

**TRANSPORTATION SERVICES AGREEMENT BETWEEN  
FORT BEND COUNTY AND FIRST TRANSIT, INC.**

THIS AGREEMENT is made and entered into as of the November 15, 2011 by and between Fort Bend County ("County") with principal offices at 4520 Reading Road, Suite A, Rosenberg, Texas 77471 and First Transit, Inc. ("Contractor") with its national headquarters at 600 Vine Street, Suite 1400, Cincinnati, Ohio 45202-5755 and local business offices located at 43 Champions Run, San Antonio, Texas 78258.

WITNESSETH

WHEREAS, County selected Contractor to provide the transportation services described herein; and

WHEREAS, Contractor desires to provide such transportation services,

NOW, THEREFORE, in consideration of the covenants hereinafter contained, the parties agree as follows:

SECTION 1: TERM

1.1 The term of this Agreement shall commence on January 1, 2012 and shall continue through December 31, 2012. The Agreement will automatically renew for five (5) additional one year terms unless terminated in accordance with Section 25. This Agreement may be further extended by mutual written agreement. For purposes of this Agreement, the term "Contract Year" shall mean each one-year period commencing on January 1 during the term of this Agreement.

SECTION 2: SCOPE OF SERVICES REQUIRED

2.1 Contractor shall, during the term of this Agreement, supply and maintain such buses (in quantity and capacity), property, and personnel as are required to fulfill County's needs for transportation services as described in County's Request for Proposals No. 11-079 (hereinafter "RFP") and Contractor's Proposal dated September 8, 2011. In the event of a conflict between these documents and the provisions of this Agreement, the Agreement will control. Otherwise, the terms of the RFP and Contractor's Proposal shall govern the parties' relationship, in the following order of precedence: the RFP then Contractor's proposal.

2.2 The initial transportation service plans are attached as Exhibit B. Service plans may be revised or added from time to time over the course of the Agreement as directed by the Fort Bend County Public Transportation Director.

2.3 County and Contractor will consult concerning the transportation requirements of County if such requirements fall below ninety percent of the RFP's 86,326 annual

estimated service hours authorized to Contractor at Agreement execution or exceed the annual estimated service hours authorized to Contractor at Agreement execution by more than ten percent. In the event of increases or decreases in the number of service hours, routes, or schedules, the number of buses and the number of spare buses may be adjusted accordingly. County may increase or decrease services to be provided by Contractor under this Agreement. However, where such increases or decreases materially impact the service levels or equipment levels required of Contractor under the assumed routes, schedules, and vehicle requirements contained in this Agreement, County and Contractor shall negotiate an equitable adjustment to cover increases or decreases in cost structure associated with such changes by the County, subject to Section 4 of this Agreement. Notwithstanding the foregoing, Contractor expressly acknowledges that the provision of services described hereunder is contingent upon receipt by County of federal, state, and local grant funds. County shall not be liable for failing to authorize services as a result of the loss of federal, state, or local grant funds by County.

- 2.4 Fort Bend County reserves the right to award additional transportation services to additional contractors or provide all or a portion of additional services itself.
- 2.5 Within 45 days of Agreement execution Contractor shall provide County a mutually agreeable Management/Support Services plan detailing Contractor's proposed marketing approach, activities, and expenses to be paid by the County that address the requirements detailed in Fort Bend County Request for Proposals No. 11-079. County and Contractor shall negotiate a final plan and amend such plan into the Agreement within 60 days of Agreement execution. All management/support service marketing, ticketing and related promotion costs are provided separately and are not included in Contractors hourly service rate(s).

### SECTION 3: COMPENSATION AND BILLING

- 3.1 In consideration for services rendered hereunder, County shall pay to Contractor all sums due and owing and calculated in accordance with the rates set forth in Exhibit A, as may be adjusted from time to time as provided herein. Billing cycles shall run from the 1<sup>st</sup> of the month through the 15<sup>th</sup> of the month and from the 16<sup>th</sup> of the month through the last day of the month. The first monthly invoice must be submitted to County by Contractor by the 20<sup>th</sup> of the month and the second monthly invoice must be submitted to County by Contractor by the 5<sup>th</sup> day after the month ends. County shall review such invoices and approve them within 5 business days with such modifications as are consistent with this Agreement and forward same to the Auditor for processing. Failure by Contractor to submit correct required reports and documentation will delay processing of Contractor invoices until the correct required reports are received by County. Upon approval of an invoice, County shall authorize payment to Contractor for authorized services satisfactorily performed. Acceptance of such payment by Contractor shall

constitute full compensation for all services performed and any necessary expenses incurred by Contractor in performance of this Agreement. County will make payment to Contractor within thirty (30) days of approval of an invoice and receipt of correct required reports.

- 3.2 Fares collected by Contractor shall be credited back to County on each invoice for the billing period in which the fares were collected.
- 3.3 County will provide all fuel to be used in the service of this Agreement at no cost to Contractor. Should fuel be used for services performed that are not eligible for tax exemption, whether in Contractor or County owned vehicles used for transportation services or requested by County, Contractor will document all time and miles performed, and the fuel gallons consumed and will compensate County for all fuel at County's current rate plus \$0.02/gallon for handling. Contractor will be responsible to pay all fuel tax for non-qualifying services. County will provide fuel to existing County fueling sites at no charge to Contractor. Should Contractor elect to provide additional fuel tanks at either County owned facilities or Contractor owned facilities, Contractor will compensate County for fuel deliveries to these additional sites at either the current contracted rate for fuel deliveries or at the rate of \$0.02/gallon for handling, whichever is less.
- 3.4 Contractor will comply with County's performance-based incentives and minimum operating goals as outlined in the attached Exhibit C.
- 3.5 Contractor shall be responsible for expenses, taxes, charges, assessments, license fees, inspection fees and other costs related to Contractor vehicles and facilities. Contractor shall also be responsible for safety inspection fees for County vehicles and all traffic and toll violations related to the transportation services.

#### SECTION 4: ESCALATION

- 4.1 Contractor may apply for a price increase to County following submission of documentation supporting price increase. No application for a price increase may be submitted within the first year of the Agreement. The original contract prices may not be increased more than twenty-five percent over the life of the Agreement unless the increase is necessary to comply with a federal or state statute, rule, regulation, or judicial decision enacted, adopted, or rendered after the original date of execution of this Agreement. All rates established for this service and reflected on the Price Sheets (Exhibit A) are subject to adjustment under this clause after Jan 1, 2013 with the exception of the TMC rates which are fixed through April 30, 2013.

## Section 5: Emergency Events

- 5.1 County may order Contractor, in writing, to suspend, delay, or interrupt all or any part of the transportation services for the period of time that the County determines appropriate before, during, or after an emergency event.
- 5.2 Contractor shall assist County during emergency events by providing vehicles and drivers to perform evacuation services. Contractor will not be required to provide more vehicles or drivers than are currently contracted for at the time of the emergency. Contractor is encouraged to offer additional vehicles and drivers during an emergency event. Charges for services during an emergency event shall be in accordance with the fees set forth in Exhibit A. Additional charges related to supervisors, dispatchers, and driver overtime compensation, lodging, and meals may be allowed when applicable. Such additional charges will be negotiated at the time of the request for emergency services by County.

## SECTION 6: PERFORMANCE STANDARDS

- 6.1 Performance standards are identified in the attached Exhibit C. Performance will be reviewed for compliance with the performance standards on a quarterly basis. Any adjustments in fees resulting from this review shall be applied to the number of billed hours in the reviewed quarter and included in the first invoice following the completion of the quarter.

## SECTION 7: RECORDS AND REPORTS

- 7.1 Contractor shall provide within five (5) business days of any request, those reports and records which may be reasonably requested by County pertaining to passengers, routes, stops, mileage audits, fares, and other information having to do with daily operations. In reviewing Contractor's records, County shall protect the confidentiality of Contractor's proprietary or confidential information included in the data provided. Contractor expressly acknowledges that County is subject to the Texas Public Information Act, TEX. GOV'T CODE ANN. §§ 552.001 *et seq.*, as amended, and notwithstanding any provision in the Agreement to the contrary, County will make any information related to the Agreement, or otherwise, available to third parties in accordance with the Texas Public Information Act. Any proprietary or confidential information marked as such provided to County by Contractor shall not be disclosed to any third party, except as directed by the Texas Attorney General in response to a request for such under the Texas Public Information Act, which provides for notice to the owner of such marked information and the opportunity for the owner of such information to notify the Attorney General of the reasons why such information should not be disclosed.
- 7.2 Contractor shall maintain such records and submit such reports, as are deemed necessary by the County and as negotiated between Contractor and County from

time to time. All reports required by County shall be submitted on forms mutually agreed upon by both parties.

- 7.3 Contractor shall immediately notify County, or its designated representative, and confirm as soon as practicable in writing, but no later than forty-eight (48) hours after the event, of the occurrence of all accidents or incidents that involve passengers, personnel or damage to property or equipment related to this Agreement. Written notification shall contain a full and complete statement of all relative facts including a copy of the police report when available.
- 7.4 If County reviews Contractor's reports, the personnel reports and information contained therein shall be limited to that information permitted to be transmitted to County by federal and state privacy laws.

#### SECTION 8: NATIONAL TRANSIT DATABASE REPORT

- 8.1 Contractor shall prepare and submit to County the required National Transit Database data regarding Contractor's operations for Fort Bend County under this agreement within sixty (60) calendar days after the end of County's fiscal year and not later than November 29 of each calendar year until completion of this Agreement. The National Transit Database data provided shall be in compliance with the latest FTA guidelines, including the required financial, safety, service supplied/consumed, fleet composition, and similar forms.
- 8.2 Contractor shall submit monthly, quarterly, and yearly National Transit Database report data within thirty (30) calendar days after the close of each period for County to determine data is being collected and reported correctly.

#### SECTION 9: COUNTY CONFIDENTIAL AND PROPRIETARY INFORMATION

- 9.1 Contractor acknowledges that it and its employees or agents may, in the course of performing their responsibilities under this Agreement, be exposed to or acquire information that is confidential to County. Any and all information of any form obtained by Contractor or its employees or agents in the performance of this Agreement shall be deemed to be confidential information of County ("Confidential Information"). Any reports or other documents or items (including software) that result from the use of the Confidential Information by Contractor shall be treated with respect to confidentiality in the same manner as the Confidential Information. Confidential Information shall be deemed not to include information that (a) is or becomes (other than by disclosure by Contractor) publicly known or is contained in a publicly available document; (b) is furnished by County to others without restrictions similar to those imposed by this Agreement; (c) is rightfully in Contractor's possession without the obligation of nondisclosure prior to the time of its disclosure under this Agreement; or (d) is independently developed by employees or agents of

Contractor who can be shown to have had no access to the Confidential Information.

- 9.2 Contractor agrees to hold Confidential Information in strict confidence, using at least the same degree of care that Contractor uses in maintaining the confidentiality of its own confidential information, and not to copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties or use Confidential Information for any purposes whatsoever other than the provision of Services to County hereunder, and to advise each of its employees and agents of their obligations to keep Confidential Information confidential. Contractor shall use its best efforts to assist County in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limitation of the foregoing, Contractor shall advise County immediately in the event Contractor learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Agreement and Contractor will at its expense cooperate with County in seeking injunctive or other equitable relief in the name of County or Contractor against any such person. Contractor agrees that, except as directed by County, Contractor will not at any time during or after the term of this Agreement disclose, directly or indirectly, any Confidential Information to any person, and that upon termination of this Agreement or at County's request, Contractor will turn over to County all documents, papers, and other matter in Contractor's possession which embody Confidential Information.
- 9.3 Contractor acknowledges that a breach of this Section, including disclosure of any Confidential Information, or disclosure of other information that, at law or in equity, ought to remain confidential, will give rise to irreparable injury to County that is inadequately compensable in damages. Accordingly, County may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies that may be available. Contractor acknowledges and agrees that the covenants contained herein are necessary for the protection of the legitimate business interest of County and are reasonable in scope and content.
- 9.4 Contractor in providing all services hereunder agrees to abide by the provisions of any applicable Federal or State Data Privacy Act.

#### SECTION 10: INDEMNIFICATION

- 10.1 Contractor agrees to indemnify, hold harmless and defend County, its governing boards, officers, employees, agents, and property lessors from and against every claim or demand which may be made by any person, firm, or corporation, or any other entity arising from or caused by any act of neglect, default or omission of Contractor in the performance of this Agreement, except to the extent that such

claim or demand arises from or is caused by the negligence or willful misconduct of County, its officers, agents, or employees.

## SECTION 11: INSURANCE

- 11.1 Prior to commencement of the Services, Contractor shall furnish County with properly executed certificates of insurance which shall evidence all insurance required and provide that such insurance shall not be canceled, except on 30 days' prior written notice to County. Contractor shall provide certified copies of insurance endorsements and/or policies if requested by County. Contractor shall maintain such insurance coverage from the time Services commence until Services are completed and provide replacement certificates, policies and/or endorsements for any such insurance expiring prior to completion of Services. Contractor shall obtain such insurance written on an Occurrence form from such companies having Bests rating of A/VII or better, licensed or approved to transact business in the State of Texas, and shall obtain such insurance of the following types and minimum limits:
- 11.1.1 Workers' Compensation insurance in accordance with the laws of the State of Texas. Substitutes to genuine Workers' Compensation Insurance will not be allowed. Employers' Liability insurance with limits of not less than \$1,000,000 per injury by accident, \$1,000,000 per injury by disease, and \$1,000,000 per bodily injury by disease.
- 11.1.2 Commercial general liability insurance with a limit of not less than \$1,000,000 each occurrence and \$2,000,000 in the annual aggregate. Policy shall cover liability for bodily injury, personal injury, and property damage and products/completed operations arising out of the business operations of the policyholder.
- 11.1.3 Business Automobile Liability insurance with a combined Bodily Injury/Property Damage limit of not less than \$1,000,000 each accident. The policy shall cover liability arising from the operation of licensed vehicles by policyholder.
- 11.2 County and the members of Commissioners Court shall be named as additional insured to all required coverage except for Workers' Compensation. All Liability policies including Workers' Compensation written on behalf of Contractor shall contain a waiver of subrogation in favor of County and members of Commissioners Court to the extent that covered claims or damages are related to Contractor operations under this Agreement.
- 11.3 If required coverage is written on a claims-made basis, Contractor warrants that any retroactive date applicable to coverage under the policy precedes the effective date of the contract; and that continuous coverage will be maintained or

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an extended discovery period will be exercised for a period of 2 years beginning from the time that work under the Agreement is completed.

#### SECTION 12: DISPUTE RESOLUTION

- 12.1 In the event of a dispute related to the breach of this Agreement that cannot be settled through negotiation, County and Contractor agree to submit the dispute to mediation.
- 12.2 In the event County or Contractor desire to mediate any dispute, that party shall notify the other party in writing of the dispute desired to be mediated. If the parties are unable to resolve their differences within 10 days of the receipt of such notice, such dispute shall be submitted for mediation.
- 12.3 All expenses associated with mediation shall be shared 50 percent (50%) by each party.
- 12.4 The requirement to seek mediation shall be a condition required before filing an action at law or in equity, unless to do so would prevent either party from seeking relief in a court of law or in equity under any applicable statutes of limitation.

#### SECTION 13: PERFORMANCE BOND

- 13.1 Contractor shall furnish within 15 days of execution of this Agreement, at its own expense, a performance bond in the amount of five hundred thousand and no/100 dollars (\$500,000), payable to, in favor of, and for the protection of County. The performance bond will be in a form acceptable to County as a guarantee of good faith on behalf of Contractor that the terms of the Agreement will be complied with in every detail.

#### SECTION 14: FORCE MAJEURE

- 14.1 In the event Contractor is unable to provide the transportation services as specified in this Agreement because of any act of God, civil disturbance, fire, riot, war, terrorism, picketing, strike, labor dispute, labor shortages, governmental action or any other condition or cause beyond Contractor's control, County shall excuse Contractor from performance under this Agreement.
- 14.2 Contractor shall notify County as Contractor has, or should have, knowledge that an event has occurred which will delay delivery of services. Within two (2) days, Contractor shall confirm such notice in writing furnishing as much detail as is available.

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## SECTION 15: RESERVATIONS/SCHEDULING/DISPATCH

- 15.1 For fixed route services, County shall be responsible for determining routes and schedules upon consultation with the Contractor. Dispatching shall be performed by Contractor.
- 15.2 For demand response services, County shall be responsible for taking reservations and producing daily schedules. Dispatching shall be performed by Contractor.
- 15.3 County will ensure that Contractor shall be named as an authorized user under its routing software. Contractor use of County licensed software is subject to the terms and conditions of the applicable software licensing agreement between the County and the software provider. **CONTRACTOR SPECIFICALLY AGREES TO SAVE HARMLESS COUNTY FROM AND AGAINST ALL CLAIMS, LIABILITY, AND EXPENSES, INCLUDING REASONABLE ATTORNEY'S FEES, RESULTING FROM THE VIOLATION OF THE TERMS AND CONDITIONS OF ANY APPLICABLE SOFTWARE LICENSING AGREEMENT BY CONTRACTOR, ITS AGENTS, EMPLOYEES, OFFICERS, OR VOLUNTEERS.**
- 15.4 County reserves the right to have scheduling, dispatch, or reservations provided by Contractor at rates identified in the attached Exhibit A.

## SECTION 16: SAFETY PROGRAM

- 16.1 Contractor shall be responsible for implementing, maintaining, and reviewing annually a comprehensive transportation safety program. Safety program shall at a minimum include an employee training and incentive program designed to enhance overall safety and security for employees, passengers, and equipment in accordance with County Request for Proposals No. 11-079, County Operation Standards, and County Passenger Guidelines.

## SECTION 17: MANAGEMENT PERSONNEL

- 17.1 Contractor shall employ management personnel who shall be responsible for the efficient operation of the transportation services furnished hereunder and who shall be Contractor's liaison to County. Contractor will designate a crisis management contact person for emergency contact with County. Contractor shall inform County of the name(s), qualifications, contact telephone number(s), and address(es) of such management personnel prior to execution of this Agreement. Prior to substituting other personnel for any of the individuals so identified, Contractor shall notify County and submit justification in sufficient detail to permit evaluation of the impact on the services. No such substitutions shall be made by Contractor without first securing County approval.

- 17.2 County shall employ management personnel who shall be responsible for coordination of the transportation requirements of County to be furnished under this Agreement and who shall be County's liaison to Contractor. County will designate a crisis management contact person for emergency contact with Contractor. County shall inform Contractor of the name(s), contact telephone number(s) and address(es) of such management personnel.

#### SECTION 18: OPERATIONS PERSONNEL/DRIVERS

- 18.1 Contractor shall employ a sufficient number of qualified drivers, maintenance, and support personnel to assure County of continuous, reliable, safe, and on -time service. Drivers shall satisfy minimum requirements as identified in County's Request for Proposals No. 11-079.
- 18.2 Contractor shall not permit its drivers to smoke on the bus, to drink any intoxicating beverage, or to be under the influence of drugs or alcohol while operating any bus.
- 18.3 Contractor shall be responsible for hiring and discharging personnel employed by Contractor to perform its obligations hereunder; provided, however, that County shall have the right to request Contractor to remove from service to the County any employee who, in County' sole discretion, is deemed unsuitable for the performance of transportation services for County.
- 18.4 Contractor shall provide qualified driver/trainers and qualified drivers, trained and licensed in accordance applicable laws and the rules and regulations of County. Contractor will, to the extent such requirements do not conflict with state or federal laws, implement such requirements identified in the RFP into its hiring and training programs for drivers servicing County' operations. Contractor agrees that each driver shall:
- 18.4.1 Possess a valid license or permit issued by this State authorizing such person to operate a vehicle of the type being operated.
- 18.4.2 Be certified by a duly licensed medical practitioner as medically qualified and free of medical or physical conditions, which, absent reasonable accommodation, would limit safe operation of a bus. The physical examination shall be conducted prior to employment and periodically thereafter as permitted by law.
- 18.4.3 Possess a satisfactory driving record and criminal history record, after review of such records prior to employment and periodically thereafter to the extent permitted or available by law.
- 18.4.4 Prior to employment and from time-to-time thereafter, to the extent permitted by law, undergo such tests as may reveal, within a reasonable degree of medical or scientific certainty, the presence or absence of drugs or

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controlled substances in the body and such tests as may clinically reveal alcoholism or alcohol abuse. Negative findings for such tests shall be a condition of employment.

18.4.5 Meet any other criteria required by law or by County's policies, rules or regulations.

#### SECTION 19: TRAINING REQUIREMENTS

- 19.1 Contractor shall provide thorough instruction to drivers in compliance with state and federal safety and operations guidelines and regulations. Training will meet all requirements specified in the RFP. County shall have the right to review course content.
- 19.2 County staff may attend driver training and/or safety meetings to familiarize drivers with staff members, or to provide information regarding safety, operations, and service expectations.
- 19.3 County may not distribute materials to drivers without Contractor's prior approval.

#### SECTION 20: VEHICLES AND EQUIPMENT

- 20.1 Contractor shall provide a minimum of ten (10) used buses as fleet reserves at contract start, five of which are to be replaced by five (5) new vehicles as they become available. Contractor shall at all times maintain a minimum spare ratio of twenty percent of the average daily required revenue fleet.
- 20.2 County and Contractor agree to have an independent third party perform a detailed vehicle condition inspection prior to the initiation of transportation services by Contractor at Contractor's expense for the purposes of establishing the current condition and general state of repair for the existing County fleet. The independent fleet inspection will document the current physical condition of the existing County vehicles as well as the condition of certain mechanical components as detailed in the attached Exhibit D.
  - 20.2.1 A written report shall be produced that shall include at a minimum the following items for each vehicle:
    - 20.2.1.1 Discrepancies in mechanical integrity and visual appearance and signs of lack of proper maintenance including estimated labor hours and parts costs to return vehicles to a state of good repair, less normal wear and tear.
    - 20.2.1.2 Photographs of each vehicle inspected and of all significant discrepancies including pictures of the interior and exterior

surfaces of each vehicle and pictures of significant body damage and physical or mechanical defects.

20.2.1.3 Discrepancies in maintenance practices performed as compared to manufacturers' or County recommended practices including any issues related to governmental compliance.

20.2.1.4 An outline of recommended steps to be taken to bring each vehicle's maintenance condition up to the expected condition for the vehicle's age and use.

20.2.1.5 Repair estimates per vehicle for recommended actions.

20.2.2 Upon completion of the third party inspection, County and Contractor will review each item to determine the appropriate action required to complete the transition process. County may, at County's expense, elect to have necessary repairs performed by Contractor, County, or other third party contractors. County and Contractor agree that non-safety items such as minor body scuffs, minor body damage, and repairs recommended for aged or reserve vehicles may be left unrepaired, at the sole discretion of County, but noted in the vehicle file at the time of transition. County will not later require such deferred repair(s) to be corrected at Contractor's expense.

20.2.3 After the vehicle turnover process is complete, for vehicles over three (3) years old or with more than 150,000 miles of service, County will be responsible for the cost of repairing any major mechanical failure of the internal workings of the engine, transmission, or rear-end for the first ninety (90) days after commencement of this agreement unless the failure is the result of improper maintenance or abuse by Contractor.

20.2.4 After the vehicle turnover process is complete, for vehicles less than three (3) years old or with less than 150,000, Contractor will assume financial responsibility for all vehicle maintenance and repairs at the time the vehicle is transferred to Contractor.

20.3 All buses supplied by Contractor for performance of this Agreement shall meet or exceed the standards established by the applicable laws and regulations governing such vehicles, including but not limited to FTA, FMVSS, US DOT, TxDOT, and the Fort Bend County Operations Standards. Contractor shall maintain the buses used to provide transportation services under this Agreement in good operating condition and in accordance with law, accepted industry safety and maintenance standards, and the Fort Bend County Operations Standards. Contractor will follow the vehicle preventative maintenance schedule detailed in the Fort Bend County Operations Standards. Any OEM preventative maintenance standard not addressed in the Fort

Bend County Operations Standards shall be performed as scheduled by the OEM standard for the vehicle. Contractor shall complete all vehicle repairs in a professional and workmanlike manner.

- 20.4 County will consult with Contractor from time to time regarding updates, changes, or additions to the Fort Bend County Operations Standards. However, for County-owned vehicles, County will be the final determining authority regarding any modification of the vehicle maintenance standards and preventative maintenance schedules.
- 20.5 County shall have the authority to immediately remove a vehicle from service if a vehicle has not received its scheduled preventative maintenance and/or repairs necessary to meet accepted industry safety and maintenance standards.
- 20.6 All accident and body damage shall be repaired timely. Any accident or body damage to a County-owned vehicle estimated to exceed five thousand dollars and no/100 (\$5,000) will require inspection and approval by County before repairs are started. In the case of County-owned vehicles that have been severely damaged, Contractor will consult with County before determining whether to "total" the vehicle or have it repaired. County understands that this determination must be made within liability insurance provisions and industry standards. Fees for replacement vehicles shall not exceed the County-owned vehicle rate set forth in the attached Exhibit C.
- 20.7 If County or any government agency shall at some time in the future specify or request that Contractor retrofit its own or County owned vehicles providing transportation services under this Agreement with special equipment, the parties shall negotiate in good faith, to mutual agreement, on alternative pricing and availability of vehicles to service County under this Agreement, subject to the requirements of Section 4 of this Agreement. In the event that County or any governmental agency imposes additional equipment requirements, other than those set forth specifically in this Agreement, on Contractor's vehicles during the term of this Agreement Contractor and County shall negotiate in good faith concerning price or repayment of expenses applicable to such equipment installation.
- 20.8 Contractor agrees that all vehicles shall be equipped with approved two-way radio communication at Contractor's expense. Communication devices will be maintained in working order.
- 20.9 Contractor agrees to provide County with the entire portion (up to 20%) of the local share money in order for County to secure necessary grants to purchase new vehicles or equipment for use under this Agreement if requested by County. If County terminates Agreement, County agrees to return an amount equal to twenty percent of the remaining depreciated value of the vehicles or equipment at the time

of termination. The appropriate depreciation rate shall be mutually agreed upon at the time of vehicle or equipment purchase.

- 20.10 County may utilize County-owned vehicles for other purposes when not utilized for the transportation services described herein. For service that is not related to the Agreement the County will be responsible for damages and liability that result from County's use of the vehicles.
- 20.11 Title to County-furnished vehicles and equipment shall remain with County. Contractor shall use County-furnished vehicles and equipment only in connection with this Agreement. Vehicle and equipment inventories shall be maintained by the parties throughout the course of the contract. Said inventories shall be reconciled annually.

#### SECTION 21: FACILITIES

- 21.1 County shall allow Contractor personnel access to County facilities and fueling facilities for purposes of providing transportation services hereunder. Contractor may use such County facilities for the provision of transportation services described hereunder and for no other purpose, unless otherwise agreed upon in writing between County and Contractor.
- 21.2 County will provide any Contractor personnel granted access to County facilities with an access card and entry key. Contractor assumes responsibility for any access cards or entry keys issued to its personnel. Lost or damaged access cards and entry keys must be replaced at Contractor's expense.
- 21.3 All costs for utility services at County facilities provided for the Contractor's use, together with any penalties, surcharges or the like pertaining thereto and any maintenance charges for all utilities shall be paid by Contractor. Contractor is responsible for any maintenance, pest control, and cleaning services expenses.
- 21.4 Contractor assumes liability for all actions of its personnel while on County premises. Contractor shall not permit any hazardous, unsafe, unhealthy or environmentally unsound conditions or activities over which it has control at a County facility. In the event Contractor becomes aware of any such condition or activity, it shall promptly notify County and immediately take whatever steps are necessary to eliminate, terminate, abate, or rectify the condition. Contractor will be responsible for the cost of damage or loss resulting directly from negligent operation of fuel pumps by Contractor including the cost of cleaning up fuel spills, repair to damaged fuel pumps, the replacement of lost fuel system key tags, and the cost of any fuel dispensed by keys issued to Contractor.
- 21.5 County may discontinue access to County facilities to any or all Contractor personnel at any time with reasonable prior notice. Notwithstanding this clause,

it is understood that access to County facilities provided for Contractor's use including offices, parking, and fueling facilities are critical to Contractor's ability to perform the services required under this Agreement.

- 21.6 Contractor shall, at its sole cost and expense, maintain any County facilities used by Contractor, in good and clean condition and repair throughout the term of this Agreement. Contractor shall not be responsible for cost of repairs or replacement of structural elements, roof, foundation and HVAC system. Contractor shall, at its sole cost and expense, repair any damage to County facilities caused by Contractor throughout the term of this Agreement. If Contractor shall fail to repair such damage within thirty (30) days after written demand from County, then County shall have the right to do so at Contractor's expense.
- 21.7 Contractor covenants and agrees that County facilities shall be used and maintained in conformity with all applicable laws, codes, administrative regulations, and such covenants and restrictions as are imposed upon County facilities including without limitation, all health, safety, sanitary and other codes. Contractor shall ensure that its employees are aware of all health, safety, sanitary, and other requirements and regulations applicable to the services under this Agreement.
- 21.8 Contractor hereby acknowledges and agrees that the access granted hereunder does not confer upon Contractor any right, title, or interest in County facilities, as Contractors or otherwise, and Contractor hereby expressly disclaims any such right, title, or interest in any County facilities.
- 21.9 Prior to the expiration of this Agreement, Contractor shall remove all additions or alterations to County facilities made by Contractor and shall, at Contractor's sole cost and expense, make any repairs to County facilities caused by Contractor during the removal of the alteration and additions. At the expiration of this Agreement, alterations or additions that have not been removed by Contractor shall become the property of County and title to same shall be deemed to be conveyed to County without further action of the parties.
- 21.10 County and Contractor have negotiated a facility arrangement in which County is currently providing Contractor use of parking and office space, and Contractor is providing the maintenance facility. Upon presentation of reasonable alternatives and with sufficient advance notice County and Contractor shall both have the right to renegotiate the current facility arrangement should suitable alternatives be identified. Any change in the current facility arrangement will be negotiated in good faith and to mutual agreement by both parties.
- 21.11 County and Contractor have agreed that Contractor will pay to County the sum of \$15,000 for facility improvements being made to the office space provided to

Contractor. County will invoice this sum to contractor as Facility Improvements. Contractor shall pay such invoice within thirty (30) days of receipt.

21.12 County and Contractor agree that any County facilities provided for Contractor use shall be provided "as is" at the time of Contractor use. County and Contractor will document the current physical condition of the County facility at the time of initial Contractor use and note such condition in the file. Contractor shall not be responsible for repairing any condition existing and documented at the time of initial Contractor use or, if undocumented, may be shown to have resulted from pre-existing conditions not associated with Contractor's use.

#### SECTION 22: ASSIGNMENT

22.1 This Agreement shall not be assigned by the parties hereto, without the prior written consent of County. Contractor may assign this Agreement if the assignment is made to a parent, subsidiary, related or affiliated company.

#### SECTION 23: SUBCONTRACTING

23.1 Contractor shall not subcontract any portion of the services without obtaining County's prior written consent.

23.2 All Contractor subcontractors who perform work under this Agreement shall be given written notice to comply with all requirements of this Agreement. Contractor shall be responsible and liable for the performance and acts of each subcontractor.

#### SECTION 24: PUBLICITY AND ADVERTISING

24.1 Contractor shall not use County's name, logo, or other information in its advertisements or public relations programs without County's prior written approval. Any such information regarding County shall be factual and in no way imply that County endorses Contractor's products or services.

24.2 Contractor shall not display any commercial, public safety, political or other types of advertisements in or on any vehicle used in the performance of this Agreement.

#### SECTION 25: TERMINATION

25.1 If either party violates any of the covenants or duties imposed upon it by this Agreement, such violation shall entitle the other party to terminate this Agreement in accordance with the following procedure: The non-defaulting party shall give the offending party thirty (30) days' written notice of default and the opportunity to remedy the violation. If at the end of such 30-day default notice period, the party notified has not remedied the purported violation, the non-defaulting party may terminate this Agreement as follows: on the first business day following the last day

of the 30-day default notice period, the non-defaulting party shall give the defaulting party 90 days' notice of termination. If the non-defaulting party does not provide this 90-day notice of termination, the default notice shall be deemed rescinded.

#### SECTION 26: MUTUAL TERMINATION FOR CONVENIENCE

- 26.1 Either party may terminate this Agreement for convenience upon ninety (90) days written notice to the other party.

#### SECTION 27: CONTINUITY OF SERVICES

- 27.1 Contractor recognizes that the services provided under this Agreement are vital to County and must be continued without disruption and that upon contract expiration a successor may continue the services. Contractor agrees to exercise the diligent and professional efforts and cooperation necessary to effect an orderly and efficient transition to a successor.
- 27.2 Contractor shall allow reasonable communication with employees engaged in the transportation services. If selected employees are agreeable, Contractor will not unreasonably interfere with their release at mutually agreeable dates. Contractor shall work with successor to set mutually agreeable dates and times to attend training sessions. It is understood that such training and scheduled release dates must allow Contractor to meet service obligations through the end of the contract.
- 27.3 At the conclusion of the Agreement, Contractor shall work with the incumbent contractor (successor), County staff and/or a third party contractor(s) to provide an efficient and non-disruptive transition of all transportation services including but not limited to administration, personnel, subcontractors, County owned vehicles, and County owned supplies and equipment. Contractor will perform in a professional and courteous manner throughout the transition period. Contractor will cooperate with mutually agreed transition planning that does not unduly interfere with continuing operations of the transportation services and will provide the services agreed to in this Agreement through the last pull-in on the date of contract conclusion.
- 27.4 Prior to the last day of service Contractor will make available for inspection any County owned facilities, equipment, property or inventory. County provided equipment, facilities and vehicles will be in good repair and original operating condition absent reasonable wear and tear.
- 27.5 County and Contractor agree to have an independent third party perform a detailed vehicle condition inspection at County's expense at the conclusion of the Agreement for the purposes of establishing the current condition and general state of repair for the existing County fleet before the successor assumes

maintenance responsibility for the County-owned fleet. The independent fleet inspection will document the current physical condition of the existing County vehicles as well as the condition of certain mechanical components as detailed in the attached Exhibit D.

27.5.1 A written report shall be produced that shall include at a minimum the following items for each vehicle:

- 27.5.1.1 Discrepancies in mechanical integrity and visual appearance and signs of lack of proper maintenance including estimated labor hours and parts costs to return vehicles to a state of good repair, less normal wear and tear.
- 27.5.1.2 Photographs of each vehicle inspected and of all significant discrepancies including pictures of the interior and exterior surfaces of each vehicle and pictures of significant body damage and physical or mechanical defects.
- 27.5.1.3 Discrepancies in maintenance practices performed as compared to manufacturers' or County recommended practices including any issues related to governmental compliance.
- 27.5.1.4 An outline of recommended steps to be taken to bring each vehicle's maintenance condition up to the expected condition for the vehicle's age and use.
- 27.5.1.5 Repair estimates per vehicle for recommended actions.

27.5.2 Upon completion of the third party inspection, County and Contractor will review each item to determine the appropriate action required to complete the transition process. Contractor shall repair, at Contractor's expense, all safety items. County and Contractor agree that non-safety items such as minor body scuffs, minor body damage, and repairs recommended for aged or reserve vehicles may be left unrepaired, at the sole discretion of County, but noted in the vehicle file at the time of transition.

27.5.3 Contractor will be responsible for the cost of repairing any major mechanical failure of the internal workings of the engine, transmission or rear-end for the first 90-days of service after transition to Successor, provided the failure is not related to improper maintenance or abuse by the Successor or the Successor's operators. Should such a major failure occur, Fort Bend County may elect to remove the vehicle from service.

SECTION 28: SURVIVAL

28.1 The mutual obligations described in Compensation and Billing, and Indemnification hereof shall survive the termination or expiration of the Agreement.

SECTION 29: STATUS OF CONTRACTOR

29.1 In the interpretation of this Agreement and the relations between Contractor and County, Contractor shall be construed as being an independent contractor employed to provide transportation services only. Neither Contractor nor any of its employees shall be held or deemed in any way to be an agent, employee or official of County. Contractor shall be responsible for, and hold County harmless from any liability for unemployment taxes or contributions, payroll taxes or other federal or state employment taxes.

SECTION 30: SEVERABILITY

30.1 In the event any provision specified herein is held or determined by a court of competent jurisdiction to be illegal, void or in contravention of any applicable law, the remainder of the Agreement shall remain in full force and effect.

SECTION 31: EXTENSION AND MODIFICATION

31.1 Contractor and County may extend or otherwise modify the terms of this Agreement in whole or in part as circumstances may justify by mutual written agreement executed by the duly authorized representatives of the parties.

SECTION 32: NOTICE TO PARTIES

32.1 All notices to be given by the parties to this Agreement shall be in writing and served by depositing same in the United States mail, postage prepaid, registered or certified mail.

Notices to County shall be addressed to:

Fort Bend County Public Transportation Department  
12550 Emily Court, Suite 400  
Sugar Land, Texas 77478

Fort Bend County Judge  
301 Jackson Street  
Richmond, Texas 77469

Notices to Contractor shall be addressed to:

Beverly Edwards  
First Transit, Inc.  
2581 Washington Road, Suite 223  
Pittsburgh , PA, 15241

With a copy to:

FirstGroup America, Inc.  
600 Vine Street, Suite 1400  
Cincinnati, OH 45202  
Attention: General Counsel

- 32.2 County or Contractor may change their address of record for receipt of official notice by giving the other written notice of such change and any necessary mailing instructions.

### SECTION 33: ENTIRE AGREEMENT

- 33.1 This Agreement sets forth the entire agreement between County and Contractor concerning the subject matter hereof. There are no representations, either oral or written, between County and Contractor other than those contained in this Agreement.

### SECTION 34: COMPLIANCE WITH THE LAW AND POLICIES

- 34.1 Notwithstanding any contrary provision in this Agreement, Contractor shall comply with federal, state and local laws, rules and regulations, and applicable County policies in providing transportation services described herein.

### SECTION 35: NO GOVERNMENT OBLIGATION TO THIRD PARTIES

- 35.1 County and Contractor acknowledge and agree that, notwithstanding any concurrence 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 County, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract. Contractor agrees to include this 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.

### SECTION 36: PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENT

- 36.1 Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq. and U.S. DOT

regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, Contractor 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 Contractor to the extent the Federal Government deems appropriate.

- 36.2 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 the 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 Contractor, to the extent the Federal Government deems appropriate.
- 36.3 Contractor agrees to include the above two clauses in each subcontract financed in 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.

#### SECTION 37: ACCESS TO RECORDS AND REPORTS

- 37.1 Contractor agrees to provide County, the FTA Administrator, the Texas Department of Transportation, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of Contractor which are directly pertinent to 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. Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- 37.2 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 County, the FTA Administrator, the

Texas Department of Transportation, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto.

#### SECTION 38: FEDERAL CHANGES

- 38.1 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 County and FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

#### SECTION 39: CIVIL RIGHTS REQUIREMENTS

- 39.1 The following requirements apply to the underlying contract:

39.1.1 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 at 49 U.S.C. § 5332, Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

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

39.1.2.1 Race, Color, Creed, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any

applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, Contractor agrees to comply with any implementing requirements FTA may issue.

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

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

39.2 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.



SECTION 40: DISADVANTAGED BUSINESS ENTERPRISE (DBE)

- 40.1 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*. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. A separate contract goal of 3 % has been established for this procurement.
- 40.2 Contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement. Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this DOT-assisted Agreement. Failure by Contractor to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as County deems appropriate. Each subcontract Contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).
- 40.3 The successful bidder/offeror will be required to report its DBE participation obtained through race-neutral means throughout the period of performance.
- 40.4 Contractor is required to pay its subcontractors performing work related to this Agreement for satisfactory performance of that work no later than 30 days after Contractor's receipt of payment for that work from County. In addition, Contractor is required to return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to this Agreement is satisfactorily completed.
- 40.5 Contractor must promptly notify County whenever a DBE subcontractor performing work related to this Agreement 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. Contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without the prior written consent of County.

SECTION 41: INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS

- 41.1 The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1E, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. Contractor shall not perform any act, fail to perform any act, or refuse to comply with any

County requests which would cause County to be in violation of the FTA terms and conditions.

#### SECTION 42: GOVERNMENT-WIDE DEBARMENT AND SUSPENSION

- 42.1 This Agreement is a covered transaction for purposes of 49 CFR Part 29. As such, Contractor is required to verify that none of 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. 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.
- 42.2 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 County. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to County, 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.

#### SECTION 43: LOBBYING

- 43.1 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.

#### SECTION 44: CLEAN AIR

- 44.1 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* . 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. 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.

#### SECTION 45: CLEAN WATER

- 45.1 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 . 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. 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.

#### SECTION 46: CONTRACT WORK HOURS AND SAFETY STANDARDS

- 46.1 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.
- 46.2 Violation; liability for unpaid wages; liquidated damages - In the event of any violation of the clause set forth in paragraph (1) of this section 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 of the overtime wages required by the clause set forth in paragraph (1) of this section.
- 46.3 Withholding for unpaid wages and liquidated damages – County shall upon its own action or upon written request of an authorized representative of the 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 other 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.

- 46.4 Subcontracts - Contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.

#### SECTION 47: TRANSIT EMPLOYEE PROTECTIVE ARRANGEMENTS

- 47.1 The Contractor agrees to comply with applicable transit employee protective requirements as follows:

47.1.1 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 Agreement 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.

- 47.1.2 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 subrecipient 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.

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

47.2 The Contractor also agrees to include the any applicable requirements in each subcontract involving transit operations financed in whole or in part with Federal assistance provided by FTA.

#### SECTION 48: CHARTER SERVICE OPERATIONS

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

#### SECTION 49: SCHOOL BUS OPERATIONS

49.1 Pursuant to 49 U.S.C. 5323(f) and 49 CFR Part 605, recipients and subrecipients of FTA assistance may not engage in school bus operations exclusively for the transportation of students and school personnel in competition with private school bus operators unless qualified under specified exemptions. When operating exclusive school bus service under an allowable exemption, recipients and subrecipients may not use federally funded equipment, vehicles, or facilities.

#### SECTION 50: DRUG AND ALCOHOL TESTING

50.1 The contractor agrees to establish and implement a drug and alcohol testing program that complies with 49 CFR Part 655, produce any documentation necessary to establish its compliance with Part 655, and permit any authorized representative of the United States Department of Transportation or its operating

administrations, the State Oversight Agency of Texas, or County, to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 CFR Parts 655 and review the testing process. The contractor agrees further to certify annually its compliance with Parts 655 and to submit the Management Information System (MIS) reports before March 15 to the FTA's Office of Safety and Security or its designated agent. To certify compliance the contractor shall use the "Substance Abuse Certifications" in the "Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements," which is published annually in the Federal Register.

#### SECTION 51: ENERGY CONSERVATION REQUIREMENTS

- 51.1 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.

#### SECTION 52: RECYCLED PRODUCTS

- 52.1 Contractor agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962), including but not limited to the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247.

#### SECTION 53: ACCESS FOR INDIVIDUALS WITH DISABILITIES

- 53.1 Contractor agrees to comply with 49 U.S.C. § 5301(d), which states the Federal policy that elderly individuals and individuals with disabilities have the same right as other individuals to use public transportation services and facilities, and that special efforts shall be made in planning and designing those services and facilities to implement transportation accessibility rights for elderly individuals and individuals with disabilities. Contractor also agrees to comply with all applicable provisions of section 504 of the Rehabilitation Act of 1973, as amended, with 29 U.S.C. § 794, which prohibits discrimination on the basis of disability; with the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. §§ 12101 *et seq.*, which requires that accessible facilities and services be made available to individuals with disabilities; and with the Architectural Barriers Act of 1968, as amended, 42 U.S.C. §§ 4151 *et seq.*, which requires that buildings and public accommodations be accessible to individuals with disabilities, and any subsequent amendments to these laws. In addition, Contractor agrees to comply with applicable implementing Federal regulations and directives and any subsequent amendments thereto, as follows:

- 53.1.1 U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 C.F.R. Part 37
- 53.1.2 U.S. DOT regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 C.F.R. Part 27
- 53.1.3 Joint U.S. Architectural and Transportation Barriers Compliance Board (U.S. ATBCB)/U.S. DOT regulations, "Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 36 C.F.R. Part 1192 and 49 C.F.R. Part 38
- 53.1.4 U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 C.F.R. Part 35
- 53.1.5 U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 C.F.R. Part 36
- 53.1.6 U.S. General Services Administration (U.S. GSA) regulations, "Accommodations for the Physically Handicapped," 41 C.F.R. Subpart 101-19
- 53.1.7 U.S. EEOC, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630
- 53.1.8 U.S. Federal Communications Commission regulations, "Telecommunications Relay Services and Related County Premises Equipment for the Hearing and Speech Disabled," 47 C.F.R. Part 64, Subpart F
- 53.1.9 U.S. ATBCB regulations, "Electronic and Information Technology Accessibility Standards," 36 C.F.R. Part 1194
- 53.1.10 FTA regulations, "Transportation for Elderly and Handicapped Persons," 49 C.F.R. Part 609
- 53.1.11 Federal civil rights and nondiscrimination directives implementing the foregoing regulations, except to the extent the Federal Government determines otherwise in writing

#### SECTION 54: PUBLICITY

- 54.1 Contractor shall not use County's name nor issue any publicity releases, including but not limited to, news releases and advertising, without the prior written consent of County.

SECTION 55: PLACE OF CONTRACT/CONTROLLING LAW

55.1 This Agreement shall be governed by the laws of the State of Texas. All references in this contract to the "state" shall mean the State of Texas. All regulations, laws and requirements of the state shall mean the regulations, laws or requirements of the State of Texas. Venue shall lie in Fort Bend County, Texas, for any suit regarding the Agreement.

SECTION 56: AUTHORITY

56.1 Both parties warrant that they are properly authorized to enter into this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed the Agreement the day and year first hereinabove written.

\_\_\_\_\_  
FORT BEND COUNTY

By: Robert Hebert  
Title: Robert Hebert, County Judge

Attest: 11-22-2011  
Brianne Wilson

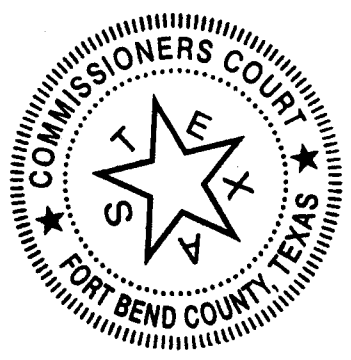
By: \_\_\_\_\_  
Title: County Clerk

\_\_\_\_\_  
FIRST TRANSIT, INC.

By: John Mathews  
Title: Region Vice President

Attest: \_\_\_\_\_

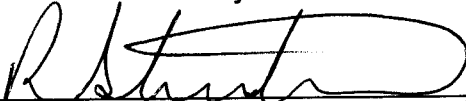
By: Paul E. Messier  
Title: General Manager



jm

**AUDITOR'S CERTIFICATE**

I hereby certify that funds are available in the amount of \$ 4,704,217 to accomplish and pay the obligation of Fort Bend County under this contract.

  
\_\_\_\_\_  
Ed Sturdivant, Fort Bend County Auditor

**EXHIBIT A – RATES**

A small, handwritten signature in the bottom right corner of the page, consisting of a few cursive letters.

EXHIBIT A

SERVICE DESCRIPTION	JANUARY 1, 2015 THROUGH APRIL 30, 2015				MAY 1, 2015 THROUGH DECEMBER 31, 2015			
	CONTRACTOR VEHICLE		COUNTY VEHICLE		CONTRACTOR VEHICLE		COUNTY VEHICLE	
	DEMAND RESPONSE POINT DEVIATION	FIXED ROUTE COMPUTER PARK & RIDE	DEMAND RESPONSE POINT DEVIATION	FIXED ROUTE COMPUTER PARK & RIDE	DEMAND RESPONSE POINT DEVIATION	FIXED ROUTE COMPUTER PARK & RIDE	DEMAND RESPONSE POINT DEVIATION	FIXED ROUTE COMPUTER PARK & RIDE
ALL SERVICES - RATE PER VEHICLE PER SERVICE HOUR COMBINED COUNTY OWNED/CONTRACTOR OWNED FACILITY	527.88 \$42.24	552.26	\$43.15	\$41.56	510.8 \$31.86	\$42.84	\$48.26	
TTC COMPUTER SERVICE - RATE PER VEHICLE PER SERVICE HOUR COMBINED COUNTY OWNED/CONTRACTOR OWNED FACILITY		\$52.31		\$39.24				
Guaranteed Ride Home Rate - Price per trip for Registered Users	\$45.00	\$45.00	\$45.00	\$45.00	\$45.00	\$45.00	\$45.00	

Annually

\$126,000

ANNUAL RATE MANAGEMENT SUPPORT

ADDITIONAL STAFF RATE PER PERSON PER HOUR

- RESERVATIONS
- DISPATCHING
- SCHEDULING

RATES BASED ON ANNUAL ESTIMATE FROM RFP

Element Response Bid Hours 56,904

Fixed Route Bid Hrs 29,421

TOTAL BID HOURS 86,325

Rates subject to estimator request under contract Section 4, Escalation  
TMC Rates are fixed through April 30, 2015 after which the rate for TMC will be the regular fixed Route Rates

**EXHIBIT B – SERVICE PLANS**

*jm*

**FORT BEND COUNTY PUBLIC TRANSPORTATION  
SERVICE PLAN**

<b>SERVICE PLAN NAME:</b>	<b>DEMAND RESPONSE</b>		
<b>START DATE:</b>		<b>END DATE:</b>	
<b>SERVICE DAYS:</b>	<b>Monday through Friday, excluding County holidays</b>		
<b>HOURS OF OPERATION:</b>			
<b>NUMBER OF VEHICLES</b>			
<b>MINIMUM SERVICE HOURS PER DAY PER VEHICLE:</b>			
<b>MAXIMUM SERVICE HOURS PER DAY PER VEHICLE:</b>			
<b>RATE PER HOUR (COUNTY OWNED VEHICLE):</b>	\$		-
<b>RATE PER HOUR (CONTRACTOR OWNED VEHICLE):</b>	\$		-
<b>FARE RATE(S):</b>			

**GENERAL SERVICE DESCRIPTION**

**CONTRACTOR RESPONSIBILITIES**

**NOTE:** Fort Bend County reserves the right to adjust the service parameters as necessary over the course of the contract. Service parameter adjustments may include, but not be limited to, increases or decreases in the number of service hours, service days, vehicles used, vehicle size utilized etc. Contractor will be notified at least 30 days in advance of any service parameter adjustment.

\_\_\_\_\_  
Approved by Public Transportation Director

\_\_\_\_\_  
Date

*jm*

**FORT BEND COUNTY PUBLIC TRANSPORTATION  
SERVICE PLAN**

SERVICE PLAN NAME:	DEMAND RESPONSE		
START DATE:	02/01/12	END DATE:	Automatically renews annually unless otherwise notified in writing
SERVICE DAYS:	Monday through Friday, excluding County holidays		
HOURS OF OPERATION:	N/A - schedules determined on a daily basis.		
NUMBER OF VEHICLES	Daily avg. 13		
MINIMUM SERVICE HOURS PER DAY PER VEHICLE:	0.0		
MAXIMUM SERVICE HOURS PER DAY PER VEHICLE:	Daily avg. 12		
RATE PER HOUR (COUNTY OWNED VEHICLE):	See Contract Price Exhibit		
RATE PER HOUR (CONTRACTOR OWNED VEHICLE):	See Contract Price Exhibit		
FARE RATE(S):	\$1.00 per person each way; Tickets accepted as well.		

**GENERAL SERVICE DESCRIPTION**

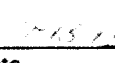
General Public Demand Response service averaging 252 service days per year utilizing County owned fleet and contractor owned fleet as necessary. Schedules are to be produced by the County and furnished to the contractor by 8pm the day before the service day.

**CONTRACTOR RESPONSIBILITIES**

Contractor will be responsible for scheduling and assigning drivers and buses according to the run cut for the day, carry out the service and dispatch all vehicles. Contractor is responsible for handling all cancelled ride calls and "where's my ride" calls, maintaining Trapeze dispatching software in real-time, re-routing as necessary, maintaining On-Time performance goals, accommodating service interruptions (incidents, accidents, traffic congestion etc) and update dispatch software as applicable. Contractor will be responsible for insuring data entered into dispatching software is accurate. Fare collection and accounting to be performed by Contractor.

**NOTE:** Fort Bend County reserves the right to adjust the service parameters as necessary over the course of the contract. Service parameter adjustments may include, but not be limited to, increases or decreases in the number of service hours, service days, vehicles used, vehicle size utilized etc. Contractor will be notified at least 30 days in advance of any service parameter adjustment.

  
Approved by Public Transportation Director

  
Date

*jm*

**FORT BEND COUNTY PUBLIC TRANSPORTATION  
SERVICE PLAN**

SERVICE PLAN NAME:	RURAL NEW FREEDOM - Demand Response Service		
START DATE:	02/01/12	END DATE:	Automatically renews annually unless otherwise notified in writing
SERVICE DAYS:	Monday through Friday, excluding County holidays		
HOURS OF OPERATION:	N/A - schedules determined on a daily basis.		
NUMBER OF VEHICLES	Daily Avg. 3		
MINIMUM SERVICE HOURS PER DAY PER VEHICLE:	0.0		
MAXIMUM SERVICE HOURS PER DAY PER VEHICLE:	Daily Avg. 12		
RATE PER HOUR (COUNTY OWNED VEHICLE):	See Contract Price Exhibit		
RATE PER HOUR (CONTRACTOR OWNED VEHICLE):	See Contract Price Exhibit		
FARE RATE(S):	\$1.00 per person each way; Tickets accepted as well.		

**GENERAL SERVICE DESCRIPTION**


Demand Response service with seating priority for persons with disabilities. General Public allowed on a space available basis. Trip Origin priority in Rural Service Area. Service averages 252 service days per year utilizing County owned fleet and contractor owned fleet as necessary. Schedules are to be produced by the County and furnished to the contractor by 8pm the day before the service day.

**CONTRACTOR RESPONSIBILITIES**

Contractor will be responsible for scheduling and assigning drivers and buses according to the run cut for the day, carry out the service and dispatch all vehicles. Contractor is responsible for handling all cancelled ride calls and "where's my ride" calls, maintaining Trapeze dispatching software in real-time, re-routing as necessary, maintaining On-Time performance goals, accommodating service interruptions (incidents, accidents, traffic congestion etc) and update dispatch software as applicable. Contractor will be responsible for insuring data entered into dispatching software is accurate. Fare Collection and Reporting to be performed by Contractor.

**NOTE:** Fort Bend County reserves the right to adjust the service parameters as necessary over the course of the contract. Service parameter adjustments may include, but not be limited to, increases or decreases in the number of service hours, service days, vehicles used, vehicle size utilized etc. Contractor will be notified at least 30 days in advance of any service parameter adjustment.

  
Approved by Public Transportation Director

  
Date

*jm*


**FORT BEND COUNTY PUBLIC TRANSPORTATION  
SERVICE PLAN**

SERVICE PLAN NAME:	URBAN NEW FREEDOM	
START DATE:	02/01/12	END DATE: Automatically renews annually unless otherwise notified in writing
SERVICE DAYS:	Monday through Friday, excluding County holidays	
HOURS OF OPERATION:	N/A - schedules determined on a daily basis.	
NUMBER OF VEHICLES	Daily Avg. - 3	
MINIMUM SERVICE HOURS PER DAY PER VEHICLE:	0.0	
MAXIMUM SERVICE HOURS PER DAY PER VEHICLE:	Daily Avg. 7.5	
RATE PER HOUR (COUNTY OWNED VEHICLE):	See Contract Price Exhibit	
RATE PER HOUR (CONTRACTOR OWNED VEHICLE):	See Contract Price Exhibit	
FARE RATE(S):	\$1.00 per person each way; Tickets accepted as well.	

**GENERAL SERVICE DESCRIPTION**  
 Demand Response service with seating priority for persons with disabilities. General Public allowed on a space available basis. Trip Origin priority in Urban Service Area. Service averages 252 service days per year utilizing County owned fleet and contractor owned fleet as necessary. Schedules are to be produced by the County and furnished to the contractor by 8pm the day before the service day.

**CONTRACTOR RESPONSIBILITIES**  
 Contractor will be responsible for scheduling and assigning drivers and buses according to the run cut for the day, carry out the service and dispatch all vehicles. Contractor is responsible for handling all cancelled ride calls and "where's my ride" calls, maintaining Trapeze dispatching software in real-time, re-routing as necessary, maintaining On-Time performance goals, accommodating service interruptions (incidents, accidents, traffic congestion etc) and update dispatch software as applicable. Contractor will be responsible for insuring data entered into dispatching software is accurate. Fare Collection and Reporting to be performed by Contractor.

**NOTE:** Fort Bend County reserves the right to adjust the service parameters as necessary over the course of the contract. Service parameter adjustments may include, but not be limited to, increases or decreases in the number of service hours, service days, vehicles used, vehicle size utilized etc. Contractor will be notified at least 30 days in advance of any service parameter adjustment.

  
 \_\_\_\_\_  
 Approved by Public Transportation Director

\_\_\_\_\_  
 Date

*jm*

**FORT BEND COUNTY PUBLIC TRANSPORTATION  
SERVICE PLAN**

SERVICE PLAN NAME:	Job Access Reverse Commute	
START DATE:	02/01/12	END DATE: Automatically renews annually unless otherwise notified in writing
SERVICE DAYS:	Monday through Friday, excluding County holidays	
HOURS OF OPERATION:	Reference Service Schedule in RFP Document	
NUMBER OF VEHICLES	Daily Avg. - 3	
MINIMUM SERVICE HOURS PER DAY PER VEHICLE:	0.0	
MAXIMUM SERVICE HOURS PER DAY PER VEHICLE:	Daily Avg. 12	
RATE PER HOUR (COUNTY OWNED VEHICLE):	See Contract Price Exhibit	
RATE PER HOUR (CONTRACTOR OWNED VEHICLE):	See Contract Price Exhibit	
FARE RATE(S):	\$1.00 per person each way; Tickets accepted as well.	

**GENERAL SERVICE DESCRIPTION**

Point Deviation service. Deviation Trip Origin priority in Urban Service Area and scheduled to allow timed stops to be performed on-time. Service averages 252 service days per year utilizing County owned fleet and contractor owned fleet as necessary. Schedules are to be produced by the County and furnished to the contractor by 8pm the day before the service day. Reference Service Schedule in RFP Document.

**CONTRACTOR RESPONSIBILITIES**

Contractor will be responsible for scheduling and assigning drivers and buses according to the run cut for the day, carry out the service and dispatch all vehicles. Contractor is responsible for handling all cancelled ride calls and "where's my ride" calls, maintaining Trapeze dispatching software in real-time, re-routing as necessary, maintaining On-Time performance goals for timed stops and for deviation trips, accommodating service interruptions (incidents, accidents, traffic congestion etc) and update dispatch software as applicable. Contractor will be responsible for insuring data entered into dispatching software is accurate. Fare Collection and Reporting to be performed by Contractor.

**NOTE:** Fort Bend County reserves the right to adjust the service parameters as necessary over the course of the contract. Service parameter adjustments may include, but not be limited to, increases or decreases in the number of service hours, service days, vehicles used, vehicle size utilized etc. Contractor will be notified at least 30 days in advance of any service parameter adjustment.

  
Approved by Public Transportation Director

11/13/11  
Date

*jm*

**FORT BEND COUNTY PUBLIC TRANSPORTATION  
SERVICE PLAN**

SERVICE PLAN NAME:	Texas Medical Center Commuter Service		
START DATE:	01/01/12	END DATE:	Automatically renews annually unless otherwise notified in writing
SERVICE DAYS:	Monday through Friday, excluding County holidays		
HOURS OF OPERATION:	Reference Service Schedule in RFP Document		
NUMBER OF VEHICLES	Daily Avg. - 5		
MINIMUM SERVICE HOURS PER DAY PER VEHICLE:	Daily Avg. 7		
MAXIMUM SERVICE HOURS PER DAY PER VEHICLE:	Daily Avg. 7		
RATE PER HOUR (COUNTY OWNED VEHICLE):	See Contract Price Exhibit		
RATE PER HOUR (CONTRACTOR OWNED VEHICLE):	See Contract Price Exhibit		
FARE RATE(S):	\$3.50 per person each way; Tickets accepted.		

**GENERAL SERVICE DESCRIPTION**

Park and Ride Commuter service open to the General Public. Service averages 252 service days per year utilizing County owned fleet and contractor owned fleet as necessary. Reference Service Schedule in RFP Document.

**CONTRACTOR RESPONSIBILITIES**

Contractor will be responsible for scheduling and assigning drivers and buses according to the run cut for the day, carry out the service and dispatch all vehicles. Contractor is responsible for handling all cancelled ride calls and "where's my ride" calls, maintaining Trapeze dispatching software in real-time, re-routing as necessary, maintaining On-Time performance goals for timed stops, accommodating service interruptions (incidents, accidents, traffic congestion etc) and update dispatch software as applicable. Contractor will be responsible for insuring data entered into dispatching software is accurate. Fare Collection and Reporting to be performed by Contractor. Guaranteed Ride Home service to be provided for registered passengers.

**NOTE:** Fort Bend County reserves the right to adjust the service parameters as necessary over the course of the contract. Service parameter adjustments may include, but not be limited to, increases or decreases in the number of service hours, service days, vehicles used, vehicle size utilized etc. Contractor will be notified at least 30 days in advance of any service parameter adjustment.

  
\_\_\_\_\_  
Approved by Public Transportation Director

  
\_\_\_\_\_  
Date

*jm*

**FORT BEND COUNTY PUBLIC TRANSPORTATION  
SERVICE PLAN**

SERVICE PLAN NAME:	Greenway Commuter Service	
START DATE:	02/01/12	END DATE: Automatically renews annually unless otherwise notified in writing
SERVICE DAYS:	Monday through Friday, excluding County holidays	
HOURS OF OPERATION:	Reference Service Schedule in RFP Document	
NUMBER OF VEHICLES	Daily Avg. - 5	
MINIMUM SERVICE HOURS PER DAY PER VEHICLE:	Daily Avg. 6	
MAXIMUM SERVICE HOURS PER DAY PER VEHICLE:	Daily Avg. 6	
RATE PER HOUR (COUNTY OWNED VEHICLE):	See Contract Price Exhibit	
RATE PER HOUR (CONTRACTOR OWNED VEHICLE):	See Contract Price Exhibit	
FARE RATE(S):	\$2.25 UofH/AMC to Greenway Plaza; \$1.00 UofH/AMC to West Bellfort; \$2.00 West Bellfort to Greenway Plaza. Tickets available.	

**GENERAL SERVICE DESCRIPTION**  
 Park and Ride Commuter service open to the General Public. Service averages 252 service days per year utilizing County owned fleet and contractor owned fleet as necessary. Reference Service Schedule in RFP Document.

**CONTRACTOR RESPONSIBILITIES**  
 Contractor will be responsible for scheduling and assigning drivers and buses according to the run cut for the day, carry out the service and dispatch all vehicles. Contractor is responsible for handling all cancelled ride calls and "where's my ride" calls, maintaining Trapeze dispatching software in real-time, re-routing as necessary, maintaining On-Time performance goals for timed stops, accommodating service interruptions (incidents, accidents, traffic congestion etc) and update dispatch software as applicable. Contractor will be responsible for insuring data entered into dispatching software is accurate. Fare Collection and Reporting to be performed by Contractor. Guaranteed Ride Home service to be provided for registered passengers.

**NOTE:** Fort Bend County reserves the right to adjust the service parameters as necessary over the course of the contract. Service parameter adjustments may include, but not be limited to, increases or decreases in the number of service hours, service days, vehicles used, vehicle size utilized etc. Contractor will be notified at least 30 days in advance of any service parameter adjustment.

  
 Approved by Public Transportation Director

2/13/11  
 Date

*jm*

**FORT BEND COUNTY PUBLIC TRANSPORTATION  
SERVICE PLAN**

SERVICE PLAN NAME:	Galleria/Yorktown/Post Oak Commuter Service		
START DATE:	01/01/12	END DATE:	Automatically renews annually unless otherwise notified in writing
SERVICE DAYS:	Monday through Friday		
HOURS OF OPERATION:	Reference Service Schedule in RFP Document		
NUMBER OF VEHICLES	Daily Avg. - 5		
MINIMUM SERVICE HOURS PER DAY PER VEHICLE:	Daily Avg. 6		
MAXIMUM SERVICE HOURS PER DAY PER VEHICLE:	Daily Avg. 6		
RATE PER HOUR (COUNTY OWNED VEHICLE):	See Contract Price Exhibit		
RATE PER HOUR (CONTRACTOR OWNED VEHICLE):	See Contract Price Exhibit		
FARE RATE(S):	\$2.25 UofH/AMC to Uptown/Galleria Tickets available.		

**GENERAL SERVICE DESCRIPTION**

Park and Ride Commuter service open to the General Public. Service averages 252 service days per year utilizing Contractor owned fleet and contractor owned fleet as necessary. Reference Service Schedule in RFP Document.

**CONTRACTOR RESPONSIBILITIES**

Contractor will be responsible for scheduling and assigning drivers and buses according to the run cut for the day, carry out the service and dispatch all vehicles. Contractor is responsible for handling all cancelled ride calls and "where's my ride" calls, maintaining Trapeze dispatching software in real-time, re-routing as necessary, maintaining On-Time performance goals for timed stops, accommodating service interruptions (incidents, accidents, traffic congestion etc) and update dispatch software as applicable. Contractor will be responsible for insuring data entered into dispatching software is accurate. Fare Collection and Reporting to be performed by Contractor. Guaranteed Ride Home service to be provided for registered passengers.

**NOTE:** Fort Bend County reserves the right to adjust the service parameters as necessary over the course of the contract. Service parameter adjustments may include, but not be limited to, increases or decreases in the number of service hours, service days, vehicles used, vehicle size utilized etc. Contractor will be notified at least 30 days in advance of any service parameter adjustment.

  
Approved by Public Transportation Director

11/15/11  
Date

*dm*

**FORT BEND COUNTY PUBLIC TRANSPORTATION  
SERVICE PLAN**

SERVICE PLAN NAME:	Guaranteed Ride Home	
START DATE:	1/1/2012	END DATE: Automatically renews annually
SERVICE DAYS:	Monday through Friday, excluding County holidays	
HOURS OF OPERATION:	Operated during the same hours/days as all commuter service.	
NUMBER OF VEHICLES	As Needed	
MINIMUM SERVICE HOURS PER DAY PER VEHICLE:	0.0	
MAXIMUM SERVICE HOURS PER DAY PER VEHICLE:	As Needed	
RATE PER HOUR (COUNTY OWNED VEHICLE):	See Contract Price Exhibit	
RATE PER HOUR (CONTRACTOR OWNED VEHICLE):	See Contract Price Exhibit	
FARE RATE(S):	Three (3) free rides per passenger per year. User has option of using more trips at their own expense. Rate to user must not exceed County rate.	

**GENERAL SERVICE DESCRIPTION**

Contractor is to provide transportation to and/or from Fort Bend County commuter service destinations in Harris County and Fort Bend County Park and Ride lot locations within Fort Bend County. Fort Bend County will receive requests for registration, maintain counts of the number of rides provided by passenger and receive requests for service. Contractor will be provided with the registration list with each update. Contractor will be notified by Fort Bend County when a request for service is received.

**CONTRACTOR RESPONSIBILITIES**

Contractor will provide trips to referred registered users of Fort Bend County commuter services within one hour of receiving a request from the passenger. Contractor may receive and perform requests for services directly from passengers. Contractor may utilize any vehicle type to perform services. Contractor must be able to provide/accommodate ADA trips on demand. Contractor may re-route buses/vans in other modes of service to accommodate a Guaranteed Ride Home as long as it does not adversely affect performance of the other mode.

**NOTE:** Fort Bend County reserves the right to adjust the service parameters as necessary over the course of the contract. Service parameter adjustments may include, but not be limited to, increases or decreases in the number of service hours, service days, vehicles used, vehicle size utilized etc. Contractor will be notified at least 30 days in advance of any service parameter adjustment.

  
 \_\_\_\_\_  
 Approved by Public Transportation Director

  
 \_\_\_\_\_  
 Date

*jm*

**EXHIBIT C – PERFORMANCE-BASED INCENTIVES/DAMAGES**

## **Fort Bend County Performance Standards:**

Performance revenue adjustments will not be applied during the first 3 months of the contract. Thereafter performance adjustments will be applied to each review period's billed hours based upon the level of performance achieved for the review period as compared to the established goals. Days on which conditions beyond the contractors control result in unusual circumstances which adversely impact performance vs. the established standards will be removed from the performance standards calculation for the review period. Such circumstances will include, but are not limited to, severe weather, unusual traffic delays or emergency actions that impact service delivery. Material changes that impact established standards will be reviewed and adjusted as mutually agreed based on the average achieved during the review period. Performance goals, standards and methods of calculation may be adjusted from time to time as necessitated by service changes and/or as mutually agreed.

**Safety and Security:** NTD reportable incidents for the entire service shall be reviewed quarterly and will be less than 1.5 per 100,000 miles as averaged over the period, rounded down to the nearest tenth. Failure to achieve this goal will result in an invoice adjustment of - \$.10 per billable hour for each NTD Reportable accident over the goal.

**From the NTD Safety and Security Glossary a Reportable Incident is defined as follows:** A safety or security incident occurring on transit property or otherwise affecting revenue service that results in one or more of the following conditions:

- A fatality confirmed within 30 days of the incident
- An injury requiring immediate medical attention away from the scene for one or more persons
- Property damage equal to or exceeding \$25,000
- An evacuation for life safety reasons; or
- A mainline derailment.

**Vehicle Failures:** A vehicle failure is an incident resulting in a maintenance service call for a mechanical breakdown or equipment failure that prevents a revenue vehicle from completing the current route or run without immediate repair or replacement. Both Major Failures (incidents that require a vehicle to be towed back to base) and Other Failures (incidents that can be corrected on location, or which allow the vehicle to be driven back to base) shall be counted. The standard measure for Vehicle Failures shall be the average of total system miles between failures as measured by total system miles traveled for the review period divided by total failures for the billing period. If average fleet age exceeds 5 years, during the life of the contract the Vehicle Failure standard will be adjusted as mutually agreed. The invoice total shall be adjusted by +/- \$.10/hour for failure variance of 25% from the goal.

Example:

Vehicle Failure Goal = 7,500 miles between failures.

Exceed Goal = 10,000 miles = \$.10/hr adjustment.  
Fail to achieve = 5,000 miles/failure = -\$.10/hr adjustment.

**Maintenance:** The Preventative Maintenance (PM) service schedule established in the Fort Bend County Operation Standards will be followed. Requests to modify those standards must be approved in writing by Fort Bend County. PM Services performed within 10% of the agreed mileage interval will be deemed on time. Preventative Maintenance will be reported for the vendor's maintenance tracking software, and a detailed report provided to Fort Bend County each week.

Fewer than 95% On Time:            -\$.05 per hour adjustment.  
95%-100% On Time:                    No Adjustment

**Demand Response On-Time Performance:** On time performance will be based on the average of the average of Scheduled On Time within the 15 minute +/- window and Appointment On Time as reported on the Fort Bend County monthly service report.

95% - 100%   +.10 /hr  
85% - 95%    No Adjustment  
Less than 85%     - .10/hr

**Fixed Route, Point Deviation and Commuter Shuttle OTP:** On time performance for Fixed Route Services will be measured based on vehicle arrival at scheduled stops as recorded in Trapeze routing software. A vehicle more than 5 minutes late to a scheduled stop on a fixed route shall be considered late at that stop. On time performance will be calculated as the total number of stops on time divided by the total number of scheduled stops. It is expected that over 95% of trips will be performed on time.

Less than 95% On Time:            -\$.05 per hour adjustment.  
95 to 100% On Time:                No Adjustment



**EXHIBIT D – THIRD PARTY INSPECTION**

*jm*

Inspection efforts will include review of the following:

### **Undercarriage**

- Identification of compressed air, air conditioning, coolant, and other fluid leaks.
- Check and verify torque of critical bolts and fasteners.
- Inspect wiring and protection from abrasion and sharp edges.
- Inspect for proper grade of bolts, appropriate type and application of blind fasteners.
- Check for proper materials, routing and support of rigid and flexible lines for power steering, transmission, pressure and electrical sensors, coolant, brakes, wheelchair lift primary connections, and manual override.
- Check function of heating and air conditioning piping, sensors, compressor support, and vibration isolation.
- Inspect front suspension and shock absorber condition.
- Inspect drive train components and supporting electrical, and fluid systems.
- Check air system for air leaks including brakes, suspension, accessories, and throttle.
- Check for structural damage such as weld cracks, bent or scared undercarriage components.

### **Interior**

- Instrumentation - Verify accessibility and function, and readability of instrument and indicators with steering wheel in straight ahead position.
- Exit Signal -verify function of chimes switch tapes located near interior lighting fixtures with driver-controlled by-pass switch.
- Inside Mirror - Verify presence and adjustability of inside mirrors and that they do not obscure right outside mirror.
- Verify the proper fastening of barriers, panels, standee rails and seats.
- Check cleanliness and condition of floor covering, ducting, interior panels, molding, supports

- Check doors for proper operation speed, sensitive edges and interlock.
- Check integrity of circuit terminals in application and installation.
- Verify condition of all interior doors for appearance, fit, and function, panels for door operating mechanisms and other doors open and lock with or without special tools.
- Inspect all windows for excessive scratches, proper opening and closing functions and proper weather sealing. Check for proper emergency release function.
- Inspect seating condition and operation for wheelchair positions and tie downs.
- Destination Signs - Verify specified signs, decals, and instruction plates. Verify presence and function of destination signs on the front and right side of coach. In the case of electronic signs check all sign wiring routings, integrity of electronics mountings; verify that monitor matches sign selected; verify illumination with master switch; inspect seal of units and accessibility to windows and mechanism.
- Wheelchair lift - Verify accessibility and function of all switches, controls, cycle counters, and safety sensors. Verify level, and angles of platform, handrails, and barriers. Verify weight requirements of platform and smooth operation of lift.

### **Exterior**

- Body - Inspect for fit and sealing, lack of distortion and strain points at fasteners, proper sealing and finish. Run through bus wash to test for water leakage.
- Rain Gutters - Verify installation of rain gutters over the passenger windows and doors; inspect for dams or obstructions in gutters.
- Doors - Inspect door installation for fit and sealing check for proper closure and tightness. Check for safety control, proper wiring and line routing.
- Exterior lighting - Verify type and function of headlights, marker lamps, turn signals lights, and curb area lighting.
- Outside Mirrors - Verify specified mirrors, rear field of vision.
- Check for body damage and paint deterioration.
- Bumper Material - Verify original specified color and material.

## **Engine Compartment**

- Inspect installation; check for improper line or wire routing, proper inspect for leaks and possible long-term problem situation.
- Proper materials, routing and support of rigid and flexible lines
- Inspect engine compartment for proper steaming and signs of fluid leaks.
- Listen for abnormal noises; check for harmonic vibrations I lines, may require added line support if found.
- Fuel Tank and Filter - Verify fuel filters and tank installation.
- Exhaust Locations - Verify specified exhaust pipe routing and installation, straps and proper discharge and absence of leakage.
- Batteries - Verify rating of batteries; verify correct positioning and sacrament.
- Junction and component box integrity for electrical components

## **Records**

- Inspect vehicle maintenance records to verify compliance with established preventative maintenance schedules and for more recent component changes (tires, batteries, brakes, etc.).

## **Road Test**

- As part of the inspection phase, Inspector will witness each road test as performed by the Contractor maintenance staff or County staff, riding in each vehicle and listening for abnormal power train noises and interior rattles as well as observing for proper shift points, acceleration, braking performance and brake efficiency utilizing electronic brake meter, ride quality, and appropriate functioning of other vehicle systems.