcontractor performance and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.

c. TERMINATION/SUBSTITUTION

The contractor must promptly notify the City, whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The contractor may not terminate

any DBE subcontractor without prior written consent of the City. The contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of the City. The contractor must give the DBE five days to respond to the contractor's written notice and advise the City and the contractor of the reasons, if any, why it objects to the proposed termination of its subcontract and why the City should not approve the contractor's action. If required in a particular case as a matter of public necessity (e.g., safety), the City may provide a respond period shorter than five days. The City shall review the termination/substitution request based on the reasons provided in 49 CFR 26.53. The contractor will include a contract clause stating: The contractor shall utilize the specific DBEs listed to perform the work and supply the materials for which each is listed unless the contractor obtains the written consent of the City and that, unless the written consent of the City is provided, the contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE.

d. FAILURE TO COMPLY

Failure of the Contractor to comply with any DBE requirement of 49 CFR Part 26 as amended, may subject Contractor to formal enforcement action or appropriate sanctions by City, such as the termination of the contract, progressive payment withholding until deficiencies are remedied, and any additional enforcement allowed by the contract.

**INSTRUCTIONS - BIDDER'S LIST OF SUBCONTRACTORS
(DBE AND NON-DBE)
(CONSTRUCTION CONTRACTS)**

ALL PROPOSERS:

The U.S. Department of Transportation (DOT) requires the City to maintain a "Bidders List" containing information about all firms (DBE and non-DBE) that bid, propose or quote on the City's DOT-assisted contracts, in accordance with 49 CFR Part 26.11, for use in the Metro's overall triennial DBE goal-setting process. Therefore, the Proposer shall provide the requested information for every firm who submitted a quote, bid, or proposal, including the primary Proposer, whether successful or unsuccessful in their attempt to obtain a contract:

- a. Firm name;
- b. Firm address;
- c. Phone number
- d. A description of the work that each DBE will perform;
- e. Range of annual gross receipts for the last year;

It is the Proposers responsibility to verify that the DBE(s) falls into one of the following six groups in order to count towards the DBE contract goal or DBE credit: 1) Black American; 2) Asian-Pacific American; 3) Native American; 4) Hispanic American, 5) Subcontinent Asian American, and 6) Women.

RFP FORM __ – BIDDERS LIST

Proposer

RFP Number

The U.S. Department of Transportation (DOT) requires the City to create and maintain a Bidders List containing information about all firms (DBEs and non-DBEs) that bid, propose, or quote on the City's DOT-assisted contracts in accordance with 49 C.F.R., Part 26.11. The "Bidders List" is intended to be a count of all firms that are participating, or attempting to participate, on DOT-assisted contracts, whether successful or unsuccessful in their attempt to obtain a contract.

The Proposer is to complete all requested information for every firm that submitted a bid, proposal, or quote, including the Proposer itself and any proposed and rejected subconsultants. The Bidders List form shall be submitted with each proposal submitted by the Proposer to the City and for all bids, proposals, or quotes received by the Proposer for the Project. ***The Bidders List content will not be considered in evaluating the proposal or determining award of any contract.***

1.0 Proposer's Information

Name of Prime's Firm:			27. Phone: () -
28. Firm Address:			29. Email Address:
City	ST	ZIP	Type of work/services/materials provided:
Number of years in business:			
Contact Person:			Title:
Is the firm currently certified as a DBE under 49 C.F.R., Part 26? <input type="checkbox"/> Yes <input type="checkbox"/> No			Check the box below for your firm's annual gross receipts last year: <input type="checkbox"/> Less than \$1 million <input type="checkbox"/> Less than \$5 million <input type="checkbox"/> Less than \$10 million <input type="checkbox"/> Less than \$15 million <input type="checkbox"/> More than \$15 million
Proposer has DBE Certification in the following categories (place an "X"): <input type="checkbox"/> Black American <input type="checkbox"/> Asian Pacific American <input type="checkbox"/> Native American <input type="checkbox"/> Women <input type="checkbox"/> Hispanic American <input type="checkbox"/> Subcontinent Asian American <input type="checkbox"/> Other			

RFP FORM __ (CONT'D) – BIDDERS LIST

Note: Each proposed subconsultant shall complete this form, and the Proposer will submit it with its proposal.

1.0 Subconsultant's Information					
Name of Subconsultant's Firm:	30. Phone: () -				
31. Firm Address:	32. Email Address:				
<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 33%; padding: 2px;">City</td> <td style="width: 15%; padding: 2px;">ST</td> <td style="width: 52%; padding: 2px;">ZIP</td> </tr> </table>	City	ST	ZIP	Type of work/services/materials provided:	
City	ST	ZIP			
Number of years in business:					
Contact Person:	Title:				
Is the subconsultant's firm currently certified as a DBE under 49 C.F.R., Part 26? <input type="checkbox"/> Yes <input type="checkbox"/> No	Check the box below for your firm's annual gross receipts last year:				
Subconsultant has DBE Certification in the following categories (place an "X"): <input type="checkbox"/> Black American <input type="checkbox"/> Asian Pacific American <input type="checkbox"/> Native American <input type="checkbox"/> Women <input type="checkbox"/> Hispanic American <input type="checkbox"/> Subcontinent Asian American <input type="checkbox"/> Other	<input type="checkbox"/> Less than \$1 million <input type="checkbox"/> Less than \$5 million <input type="checkbox"/> Less than \$10 million <input type="checkbox"/> Less than \$15 million <input type="checkbox"/> More than \$15 million				

If necessary, this Bidders List form can be duplicated to include all firms (DBEs and non-DBEs) that have submitted a bid, proposal, or quote on this DOT-assisted Project, whether successful or unsuccessful in their attempt to obtain a contract.

INSTRUCTIONS - LOCAL AGENCY PROPOSER DBE COMMITMENT

ALL PROPOSERS:

PLEASE NOTE: It is the proposer's responsibility to verify that DBE(s) fall into one of the following groups in order to count towards the RC-DBE contract goal or Race-Neutral (RN) DBE credit: 1) Black Americans; 2) Asian-Pacific Americans; 3) Native Americans; 4) Hispanic Americans, 5) Subcontinent Asian Americans, and 6) Women. This information must be submitted with your proposal. Failure to submit the required DBE commitment will be grounds for finding the proposal nonresponsive.

A "DBE" is a firm meeting the definition of a DBE as specified in 49 CFR and is one of the following groups: Black Americans, Native Americans, Asian-Pacific Americans, Hispanic American, Subcontinent Asian American, or Women.

The form requires specific information regarding the consultant contract: Local Agency, Location, Project Description, Proposal Date, Proposer's Name, and Contract RC-DBE goal when applicable. If no DBE contract goal has been established, include N/A.

The form has a column for the Work Item Number and Description or Services to be subcontracted to DBEs (or performed if the proposer is a DBE). The DBE prime contractors shall indicate all work to be performed by DBEs including work to be performed by its own forces, if a DBE. The DBE shall provide a certification number to the Consultant and notify the Consultant in writing with the date of decertification if their status should change during the course of the contract. Enter DBE prime consultant and subconsultant certification numbers. The form has a column for the Names of certified DBEs to perform the work (must be certified on the date proposals are due and include DBE address and phone number).

There is a column for the percent participation of each DBE. Enter the Total Claimed DBE Participation percentage of items of work submitted with proposal pursuant to the Special Provisions. (If 100% of item is not to be performed or furnished by the DBE, describe exact portion of time to be performed or furnished by the DBE.) **Note:** If the proposer has not met the contract goal, the local agency must evaluate the proposer's good faith efforts to meet the goal in order to be considered for award of the contract.

The DBE Commitment Form must be signed and dated by the consultant submitting the proposal. Also list a phone number in the space provided and print the name of the person to contact.

LOCAL AGENCY PROPOSER DBE COMMITMENT

This form must be submitted with the proposal.

Local Agency _____	Location _____
Project Description _____	
Proposal Date _____	
Proposer's Name _____	
Contract RC-DBE Goal (%) _____	

Work Item Number	Description or Services to be Subcontracted (or contracted if the Proposer is a DBE)	DBE Certificate Number and Expiration Date	Name of Each DBE (must be certified prior to submission- include DBE address and phone number)	Percent Participation of Each DBE

<p style="text-align: center;">FOR AGENCY TO COMPLETE</p> <p>Agency Proposal Number _____</p> <p>Federal-Aid Project Number _____</p> <p>Federal Share _____</p> <p>Proposal Date _____</p> <p>Agency certifies that the DBE certifications have been verified and all information is complete and accurate/unless noted otherwise.</p> <p>_____ Signature of Agency Representative Date</p> <p>_____ Agency Representative (please print or type)</p> <p>() - _____ Phone Number</p>	<p style="text-align: right;">Total Claimed DBE Commitment: _____%</p> <hr/> <p>_____ Signature of Proposer</p> <p style="text-align: center;">() - _____ Date Phone Number</p> <hr/> <p>_____ Person to Contact (please print or type)</p>
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Distribution: (1) Original - Agency files

Local Agency Proposer RC-DBE Commitment (Consultant Contracts) – Rev 062113