

**PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS**

AGENDA ITEM SUMMARY

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Meeting Date:	June 26, 2012	<input type="checkbox"/>	Consent	<input checked="" type="checkbox"/>	Regular
		<input type="checkbox"/>	Ordinance	<input type="checkbox"/>	Public Hearing
Department:	Palm Tran				
Submitted By:	Palm Tran				
Submitted for:	Palm Tran				

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I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: A contract with Metro Mobility Management Group, LLC (MMMG) for the provision of paratransit services, for a term of five (5) years, at the not to exceed amount of \$90,246,070.12.

Summary: The Selection Committee reviewed the five (5) proposals received in response to RFP No 11-097R/SC (PARATRANSIT SERVICES) and following a presentation by each proposer and discussion, evaluated the proposals, and recommended an award to Metro Mobility Management Group, LLC. The recommendation was approved by the Board on April 3, 2012.

At the April 3, 2012 meeting, there was discussion that MMMG is involved in a labor dispute with the Amalgamated Transit Union (ATU) who represents their employees. This was known at the time that the Selection Committee made its recommendation and the Selection Committee members were able to adjust scoring based on this. Based on conversations with both parties the two major issues that remain unresolved are:

- There is an outstanding dispute between the parties in regard to the amount of an award based on a National Labor Relations Board (NLRB) decision; and
- The two parties have not been able to reach agreement on a labor contract. It is our understanding that MMMG recently gave the Union their "best and final offer" which proposed an Agreement between MMMG and the ATU that included a wage proposal that would bring all current employees to a \$10.00 an hour wage by the end of the Agreement, and it also included a monthly health care benefit. MMMG's proposed agreement was voted down by the Union membership.

The proposal by MMMG was scored highest by the selection committee. This will provide Palm Tran/Palm Beach County with the greatest cost savings for the operation of our paratransit service, estimated to be over \$16.7 million dollars during the five years over the next highest rated proposer. The selection was initially protested by one of the proposers but this protest has since been withdrawn. Countywide (DR)

Background and Justification: Palm Tran is required under Federal Law to operate paratransit service for disabled residents wherever Palm Tran's fixed route service is provided. Palm Tran Connection provides the required paratransit services to the citizens of Palm Beach County using (continued on page 3)

Attachment(s): 1. Contract with MMMG, LLC

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Recommended By: 
Department Director

June 15, 2012
Date

Approved By: 
Assistant County Administrator

6/25/12
Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2012	2013	2014	2015	2016
Grant Expenditures					
Operating Costs	\$2,100,477.48	\$17,539,691.24	\$17,831,394.88	\$18,079,656.44	\$18,332,514.28
External Revenues					
Program Income (County)					
In-Kind Match (County)					
NET FISCAL IMPACT	\$2,100,477.48	\$17,539,691.24	\$17,831,394.88	\$18,079,656.44	\$18,332,514.28
# ADDITIONAL FTE POSITIONS (Cumulative)	0	0	0	0	0

Is Item Included In Current Budget? Yes X No
Budget Account No.: Fund 1340 Dep't. 540 Unit Various Object 3401
Program Reporting Category

B. Recommended Sources of Funds/Summary of Fiscal Impact:


C. Departmental Fiscal Review: John Murphy
John Murphy, Finance Manager

III. REVIEW COMMENTS

A. OFMB Fiscal and/or Contract Dev. and Control Comments:

[Handwritten signature]
OFMB 6/15/12
SN 6/19/12 JP
6/19/12 JH

B. Legal Sufficiency:

 6/25/12
Assistant County Attorney

C. Other Department Review:

Department Director

D. J. Auer 6/25/12
Contract Dev. and Control

Insurance Certificates
and Bonds are required
10 days prior to
commencement of
services.

(Continued from Page 1)

(3)

contracted vendors. Currently, we have three vendors under contract to the County to provide this service. Connection, as the Community Transportation Coordinator, also provides services under the State of Florida Transportation Disadvantaged (TD) program and for County seniors under the Department of Senior Services (DOSS) program. Connection's existing vendors provided over 800,000 trips in FY 2011 and currently ridership is up by over 5% from last year. The current contract expires in August 2012 and it is considered vital, as providing ADA service is a requirement of the Federal funding that Palm Beach County receives for Palm Tran's services.

The new contract will allow for greater use of small vehicles, including taxicabs, in order to provide the service at a lower cost to the County. MMMG has committed that DBE participation will be increased to 45% of the service provided (the DBE goal was 30%). MMMG is currently one of the existing vendors operating the service (providing approximately 49% of the service) and is performing in a satisfactory capacity. This recommended contract with MMMG is expected to provide an estimated annual savings of \$2.8 million during FY 2013 based on current service costs. Palm Tran's proposed FY 2013 budget includes this cost savings.

**CONTRACT FOR
PARATRANSIT SERVICES
(Contract No. 11-097R/SC)**

This Contract No. 11-097R/SC is made as of this _____ day of _____, 2012, by and between Palm Beach County, a political subdivision of the State of Florida, by and through its Board of County Commissioners, hereinafter referred to as the COUNTY, and Metro Mobility Management Group, LLC, 1635 Meathe Drive, West Palm Beach, Florida 33411, a limited liability corporation authorized to do business in the State of Florida, hereinafter referred to as the CONTRACTOR.

In consideration of the mutual promises contained herein, the COUNTY and the CONTRACTOR agree as follows:

ARTICLE 1 - SERVICES

The CONTRACTOR's responsibility under this Contract is to provide paratransit services to Palm Tran, in accordance with Exhibit A, Scope of Work/Services, and Exhibit B, CONTRACTOR's submittal dated January 30, 2012, both of which are attached hereto and incorporated herein.

The COUNTY's representative/liaison during the performance of this Contract shall be Ron Jones, Director, Palm Tran Connection, telephone number (561) 649-9848_or designee.

The CONTRACTOR's representative/liaison during the performance of this Contract shall be Robert Glaeser, Vice President, telephone number (561) 629-2115.

ARTICLE 2 - ORDER OF PRECEDENCE

Conflicting provisions hereof, if any shall prevail in the following descending order of precedence: (1) the provisions of the Contract, including all Attachments to this Contract and Exhibit A, Scope of Work/Services (excluding Exhibit B, CONTRACTOR'S PROPOSAL dated January 30, 2012); (2) the provisions of RFP No. 11-097R/SC and all Amendments thereto, which are incorporated into and made a part of this Contract; (3) Exhibit B, CONTRACTOR's proposal dated January 30, 2012; and (4) all other documents, if any, cited herein or incorporated herein by reference.

ARTICLE 3 - SCHEDULE

The CONTRACTOR shall commence services on August 13, 2012, and complete all services by August 12, 2017.

Reports and other items shall be delivered and/or completed in accordance with Exhibit A.

ARTICLE 4 - PAYMENTS TO CONTRACTOR

- A. The total amount to be paid by the COUNTY under this Contract for all services and materials shall not exceed a total contract amount of Ninety Million Two Hundred Forty-Six Thousand Seventy Dollars and Twelve Cents (\$90,246,070.12).

The CONTRACTOR will bill the COUNTY on a weekly basis, or as otherwise provided, at the amounts set forth in Exhibit B (identified as APPENDIX S in CONTRACTOR's Proposal dated January 30, 2012), for services rendered toward the completion of the Scope of Work/Services. The CONTRACTOR shall notify the COUNTY's representative, in writing, when ninety percent (90%) of the "not-to-exceed amount" has been reached.

- B. Invoices received from the CONTRACTOR pursuant to this Contract will be reviewed and approved by the COUNTY's representative, indicating that services have been rendered in conformity with the Contract. Compensation will be based on either a) the revenue hours, as defined in Section 1 of the Scope of Work/Services, for services provided on dedicated vehicles or on b) the mileage, as defined in Section 1 of the Scope of Work/Services, of each individual trip for services provided on non-dedicated vehicles. Approved invoices will be sent to the Finance Department for payment. Invoices will normally be paid within thirty (30) days following the COUNTY representative's approval.
- C. The CONTRACTOR is required to provide an invoice, in addition to all completed vehicle manifests for each week (Sunday through Saturday) and supporting documentation to the COUNTY by the close of business on the second Friday after the completion of the billing period. Information received for any prior week's service will not be considered for payment in the current invoice or any subsequent invoice. The completed invoice shall include the following information:
1. The total number of billable units (i.e., revenue hours, revenue miles) and the CONTRACTOR's billable rate for each type of billing unit.
 2. The total amount due to the CONTRACTOR based on the CONTRACTOR's unit rate multiplied by the number of billable units for each type of billing unit.
 3. The amount of total fares collected and amount of cash fares retained.
 4. The number of paratransit tickets to ride being returned by the CONTRACTOR.
 5. The returned paratransit tickets to ride shall be clearly stamped with "Cancelled" on the front of each ticket. The stamp will indicate that the ticket was used and should be stamped in the middle of the ticket and be large enough to prevent the reuse of the ticket.

6. Any fuel escalation/de-escalation costs/charges.
 7. The adjusted total amount which the CONTRACTOR is requesting from the COUNTY as payment.
- D. CONTRACTOR shall include all paratransit tickets collected with this invoice.
 - E. If the CONTRACTOR fails to meet the standard for the timely submission of vehicle billing/manifests for three (3) or more consecutive months, the CONTRACTOR is in breach of its contract with the COUNTY and is subject to the default provisions of the Contract.
 - F. Invoice documentation shall be provided consisting of all manifests, paratransit tickets, and any other supporting documents.
 - G. Once the COUNTY receives the CONTRACTOR's invoice and all required documentation, the COUNTY will verify the information on the CONTRACTOR's invoice.
 - H. If there is a discrepancy, the COUNTY will work with the CONTRACTOR to resolve the discrepancy.
 - I. The COUNTY shall pay the CONTRACTOR based on the CONTRACTOR's unit rate multiplied by the number of billable units for each type of billing unit and adjusted for cash fares retained, liquidated damages adjustments and any fuel escalation/de-escalation costs/charges.
 - J. Invoices received from the CONTRACTOR pursuant to this Contract will be reviewed and approved by the COUNTY's representative, indicating that services have been rendered in conformity with the Contract, which will normally take two (2) weeks. Approved invoices will be sent to the COUNTY's Finance department for payment. No payment inquiries will be responded to until the three (3) week processing time has passed. Invoices will normally be paid within thirty (30) days following the COUNTY's representative's approval. Notwithstanding the foregoing, the CONTRACTOR may request an alternative payment plan and COUNTY agrees that it will discuss the CONTRACTOR's plan with the Clerk and Comptroller; provided if COUNTY first determines that the payment plan is feasible.
 - K. Approved invoices will be considered certified, complete and accurate.
 - L. Final Invoice: In order for both parties herein to close their books and records, the CONTRACTOR shall clearly state "final invoice" on the CONTRACTOR's final/last billing to the COUNTY. This shall constitute the CONTRACTOR's certification that all services have been properly performed and all charges and costs have been invoiced to the COUNTY. Any further charges, if not properly included on this final invoice, are

waived by the CONTRACTOR.

ARTICLE 5 - PALM BEACH COUNTY OFFICE OF THE INSPECTOR GENERAL AUDIT REQUIREMENTS

Pursuant to Palm Beach County Code, Section 2-421 - 2-440, as amended, Palm Beach County's Office of Inspector General is authorized to review past, present and proposed COUNTY contracts, transactions, accounts, and records. The Inspector General's authority includes, but is not limited to, the power to audit, investigate, monitor, and inspect the activities of entities contracting with the COUNTY, or anyone acting on their behalf, in order to ensure compliance with contract requirements and to detect corruption and fraud. Failure to cooperate with the Inspector General or interfering with or impeding any investigation shall be a violation of Palm Beach County Code, Section 2-421 - 2-440, and punished pursuant to Section 125.69, Florida Statutes, in the same manner as a second degree misdemeanor.

ARTICLE 6 - HIPPA BUSINESS ASSOCIATE AGREEMENT

- A. As a business associate of the COUNTY, the CONTRACTOR, including its agents, servants, subcontractors and employees, shall carry out its obligations under its Contract with the COUNTY for provision of Paratransit Services in compliance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the Health Information Technology for Economic and Clinical Health Act of 2009 ("HITECH"), any of which may be amended from time to time or supplemented by new legislation or guidance (hereinafter collectively referred to as "Business Associate Requirements"); and, in order to protect the privacy, confidentiality, integrity, and availability of all individually identifiable protected health information that is created, received, collected, processed, learned, maintained or transmitted on behalf of the COUNTY or as a result of the services provided under the Contract (hereinafter "PHI"), which shall include electronic protected health information (hereinafter "E PHI"). The definition of PHI and E-PHI as used herein shall be in accordance with definition of these terms in HIPAA and/or the regulations promulgated thereunder.
- B. In conformity with HIPAA and the privacy regulations promulgated thereunder, the CONTRACTOR agrees that it and its agents, subcontractors, servants, and employees shall:
 - a. Not use or further disclose PHI except as permitted under this Contract or required by law;
 - b. Use appropriate safeguards to prevent use or disclosure of PHI except as permitted by this Contract and shall not use or further disclose PHI in a manner that would violate HIPAA's requirements if done by the COUNTY;

- c. As soon as reasonably practical, report to the COUNTY any use or disclosure of PHI not provided for by this Contract of which the CONTRACTOR becomes aware, and mitigate, to the extent possible, any harmful effect of such use or disclosure of PHI;
- d. CONTRACTOR shall promptly inform the COUNTY of a Breach of Unsecured PHI following the first day on which CONTRACTOR knows of such Breach or following the first day on which CONTRACTOR should have known of such Breach. In addition, CONTRACTOR shall provide written notification to the COUNTY hereunder which notification shall:
 - a. Be made no later than 60 calendar days after discovery of the Breach, except where a law enforcement official determines that a notification would impede a criminal investigation or cause damage to national security;
 - b. Include the individuals whose Unsecured PHI has been, or is reasonably believed to have been, the subject of a Breach; and
- e. Ensure that any business associates, agents or subcontractors to whom the CONTRACTOR provides PHI, or who have access to PHI, agree to the same restrictions, terms and conditions that apply to the CONTRACTOR with respect to such PHI;
- f. Make PHI available to the COUNTY and to individuals who have a right of access to information under HIPAA;
- g. Incorporate any amendments to PHI in accordance with HIPAA when notified to do so by the COUNTY;
- h. Provide an accounting of all uses or disclosures of PHI made by the CONTRACTOR, in accordance with HIPAA, within sixty (60) days;
- i. Make their internal practices, books and records relating to the use and disclosure of PHI available to the Secretary of the Department of Health and Human Services for purposes of determining the CONTRACTOR's and the COUNTY's compliance with HIPAA. The CONTRACTOR shall immediately notify the COUNTY upon receipt or notice of any request by the Secretary of the Department of Health and Human Services to conduct an investigation with respect to PHI relating to services under this Contract; and
- j. At the termination or expiration of this Contract, the CONTRACTOR shall return to the COUNTY all PHI received from, or created or received by the CONTRACTOR, on behalf of the COUNTY, that the CONTRACTOR still maintains in any form and shall not retain copies of such information. If such return is not feasible, the CONTRACTOR shall continue to protect such PHI in accordance with this Contract and HIPAA, and must limit further uses and disclosures of such PHI to those purposes that made the

return of such PHI not feasible.

- C. The CONTRACTOR may, if necessary, use and disclose PHI for the proper management and administration of the CONTRACTOR or to carry out the legal responsibilities of the CONTRACTOR. However, in order to disclose PHI:
 - a. The disclosure must be required by law; or
 - b.
 - (i). The CONTRACTOR must obtain reasonable assurances from the person to whom the information is disclosed that it will be held confidentially and used or further disclosed only as required by law or for the purpose for which it was disclosed to the person; and
 - (ii). The person must notify the CONTRACTOR of any instances of which it is aware in which the confidentiality of the information has been breached.
- D. In conformity with HIPAA and the security regulations promulgated thereunder, the CONTRACTOR, including its agents, servants, subcontractors and employees, shall:
 - a. Implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of all E-PHI; and
 - b. Ensure that any agent, including a subcontractor, to whom it provides EPHI agrees to implement reasonable and appropriate safeguards to protect such information; and
 - c. Report to COUNTY any security incident of which it becomes aware.
- E. CONTRACTOR has implemented policies and procedures to ensure that its receipt, maintenance, or transmission of "electronic protected health information" (as defined in 45 C.F.R. §160.103) ("ePHI") on behalf of the COUNTY complies with the applicable administrative, physical, and technical safeguards required for protecting the confidentiality and integrity of ePHI under the Security Standards 45 C.F.R. Part 160 and 164 subpart

CONTRACTOR agrees that it will ensure that agents or subcontractors agree to implement the applicable administrative, physical, and technical safeguards required to protect the confidentiality and integrity of ePHI under the Security Standards 45 C.F.R. Part 164.

CONTRACTOR agrees to report to the COUNTY any Security Incident (as defined 45 C.F.R. Part 164.304) of which it becomes aware. CONTRACTOR agrees to report the Security Incident to the COUNTY as soon as reasonably

practicable, but not later than 10 business days from the date the CONTRACTOR becomes aware of the incident.

The COUNTY agrees and understands that it is independently responsible for the security of ePHI in its possession or for ePHI that it receives from outside sources including CONTRACTOR.

- F. CONTRACTOR agrees that, on behalf of the COUNTY, it will perform any transaction for which a standard has been developed under the Electronic Data Interchange (EDI) Rule that CONTRACTOR could reasonably be expected to perform in the ordinary course of its functions on behalf of the COUNTY.

CONTRACTOR agrees that it will comply with all applicable EDI standards. The COUNTY further agrees that it will use its best efforts to comply with all applicable regulatory provisions in addition to the EDI Rule and the Privacy Rule that are promulgated pursuant to the Administrative Simplification Subtitle of HIPAA.

- G. Notwithstanding any other provisions of this Contract, this Contract may be terminated by the COUNTY, in its sole discretion and without penalty to or recourse against the COUNTY, if it determines that the CONTRACTOR has violated a term or provision of this Contract pertaining to the CONTRACTOR's HIPAA obligations, or if the CONTRACTOR engages in conduct which would, if committed by the COUNTY, result in a violation of HIPAA and/or the regulations promulgated thereunder by the COUNTY.
- H. The COUNTY and its representatives shall be entitled to audit the CONTRACTOR from time to time to verify compliance with the terms of this Contract. The COUNTY shall be entitled and enabled to inspect the records and other information relevant to the CONTRACTOR's compliance with the terms of this Contract during normal business hours and at the CONTRACTOR's place of business.
- I. The CONTRACTOR shall protect, defend, reimburse, indemnify, and hold the COUNTY, its agents, employees and elected officers, harmless from and against all claims, liability, expense, loss, cost, penalties, damages or causes of action of every kind or character, including attorney's fees and costs, whether at trial or appellate levels or otherwise, arising as a result of any disclosure of PHI or E-PHI due to the actions or inactions of the CONTRACTOR and/or any of its agents, servants, subcontractors and employees.

ARTICLE 7 – CONTRACTOR'S MINIMUM STANDARDS

As stated in the CONTRACTOR's proposal dated January 30, 2012, the CONTRACTOR shall adhere to the following minimum standards, which includes, but are not limited to:

- A. The CONTRACTOR agrees to attain at least forty-five percent (45%) DBE participation during each year of the Contract and shall endeavor to maintain this level of participation for all billing periods during the term of the Contract.
- B. The CONTRACTOR shall provide alternative fuel vehicles on 100% of the dedicated fleet.
- C. The CONTRACTOR shall maintain a 15% spare ratio for dedicated service vehicles.
- D. The CONTRACTOR shall provide a minimum of 40 new vehicles for use in the dedicated fleet no later than January 1, 2013, which shall be fully compliant with the vehicle standard requirements of this Contract. During the phase-in of the CONTRACTOR services, the CONTRACTOR shall be permitted to temporarily use vehicles contained within its existing fleet of vehicles which it was permitted to use under the prior contract it had with COUNTY for paratransit services (R2004-2447, as amended); provided, that the vehicles used for dedicated service do not exceed a 2004 model year age and the vehicles used for non-dedicated service do not exceed a 2006 model year age. All such temporary use vehicles shall be otherwise compliant with the requirements of this Contract, excluding the mileage limitations of Section 28 of Exhibit A. Scope of Work/Service to this Contract. All non-dedicated vehicles shall be fully compliant with the vehicle standard requirements of Section 28 by January 1, 2013. All other vehicles utilized by CONTRACTOR for the provision of dedicated services shall be fully compliant with the vehicle standard requirements of Section 28 by January 1, 2013.
- E. The CONTRACTOR shall provide and put into use, at its own cost and expense, Mobile Data Terminals and GPS technology in all vehicles used in the delivery of paratransit service in accordance with the following timetable:

By October 1, 2012, all non-dedicated vehicles shall be fully compliant with Mobile Data Terminals and GPS technology.

By October 1, 2012, no less than twenty-five percent (25%) of the dedicated vehicles used shall be fully compliant with Mobile Data Terminals and GPS technology.

By January 1, 2013, all vehicles used by CONTRACTOR shall be fully compliant with Mobile Data Terminals and GPS technology.

CONTRACTOR shall implement Smart Phone Technology and Smart Card Technology no later than one (1) year after the effective date of this Contract.

- F. The CONTRACTOR shall install padding with energy absorbing material on all readily accessible exposed edges or other hazardous protrusions of parts of the wheelchair lift assemblies or ramps that are located in the passenger compartment.

- G. All Technicians (Mechanics) shall be ASE Certified for the nature of work they are performing. Evidence that technicians (mechanics) have the required certifications shall be made available immediately upon request by COUNTY .

CONTRACTOR agrees that all non-dedicated drivers utilized by the CONTRACTOR shall possess, satisfy and adhere to the same skill levels, competency testing, training, certification, background checks, drug and alcohol testing and all other service standards and all other requirements of the Contract as set forth in Exhibit A Scope of Work/Services for the dedicated drivers. CONTRACTOR shall develop and utilize a program for the participation and use of non-dedicated drivers (also referred to in this Contract as "independent contractors") so as to ensure that all standards and requirements of the Contract, including but not limited to compliance with the insurance requirements of Article 16 and the indemnification obligation of Article 17 of this Contract, are met. This shall be in place no later than the commencement date of the Contract. CONTRACTOR shall submit its program to COUNTY for its approval prior to implementation. The term "independent contractors" as used in this Contract shall refer to non-dedicated drivers (taxi drivers) unless the context of the provision indicates that the term is intended to refer to the CONTRACTOR. The parties expressly agree that Article 25 of this Contract provides that the relationship between the CONTRACTOR and the COUNTY is that of an Independent Contractor. Nothing contained in this Article or any other provision of this Contract shall alter that relationship or modify the application of Article 25 to the CONTRACTOR.

- H. The CONTRACTOR agrees to perform a lifetime Motor Vehicle Record check on each Operator/Driver utilized (i.e., all employees of CONTRACTOR and its subcontractors and all independent contractors) and shall submit the MVR with the driver information package it submits to CONNECTION.
- I. The CONTRACTOR shall maintain a spare ratio of drivers 20:3 for dedicated services.
- J. The CONTRACTOR shall provide a minimum of five (5) radio channels for use in dispatching and driver communications with the fleet of paratransit vehicles for both dedicated and non-dedicated services.
- K. The CONTRACTOR shall maintain a ratio of no more than 20 routes per dispatcher during all hours of service for dedicated and non-dedicated routes.
- L. The CONTRACTOR agrees to comply with and complete all FEMA Certifications as specified by CONNECTION.
- M. The CONTRACTOR shall conduct Safety Meetings no less than Quarterly and shall provide notice to CONNECTION of these meetings at least two weeks in advance.

- N. The CONTRACTOR shall establish an accident review board to investigate accidents and provide feedback to CONNECTION regarding corrective measures to be taken.

ARTICLE 8 - PERFORMANCE BOND

The CONTRACTOR shall furnish, to the COUNTY, a Performance Bond or Clean Irrevocable Letter of Credit in the amount of \$1,000,000, no less than ten (10) days prior to the commencement date of this Contract, and shall keep the same in full force and effect during the entire term of this Agreement.

The CONTRACTOR shall furnish a Performance Bond in a form and format and with terms and conditions satisfactory to the COUNTY as security for the faithful performance of Contract No. 11-097R/SC, and for all costs incurred by the COUNTY to obtain full performance of the Contract, including but not limited to a replacement contract, in the event the CONTRACTOR fails to perform as required under the Contract. The term "COST" as used herein shall include all fees, costs, and expenses arising out of the CONTRACTOR's failure to perform the Contract whether direct, indirect, actual, consequential, or incidental, and shall include attorney's fees and costs, expert witness fees and expenses, and all time incurred by Palm Tran and other COUNTY staff.

The Performance Bond is to ensure the faithful performance of all the requirements of Contract No. 11-097R/SC, and to save, defend, indemnify, and hold harmless the COUNTY and Palm Tran, Inc. from any and all damages, costs, fees, and expenses either directly or indirectly arising out of any failure to perform the Contract, whether in whole or in part. The Bond shall be issued by a company authorized to do business in the State of Florida and having a currently valid certificate of authority and bonding capacity, as issued by the United States Department of Treasury under 31.U.S.C., sections 9304 through 9308. The CONTRACTOR shall verify with the COUNTY, prior to execution of the Contract, the acceptability of the surety provided thereunder. The attorney-in-fact who signs the Bond must file, with the Bond, a certificate and effective dated copy of power of attorney. The CONTRACTOR must furnish the executed Bond prior to the COUNTY's approval of Contract.

A cash deposit, or certified check, or Clean Irrevocable Letter of Credit, from a financial institution with a rating deemed acceptable by the COUNTY, may be provided in lieu of the Performance Bond provided that the form, format, and terms of coverage are acceptable to the COUNTY. The terms of coverage of an Irrevocable Letter of Credit shall be substantially the same as that required of the Performance and Payment Bond, and the Letter of Credit shall be issued by an institution that offers security similar to that of a bonding company. In addition, the Letter of Credit shall fully comply with the COUNTY's requirements set forth in Palm Beach County PPM #CW-F-055; and, the face of the Letter of Credit shall be in the format described in PPM #CW-F-055, the terms of which are incorporated herein by reference. In the event of any conflict between the terms of the Contract and PPM #CW-F-055, the latter shall control. The

COUNTY shall have the sole authority to determine whether the Letter of Credit or Performance Bond satisfies the requirements of this article.

ARTICLE 9 - TRUTH-IN-NEGOTIATION CERTIFICATE

Signature of this Contract by the CONTRACTOR shall also constitute the execution of a truth-in-negotiation certificate certifying that the wage rates, over-head charges, and other costs used to determine the compensation provided for in this Contract are accurate, complete, and current as of the date of the Contract and no higher than those charged the CONTRACTOR's most favored customer for the same or substantially similar service.

The said rates and costs shall be adjusted to exclude any significant sums should the COUNTY determine that the rates and costs were increased due to inaccurate, incomplete, or noncurrent wage rates or due to inaccurate representation(s) of fees paid to outside contractors. The COUNTY shall exercise its rights under this Article 9 within three (3) years following final payment.

ARTICLE 10 - TERMINATION

A. Termination for Convenience of the COUNTY:

1. The COUNTY may terminate this contract, in whole or in part, at any time by providing five (5) days written notice to the CONTRACTOR when it is in the COUNTY's best interest. The COUNTY shall terminate by delivering to the CONTRACTOR a Notice of Termination specifying the extent of termination and the effective date. The CONTRACTOR shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The CONTRACTOR shall promptly, but no later than one (1) year from the date of termination, submit its termination claim to the COUNTY to be paid to the CONTRACTOR. If the CONTRACTOR has any property in its possession belonging to the COUNTY, the CONTRACTOR will account for the same, and dispose of it in the manner the COUNTY directs.
2. After receipt of a Notice of Termination, and except as directed by the COUNTY, the CONTRACTOR shall immediately proceed with the following obligations, regardless of any delay in determining or adjusting any amounts due under this clause:
 - (a) Stop work as specified in the notice.
 - (b) Place no further subcontracts or orders (referred to as subcontracts in this clause) for materials, services, or facilities, except as necessary to complete the continued portion of the contract.
 - (c) With approval or ratification to the extent required by the COUNTY, settle all outstanding liabilities and termination settlement proposals arising from the termination of subcontracts. The COUNTY's approval or ratification will be final for purposes of this clause.

- (d) Complete performance of the work not terminated.
- (e) Take any action that may be necessary, or that the COUNTY may direct, for the protection and preservation of the property related to this contract that is in the possession of the CONTRACTOR and in which the COUNTY has or may acquire an interest.
- (f) After termination, the CONTRACTOR shall submit a final termination settlement proposal to the COUNTY in the form and with the certification prescribed by the COUNTY. The CONTRACTOR shall submit the proposal promptly, but no later than 1 year from the effective date of termination, unless extended in writing by the COUNTY upon written request of the CONTRACTOR within this one (1) year period. However, if the COUNTY determines that the facts justify it, a termination settlement proposal may be received and acted on after 1 year or any extension. If the CONTRACTOR fails to submit the proposal within the time allowed, the COUNTY may determine, on the basis of information available, the amount, if any, due the CONTRACTOR because of the termination and shall pay the amount determined.
- (g) Subject to paragraph (f) of this clause, the CONTRACTOR and the COUNTY may agree upon the whole or any part of the amount to be paid or remaining to be paid because of the termination. The amount may include a reasonable allowance for profit only for work performed. However, the agreed amount, whether under this paragraph (g) or paragraph (h) of this clause, exclusive of costs shown in subparagraph (h)(3) of this clause, may not exceed the total contract price as reduced by: (1) the amount of payments previously made and; (2) the contract price of work not terminated. The contract shall be modified, and the CONTRACTOR paid the agreed amount. Paragraph (h) of this clause shall not limit, restrict, or affect the amount that may be agreed upon to be paid under this paragraph.
- (h) If the CONTRACTOR and the COUNTY fail to agree on the whole amount to be paid because of the termination of work, the COUNTY shall pay the CONTRACTOR the amounts determined by the COUNTY as follows, but without duplication of any amounts agreed on under paragraph (g) of this clause:
 - (1) The contract price for completed supplies or services accepted by the COUNTY not previously paid for, adjusted for any saving of freight and other charges.
 - (2) The total of:
 - (i) The costs incurred in the performance of the work terminated, including initial costs and preparatory expense allocable thereto, but excluding any costs attributable to supplies or services paid or to be paid under subparagraph (h)(1) of this clause;

- (ii) The cost of settling and paying termination settlement proposals under terminated subcontracts that are properly chargeable to the terminated portion of the contract if not included in subdivision (h)(2)(i) of this clause; and
 - (iii) A sum, as profit on subdivision (h)(2)(i) of this clause solely for work performed, determined by the COUNTY under 49.202 of the Federal Acquisition Regulation, in effect on the date of this contract, to be fair and reasonable; however, if it appears that the CONTRACTOR would have sustained a loss on the entire contract had it been completed, the COUNTY shall allow no profit under this subdivision (h)(2)(iii) and shall reduce the settlement to reflect the indicated rate of loss.
- (3) The reasonable costs of settlement of the work terminated, including:
 - (i) Accounting, clerical, and other direct expenses (excluding legal expenses) reasonably necessary for the preparation of termination settlement proposals and supporting data;
 - (ii) The termination and settlement of subcontracts (excluding the amounts of such settlements)
- (i) In arriving at the amount due the CONTRACTOR under this clause, there shall be deducted:
 - (1) All unliquidated advance or other payments to the CONTRACTOR under the terminated portion of this contract; and
 - (2) Any claim which the COUNTY has against the CONTRACTOR under this contract; and
 - (3) The agreed price for, or the proceeds of sale of, materials, supplies, or other things acquired by the CONTRACTOR or sold under the provisions of this clause and not recovered by or credited to the COUNTY.
- (j) If the termination is partial, the CONTRACTOR may file a proposal with the COUNTY for an equitable adjustment of the price(s) of the continued portion of the contract. The COUNTY may make any equitable adjustment agreed upon. Any proposal by the CONTRACTOR for an equitable adjustment under this clause shall be requested within 90 days from the effective date of termination unless extended in writing by the COUNTY.
- (k) (1) The COUNTY may, under the terms and conditions it prescribes, make partial payments and payments against costs incurred by the CONTRACTOR for the terminated

portion of the contract including but not limited payments to the CONTRACTOR's subcontractors, if the COUNTY believes the total of these payments will not exceed the amount to which the CONTRACTOR will be entitled. This Contract is not intended to create any third party beneficiaries and confers no rights on anyone other than the CONTRACTOR and the COUNTY and Palm Tran, Inc..

- (2) If the total payments exceed the amount finally determined to be due, the CONTRACTOR shall repay the excess to the COUNTY upon demand, together with interest computed at the rate established for the payment of judgment liens in the Fifteenth Judicial Circuit of the State of Florida. Interest shall be computed for the period from the date the excess payment is received by the CONTRACTOR to the date the excess is repaid. Interest shall not be charged on any excess payment due to a reduction in the CONTRACTOR's termination settlement proposal because of retention or other disposition of termination inventory until 10 days after the date of the retention or disposition, or a later date determined by the COUNTY because of the circumstances.

- (l) Unless otherwise provided in this contract or by statute, the CONTRACTOR shall maintain all records and documents relating to the terminated portion of this contract for 5 years after final settlement. This includes all books and other evidence bearing on the CONTRACTOR's costs and expenses under this contract. The CONTRACTOR shall maintain these records in Palm Beach COUNTY Florida and make these records and documents available to the COUNTY, its authorized agents, servants or employees, at the CONTRACTOR's office, at all reasonable times, without any direct charge. If approved by the COUNTY, photographs, microphotographs, or other authentic reproductions may be maintained instead of original records and documents.

B. Termination for Default

1. (a) The COUNTY may, by written notice of default to the CONTRACTOR, terminate this contract, in whole or in part, if the CONTRACTOR fails to:
 - (1) Perform the services as required or within the time specified in this contract or any extension;
 - (2) Make progress, so as to endanger performance of this contract; or
 - (3) Perform any of the other provisions of this contract.(b) The COUNTY's right to terminate this contract may be exercised if the CONTRACTOR does not cure such failure within 10 days (or more if authorized in writing by the COUNTY) after receipt of the notice from the COUNTY specifying the failure.
2. If the COUNTY terminates this contract in whole or in part, it may acquire, under the terms and in the manner the COUNTY considers appropriate, supplies or services similar to those terminated, and the CONTRACTOR will be liable to the COUNTY for any excess costs for those services. However, the CONTRACTOR shall continue the work not terminated.
3. Except for defaults of subcontractors at any tier, the CONTRACTOR shall not be liable for any excess costs if the failure to perform the contract arises from causes beyond the control and without the fault or negligence of the CONTRACTOR. The parties agree that only the following shall be deemed causes beyond the CONTRACTOR's control:
 - (a) acts of God or of the public enemy,
 - (b) fires,
 - (c) floods,
 - (d) epidemics,
 - (e) quarantine restrictions,
 - (f) unusually severe weather.

In each instance the failure to perform must be beyond the control and without the fault or negligence of the CONTRACTOR and the

CONTRACTOR shall make good faith efforts to mitigate the effects of all such causes.

4. If the failure to perform is caused by the default of a subcontractor at any tier, and if the cause of the default is beyond the control of both the CONTRACTOR and subcontractor, and without the fault or negligence of either, the CONTRACTOR shall not be liable for any excess costs for failure to perform, unless the subcontracted supplies or services were obtainable from other sources in sufficient time for the CONTRACTOR to meet the required delivery schedule. Upon direction of the COUNTY, the CONTRACTOR shall also protect and preserve property in its possession in which the Government has an interest.
5. The COUNTY shall pay contract price for completed services delivered and accepted.
6. If, after termination, it is determined that the CONTRACTOR was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the COUNTY.
7. The rights and remedies of the COUNTY in this clause are in addition to any other rights and remedies provided by law, equity or under this contract.
8. Notwithstanding anything contained in this Contract, the parties agree that the occurrence of any of the following shall be deemed a material event of default:
 - (a) The filing of any judgment lien against the assets of the CONTRACTOR related to the performance of this Contract which is not discharged, satisfied or contested in a court of law within thirty (30) days of notice to the CONTRACTOR;
 - (b) The making by the CONTRACTOR of any general assignment or general arrangement for the benefit of creditors;
 - (c) The filing by or against the CONTRACTOR or its affiliate(s), of a petition to have the CONTRACTOR or its affiliates adjudged bankrupt or a petition for reorganization or arrangement under any law relating to bankruptcy (unless in the case of a petition for bankruptcy, reorganization or arrangement filed against the CONTRACTOR the same is dismissed within thirty (30) days from date of service upon the CONTRACTOR or its affiliate(s));
 - (d) The appointment of a trustee or receiver to take possession of substantially all of the CONTRACTOR's assets or the assets used by the CONTRACTOR in the performance of its work under this Contract;

- (e) The attachment, execution or other judicial seizure of substantially all of the CONTRACTOR's assets and such attachment, execution or seizure is not discharged within thirty (30) days;
- (f) Any attempt by the CONTRACTOR to convey, transfer, sublet or assign, in whole or in part, its interest in this Contract, unless it has first obtained the written consent of the COUNTY;
- (g) The failure to comply with any term or condition of this Contract

ARTICLE 11 - PERSONNEL

The CONTRACTOR represents that it has, or will secure at its own expense, all necessary personnel required to perform the services under this Contract. Such personnel shall not be employees of or have any contractual relationship with the COUNTY.

All of the services required hereinunder shall be performed by the CONTRACTOR, or under its supervision, and all personnel (including those of the subcontractors and all independent contractors) engaged in performing the services shall be fully qualified and, if required, authorized or permitted under state and local law to perform such services. Other specific requirements for personnel training are set forth in Exhibit A, Scope of Work/Services.

Any changes or substitutions in the CONTRACTOR's key personnel, as may be listed in Exhibit B, attached hereto and incorporated herein, must be made known to the COUNTY's representative and written approval must be granted by the COUNTY's representative before said change or substitution can become effective.

The CONTRACTOR warrants that all services shall be performed by skilled and competent personnel to the highest professional standards in the field.

All of the CONTRACTOR's personnel (and all subcontractors and independent contractors) will comply with all COUNTY, STATE and FEDERAL requirements governing conduct, safety, and security while on COUNTY premises or performing services on behalf of the COUNTY.

ARTICLE 12 – E-VERIFY

The COUNTY has agreements with Florida's Department of Transportation (FDOT) which require the COUNTY to agree and assure FDOT that the U.S. Department of Homeland Security's E-Verify System (System) will be used to verify the employment eligibility of CONTRACTOR's employees and the employees of CONTRACTOR's subcontractors. Accordingly, CONTRACTOR agrees that it will utilize the System to verify the employment eligibility of its employees, and that it will require any subcontractor used in the performance of the Contract to verify the employment eligibility of its employees. CONTRACTOR shall provide evidence that it and its subcontractors have so verified the employment eligibility of all employees to COUNTY and FDOT on forms and in the manner required by the COUNTY.

CONTRACTOR acknowledges that the COUNTY has received and will seek funds from FDOT, and that such funds may be used to pay CONTRACTOR for the services it provides under this Agreement. CONTRACTOR further acknowledges that FDOT has advised recipients of FDOT funds that it will consider a contractor's employment of unauthorized aliens to be a violation of the Immigration and Nationality Act. CONTRACTOR affirms to the COUNTY that it will not employ unauthorized aliens or take any other act, including acts related to the use of independent contractors, which may cause the COUNTY to be in violation of any law, or term or condition of any agreement between the COUNTY and FDOT.

ARTICLE 13 - SUBCONTRACTING

The COUNTY reserves the right to accept the use of a subcontractor or to reject the selection of a particular subcontractor and to inspect all facilities of any subcontractors in order to make a determination as to the capability of the subcontractor to perform properly under this Contract. The CONTRACTOR is encouraged to seek Disadvantaged Business Enterprises (DBE's) for participation in subcontracting opportunities. If the CONTRACTOR uses any subcontractors the following provisions of this Article shall apply:

1. Any subcontract shall incorporate, in full text, all provisions, terms, and conditions set forth in this Contract including Specifications and Scope of Work and all attachments thereto. The CONTRACTOR shall provide to the COUNTY copies of all fully executed subcontracts including any amendments thereto.
2. If a subcontractor fails to perform or make progress, as required by this Contract, and it is necessary to replace the subcontractor to complete the work in a timely fashion, the CONTRACTOR shall promptly do so, subject to acceptance of the new subcontractor by the COUNTY.
3. The CONTRACTOR agrees to abide by all provisions of the applicable Disadvantaged Business Enterprise (DBE) provisions of this Contract and understands that failure to comply with any of the requirements shall be considered a breach of Contract.
4. The CONTRACTOR understands that each DBE utilized on this Contract must be certified by Palm Tran to be counted as DBE participation.
5. The CONTRACTOR further agrees to provide the Palm Tran DBE Liaison with a copy of the CONTRACTOR's contract with any DBE subcontractor or any other related documentation upon request.
6. The CONTRACTOR understands the requirements to comply with the task and proportionate dollar amounts throughout each year and the term of the Contract as it relates to the use of DBE firms.
7. The CONTRACTOR shall only be permitted to replace a certified DBE subcontractor who is unwilling or unable to perform. Such substitutions must be

done with other certified DBEs in order to maintain the DBE percentages established in this Contract.

8. The CONTRACTOR understands that he/she is prohibited from making any agreements with DBEs in which the DBE promises not to provide subcontractors quotations to other proposers or potential proposers.
9. The CONTRACTOR agrees to maintain all relevant records and information necessary to document compliance with the applicable DBE provisions, and shall allow the COUNTY to inspect such records.

ARTICLE 14 - FEDERAL AND STATE TAX

The COUNTY is exempt from payment of Florida State Sales and Use Taxes. The COUNTY will provide an exemption certificate submitted by the CONTRACTOR. The CONTRACTOR shall not be exempted from paying sales tax to its suppliers for materials used to fulfill contractual obligations with the COUNTY, nor is the CONTRACTOR authorized to use the COUNTY's Tax Exemption Number in securing such materials.

The CONTRACTOR shall be responsible for payment of its own and its share of its employees' payroll, payroll taxes, and benefits with respect to this Contract.

ARTICLE 15 - AVAILABILITY OF FUNDS

The COUNTY's performance and obligation to pay under this Contract is contingent upon an annual appropriation for its purpose by the Board of County Commissioners as determined appropriate in its sole discretion and the receipt by the COUNTY of STATE and FEDERAL funding that is allocated by COUNTY's Board of County Commissioners to the paratransit program.

ARTICLE 16 - INSURANCE REQUIREMENTS

It shall be the responsibility of the CONTRACTOR, no less than ten (10) days prior to the commencement date of this Contract, to provide evidence of the following minimum amounts of insurance coverage to Palm Beach County, c/o Purchasing Department, 50 South Military Trail, Suite 110, West Palm Beach, FL 33415, Attention: Sharon Cushnie, Senior Buyer. Such insurance shall be effective on or before the commencement date.

The CONTRACTOR shall, on a primary basis and at its sole expense, maintain in full force and effect, at all times during the life of this Contract, insurance coverages and limits (including endorsements) as described herein. Failure to maintain the required insurance will be considered default of the Contract. The requirements contained herein, as well as COUNTY's review or acceptance of insurance maintained by CONTRACTOR, are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by CONTRACTOR under the Contract. CONTRACTOR agrees to notify the COUNTY with at least ten (10) days prior notice of any cancellation, non-renewal or material change to the insurance coverages. Further,

CONTRACTOR shall agree that all insurance coverage required herein shall be provided by CONTRACTOR to COUNTY on a primary basis.

- A. **Commercial General Liability:** CONTRACTOR shall maintain Commercial General Liability at a limit of liability not less than \$1,000,000 Each Occurrence. Coverage shall not contain any endorsement(s) excluding Contractual Liability or Cross Liability.
- B. **Business Auto Liability:** CONTRACTOR shall maintain Business Auto Liability at a limit of liability not less than \$1,000,000 Each Occurrence for all owned, non-owned, and hired automobiles. In the event CONTRACTOR owns no automobiles, the Business Auto Liability requirement shall be amended allowing CONTRACTOR to maintain only Hired & Non-Owned Auto Liability. If vehicles are acquired throughout the term of the contract, CONTRACTOR agrees to purchase "Owned Auto" coverage as of the date of acquisition. This amended requirement may be satisfied by way of endorsement to the Commercial General Liability, or separate Business Auto coverage form.

Notwithstanding the foregoing, if authorized in writing, by COUNTY's Department of Risk Management, the CONTRACTOR may maintain Business Auto Liability Insurance with limits of liability of not less than \$1,000,000 for each occurrence for Scheduled Autos only if Business Automobile liability is not commercially available for all Owned, Non-Owned and Hired Automobiles. The determination as to whether such insurance is not commercially available shall be vested solely in the COUNTY. In the event CONTRACTOR provides coverage for Scheduled Autos only, the CONTRACTOR hereby agrees that only the Scheduled Autos identified and covered by the Business Auto Liability insurance policy provided to the COUNTY will be utilized to perform the Work under the Contract. CONTRACTOR shall not add a vehicle or replace any vehicle listed on the schedule, unless it has first notified the COUNTY's Contract Representative of its intention to add or replace a vehicle. CONTRACTOR shall provide all information requested by COUNTY's Contract Representative and its Department of Risk Management and shall immediately furnish to the Contract Representative any new, updated or modified endorsement(s) or certificate(s) of insurance, with a complete and updated schedule of autos attached, or as may otherwise be required by COUNTY. With the prior approval of COUNTY, coverage may be satisfied by way of endorsement to the Commercial General Liability or by separate Business Auto Liability coverage. The CONTRACTOR agrees that coverage shall be provided on a primary basis. The failure (per vehicle) to comply with these requirements shall constitute a breach and default which may result in the termination of the Contract.

- C. **Workers' Compensation Insurance & Employer's Liability:** CONTRACTOR shall maintain Workers' Compensation & Employer's Liability in accordance with Florida Statute Chapter 440.
- D. **Additional Insured Clause:** Except as to Business Auto, Workers' Compensation and Employer's Liability (and Professional Liability, when

applicable) the Certificate(s) of Insurance shall clearly confirm that coverage required by the Contract has been endorsed to include Palm Beach County and Palm Tran, Inc. as an Additional Insured.

- E. **Waiver of Subrogation:** CONTRACTOR hereby waives any and all rights of Subrogation against the COUNTY and Palm Tran, Inc., their respective officers, employees and agents for each required policy. When required by the insurer, or should a policy condition not permit an insured to enter into a pre-loss agreement to waive subrogation without an endorsement, then CONTRACTOR shall notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy which includes a condition to the policy specifically prohibiting such an endorsement or voids coverage should CONTRACTOR enter into such an agreement on a pre-loss basis.
- F. **Certificates of Insurance:** Within forty-eight (48) hours of the COUNTY's request to do so, the CONTRACTOR shall deliver to the COUNTY Certificate(s) of Insurance evidencing that all types and amounts of insurance coverages required by this Contract have been obtained and are in full force and effect. Said Certificate(s) of Insurance shall, **to the extent allowable by the insurer**, include a minimum thirty (30) day endeavor to notify due to cancellation (10 days for nonpayment of premium) or non-renewal of coverage.
- G. **Umbrella or Excess Liability:** If necessary, CONTRACTOR may satisfy the minimum limits required above for either Commercial General Liability, Business Auto Liability, and Employer's Liability coverage under Umbrella or Excess Liability. The Umbrella or Excess Liability shall have an Aggregate limit not less than the highest "Each Occurrence" limit for either Commercial General Liability, Business Auto Liability, or Employer's Liability. The COUNTY and Palm Tran, Inc. shall be specifically endorsed as an "Additional Insured" on the Umbrella or Excess Liability, unless the Certificate of Insurance notes the Umbrella or Excess Liability provides coverage on a "Follow-Form" basis.
- H. **Right to Revise or Reject:** COUNTY, by and through its Risk Management Department in cooperation with the contracting/monitoring department, reserves the right to review, modify, reject, or accept any required policies of insurance, including limits, coverages, or endorsements, herein from time to time throughout the term of this Contract. COUNTY reserves the right, but not the obligation, to review and reject any insurer providing coverage because of its poor financial condition or failure to operate legally.

ARTICLE 17 - INDEMNIFICATION

CONTRACTOR agrees to protect, save, defend, reimburse, indemnify and hold harmless the COUNTY, Palm Tran, Inc. and their respective officers, servants, agents and employees from and against any and all claims, suits, liability, expenses, losses, costs, fines, damages, attorney fees, (including the costs of all appeals), costs and expenses, and causes of action of every kind and character against COUNTY, Palm

Tran, Inc., or their respective officers, servants, agents and employees including, without limitation, causes arising by reason of any damage to person(s), including bodily injury and death, and property, incurred or sustained by any person whomsoever or any governmental entity, which arise out of, are incidental to or related, in any manner, to the CONTRACTOR's performance of this Contract, its acts or omissions, its negligent performance, or its failure to perform any term or condition of this Contract. CONTRACTOR's obligations hereunder shall encompass all negligent, intentional and wrongful acts of its employees, servants, agents, independent contractors, and subcontractors, and shall include all injuries or damages suffered by any person as a result of any negligent, intentional, deliberate or malicious act or omission of the CONTRACTOR or its employees, servants, agents, independent contractors and subcontractors. Notwithstanding the foregoing, CONTRACTOR shall not be responsible to COUNTY or Palm Tran, Inc. for damages which arise solely out of or are solely attributable to the negligent acts or omissions, or intentional or wrongful acts of the COUNTY, Palm Tran, Inc., or their respective officers, servants, agents and employees.

ARTICLE 18 - SUCCESSORS AND ASSIGNS

The COUNTY and the CONTRACTOR each binds itself and its partners, successors, executors, administrators and assigns to the other party of this Contract and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Contract. Except as above, neither the COUNTY nor the CONTRACTOR shall assign, sublet, convey, or transfer its interest in this Contract, without the prior written consent of the other. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of the COUNTY, nor shall it be construed as giving any rights or benefits hereunder to anyone other than the COUNTY and the CONTRACTOR.

ARTICLE 19 - REMEDIES

This Contract shall be governed by the laws of the State of Florida. Any and all legal action necessary to enforce the Contract will be held in Palm Beach County. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder now or hereafter existing at law, or in equity, by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

ARTICLE 20 - CONFLICT OF INTEREST

The CONTRACTOR represents that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance or services required hereunder, as provided for in Chapter 112, Part III, Florida Statutes and The Palm Beach County Code of Ethics, as it may be amended from time to time (Sections 2-441 through 2-448 of the Palm Beach County Code). The CONTRACTOR further represents that no person having any conflict of interest shall be employed for said performance or services.

The CONTRACTOR shall promptly notify the COUNTY's representative, in writing, by certified mail, of all potential conflicts of interest for any prospective business association, interest or other circumstance which may influence, or appear to influence, the CONTRACTOR's judgment or quality of services being provided hereunder. Such written notification shall identify the prospective business association, interest or circumstance, the nature of work that the CONTRACTOR may undertake and request an opinion of the COUNTY as to whether the association, interest or circumstance would, in the opinion of the COUNTY, constitute a conflict of interest if entered into by the CONTRACTOR. The COUNTY agrees to notify the CONTRACTOR of its opinion by certified mail within thirty (30) days of receipt of notification by the CONTRACTOR. If, in the opinion of the COUNTY, the prospective business association, interest or circumstance would not constitute a conflict of interest by the CONTRACTOR, the COUNTY shall so state in the notification and the CONTRACTOR shall, at its option, enter into said association, interest or circumstance and it shall be deemed not in conflict of interest with respect to services provided to the COUNTY by the CONTRACTOR under the terms of this Contract.

ARTICLE 21 - LIQUIDATED DAMAGES

- A. The CONTRACTOR acknowledges and agrees that the damages that will be sustained by the COUNTY as a result of the CONTRACTOR's breach and failure to meet the performance standards of this Contract are not readily ascertainable and that the amounts and standards set forth in Section 40 of the Statement of Work/Services (Exhibit A) as liquidated damages for such breach are reasonable and appropriate given the uncertain nature of the damages that may be sustained by the COUNTY, and that such Liquidated Damages are not a penalty. There will be no grace period for the assessment of Liquidated Damages.
- B. If the CONTRACTOR fails to perform the services within the time specified or at the level of performance specified in this Contract, the CONTRACTOR shall, in place of actual damages, pay to COUNTY liquidated damages as specified in Section 40 in Exhibit A Scope of Work/Service to this Contract .
- C. COUNTY will deduct the payment for assessed liquidated damages from monies due or to become due thirty (30) calendar days after notification of the assessment.
- D. The assessment and/or payment of Liquidated Damages under this provision shall not effect in any way the right of the COUNTY to terminate this CONTRACT, with or without cause, under ARTICLE 10 above or to modify the CONTRACT as provided in Article 33 - Modifications of Work.

ARTICLE 22 - EXCUSABLE DELAYS

The CONTRACTOR shall not be considered in default by reason of any failure in performance if such failure arises out of causes reasonably beyond the control of the CONTRACTOR, or its subcontractor(s), and without their fault or negligence. Such

causes shall be limited to: acts of God; force majeure; natural or public health emergencies; freight embargoes; and abnormally severe and unusual weather conditions. Work stoppages, strikes, sick outs, slow downs, or other concerted acts of employees, acts of CONTRACTOR's independent contractors, and acts of its subcontractors shall not be deemed a cause reasonably beyond the control of the CONTRACTOR or its subcontractors. The COUNTY may waive the requirements of this agreement which would allow the CONTRACTOR to provide alternative service delivery pending such work stoppages, strikes, sick outs and slow downs.

Upon the CONTRACTOR's request, the COUNTY shall consider the facts and extent of any failure to perform the work; and, if the CONTRACTOR's failure to perform was without it or its subcontractors' fault or negligence, the Contract Schedule and/or any other affected provision of this Contract shall be revised accordingly, subject to the COUNTY's rights to change, terminate, or stop any or all of the work at any time. COUNTY's contract representative may waive the requirement that the CONTRACTOR have "all other vehicles" utilized for the provision of dedicated service fully compliant with the vehicle standards requirements of Article 7 paragraph D and Section 28 of Exhibit A by January 1, 2013, for periods not to exceed sixty (60) days, upon CONTRACTOR's presentation of evidence, acceptable to COUNTY, in its sole discretion, that CONTRACTOR has not been able to meet the requirements through no fault of its own. No waiver shall be granted beyond July 1, 2013.

COUNTY's contract representative may waive the requirement that all vehicles be fully compliant with the mobile data terminal and GPS technology use requirement (which appears in Article 7 paragraph E) by January 1, 2013, for periods not to exceed sixty (60) days, upon CONTRACTOR presentation of evidence, acceptable to COUNTY, in its sole discretion, that CONTRACTOR has not been able to meet the requirements through no fault of its own. No waiver shall be granted beyond July 1, 2013.

This article shall supplement Article 10.B. of the Agreement. To the extent there is a conflict between the provisions of this article and Article 10.B., the provisions of this article shall take precedent over and control the resolution of the conflict.

ARTICLE 23 - ARREARS

The CONTRACTOR shall not pledge the COUNTY's credit or make it a guarantor of payment or surety for any contract, debt, obligation, judgment, lien, or any form of indebtedness. The CONTRACTOR further warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms of this Contract.

ARTICLE 24 - DISCLOSURE AND OWNERSHIP OF DOCUMENTS

The CONTRACTOR shall deliver to the COUNTY's representative for approval and acceptance, and before being eligible for final payment of any amounts due, all documents and materials prepared by and for the COUNTY under this Contract.

To the extent allowed by Chapter 119, Florida Statutes, all written and oral information not in the public domain or not previously known, and all information and data obtained,

developed, or supplied by the COUNTY, or at its expense, will be kept confidential by the CONTRACTOR and will not be disclosed to any other party, directly or indirectly, without the COUNTY's prior written consent, unless required by a lawful court order. All drawings, maps, sketches, programs, data bases, reports and other data developed or purchased under this Contract for the COUNTY, or at the COUNTY's expense, shall be and remain the COUNTY's property and may be reproduced and reused at the discretion of the COUNTY.

All covenants, agreements, representations and warranties made herein, or otherwise made in writing by any party pursuant hereto, including but not limited to any representations made herein relating to disclosure or ownership of documents, shall survive the execution and delivery of this Contract and the consummation of the transactions contemplated hereby.

ARTICLE 25 - INDEPENDENT CONTRACTOR RELATIONSHIP

1. The CONTRACTOR is, and shall be, in the performance of all work, services, and activities under this Contract, an Independent Contractor and not an employee, agent, or servant of the COUNTY. All persons engaged in any of the work or services performed pursuant to this Contract shall at all times, and in all places, be subject to the CONTRACTOR's sole direction, supervision, and control. The CONTRACTOR shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the CONTRACTOR's relationship, and the relationship of its employees, to the COUNTY shall be that of an Independent Contractor and not as employees or agents of the COUNTY.
2. The CONTRACTOR does not have the power or authority to bind the COUNTY in any promise, agreement, or representation other than specifically provided for in this Contract.
3. CONTRACTOR acknowledges and affirmatively represents, warrants and asserts that it is familiar with the terms and conditions of this Contract and its duties and obligations hereunder, and that in the performance of this Contract and/or in any other act, relationship or role that it has or may have with the COUNTY or Palm Tran, Inc. related to or arising out of this Contract, that it is and shall at all times be an independent contractor and not an agent or servant of the COUNTY or Palm Tran, Inc. CONTRACTOR acknowledges that it has no authority, either express or implied, to hold itself out as a servant or agent or to represent that it is an agent or servant of the COUNTY or Palm Tran, Inc. CONTRACTOR agrees that it shall not convey or suggest, in any manner whatsoever, to any person or entity (i.e., third party), that it has any authority, either real or apparent, to act for or on behalf of or as an agent of the COUNTY or Palm Tran, Inc. Accordingly, CONTRACTOR shall at no time claim, assert, infer, or suggest, in any way whatsoever, in any public or private statement whether made in any public meeting, deposition, interrogatory, hearing, trial or appeal, that it is an agent or servant of the COUNTY or Palm Tran, Inc., or that the COUNTY or Palm Tran, Inc. has control over CONTRACTOR's day -to-day

operations or the conduct of its business, employees, officers, servants or agents.

4. CONTRACTOR affirmatively acknowledges and represents that it, in the performance of this Contract, and without the direction or control of the COUNTY or Palm Tran, Inc., will select, hire, train, place, supervise, discipline, terminate, compensate and reward its employees; that it has determined the manner and materials by which it will perform the work, including the site from which the work will be performed; and that the facility, materials and equipment that it will utilize to perform the work will be owned and controlled by it and under its care and control.
5. CONTRACTOR further agrees to protect, save, defend, reimburse, indemnify and hold harmless the COUNTY, Palm Tran, Inc., and their respective officers, servants, agents and employees from and against any and all claims, liability, expense, loss, costs, fines, damages, attorney fees (including all appellate cost and expenses, including attorney fees) against COUNTY or Palm Tran, Inc., that is related to or results from, in whole or in part, any claim, assertion, inference, suggestion, or the like by CONTRACTOR that it in the performance of this Contract or otherwise, is a servant or agent of COUNTY or Palm Tran, Inc. CONTRACTOR's duties and obligations under this article shall encompass acts of its subcontractors and independent contractors which are inconsistent with or conflict with CONTRACTOR's obligations hereunder.

ARTICLE 26 - CONTINGENT FEES

The CONTRACTOR warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the CONTRACTOR, to solicit or secure this Contract and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the CONTRACTOR, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this Contract.

ARTICLE 27 - ACCESS AND AUDITS

The CONTRACTOR shall maintain adequate records related to all charges, expenses, and costs incurred in estimating and performing the work for at least five (5) years after completion or termination of this Contract. The COUNTY shall have access to such books, records, and documents as required in this section for the purpose of inspection or audit during normal business hours, at the CONTRACTOR's place of business.

ARTICLE 28 - NONDISCRIMINATION

The CONTRACTOR warrants and represents that all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, familial status, sexual orientation or gender identity and expression.

ARTICLE 29 - AUTHORITY TO PRACTICE

The CONTRACTOR hereby represents and warrants that it has, and will continue to maintain, all licenses and approvals required to conduct its business; and, that it will, at all times, conduct its business activities in a reputable manner. Proof of such licenses and approvals shall be submitted to the COUNTY's representative upon request.

ARTICLE 30 - SEVERABILITY

If any term or provision of this Contract or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this Contract, or the application of such terms or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Contract shall be deemed valid and enforceable to the extent permitted by law.

ARTICLE 31 - PUBLIC ENTITY CRIMES

As provided in F.S. 287.132-133, by entering into this Contract or performing any work in furtherance hereof, the CONTRACTOR certifies that neither it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the convicted vendor list maintained by the State of Florida Department of Management Services within the thirty-six (36) months immediately preceding the date hereof. This notice is required by F.S. 287.133(3)(a).

ARTICLE 32 – FEDERAL ASSISTANCE AND FEDERALLY REQUIRED PROVISIONS

STATEMENT OF FINANCIAL ASSISTANCE. This procurement is funded in part by contracts and grants between Palm Beach County and the U.S. Department of Transportation, Federal Transit Administration. Therefore, the following Special Contract Provisions apply to this procurement:

1. Prohibited Interest. No employee, officer, or agent of Palm Beach County shall participate in the selection, award, or administration of a contract if a real or apparent conflict of interest would be involved. Such a conflict would arise when the employee, officer, or agent of Palm Beach County, or any member of his or her immediate family, his or her partner, or an organization which employs, or is about to employ any of the above, has a financial or other interest in the firm selected for award (CONTRACTOR). No Palm Beach County employee, officer, or agent shall solicit or accept gratuities, favors, or anything of monetary value from any contractor, potential contractor, or parties to subagreements.

2. Interest of Members of Congress. No member of, or delegate to, the Congress of the United States shall be admitted to a share or part of this Contract or to any benefit arising therefrom.

3. No Government Obligation to Third Parties. The CONTRACTOR agrees, absent express written consent of the Federal Government, that the Federal Government shall

not be subject to any obligations or liabilities to any third party contractor, or any sub-recipient, or any other party pertaining to any matter resulting from this solicitation. The CONTRACTOR agrees to include a similar provision in each subcontract financed in whole or in part with federal assistance provided by the FTA.

4. Program Fraud and False or Fraudulent Statements. The CONTRACTOR acknowledges the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 USC §3801, et seq., and U.S. Department of Transportation regulations, "Program Fraud Civil Remedies," 49 CFR Part 31, apply to its activities in connection with this project. The CONTRACTOR certifies or affirms the truthfulness and accuracy of any statement it has made, makes, or may make pertaining to this solicitation. In addition to other penalties that may apply, the CONTRACTOR further acknowledges that if it makes a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the CONTRACTOR to the extent the Federal Government may deem appropriate. The CONTRACTOR also acknowledges that if it makes a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government in connection with an urbanized area formula project financed with federal assistance authorized for 49 USC §5307, the Federal Government reserves the right to impose the penalties of 18 USC §1001 and 49 USC §5307(n) (1) on the CONTRACTOR, to the extent the Federal Government deems appropriate. The CONTRACTOR agrees to include the above stated provisions in each subcontract financed in whole or in part with federal assistance provided by the FTA. CONTRACTOR shall not modify the above stated provisions except to identify the subcontractor who will be subject to the provision.

5. Federal Changes. The CONTRACTOR shall at all times comply with all applicable FTA regulations, policies, procedures, and directives, including without limitation those listed directly or by reference in the Master Grant Agreement (Form FTA MA(18) dated October 1, 2011) between Palm Beach County and the FTA, as they may be promulgated or amended from time to time during the term of the Contract resulting from this solicitation. CONTRACTOR's failure to comply shall constitute a material breach of this Contract.

6. Incorporation of Federal Transit Administration (FTA) Terms. The provisions contained in the Special Contract Provisions include, in part, standard terms and conditions required by the U.S. Department of Transportation (USDOT), whether or not expressly set forth in the Contract provisions. All contractual provisions required by USDOT, as set forth in FTA Circular 4220.1F, as amended and the FTA's Master Grant Agreement with Palm Beach County (FTA MA 18) dated October 1, 2011, as amended, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA-mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this solicitation. The CONTRACTOR shall not perform any act, fail to perform any act, or refuse to comply with any Palm Beach County request which would cause the COUNTY to be in violation of any of the FTA terms and conditions applicable to this project or any grant the COUNTY may have with the FTA. The CONTRACTOR agrees to include the above stated provision in each subcontract financed in whole or in part with federal assistance provided by the FTA.

7. Access to Records. The CONTRACTOR agrees to provide Palm Beach County, the FTA Administrator, the Comptroller General of the United States, or any of their authorized representatives, access to any books, documents, papers, and records of the CONTRACTOR which are directly pertinent to this solicitation for the purposes of making audits, examinations, excerpts, and transcriptions. CONTRACTOR also agrees, pursuant to 49 CFR 633.17, to provide the FTA Administrator or authorized representative (include a PMO contractor) access to CONTRACTOR's construction sites and records pertaining to a major capital project, defined at 49 USC §5302(a)(1), which is receiving federal financial assistance through the programs described at 49 USC §§5307, 5309, or 5311. The CONTRACTOR further agrees to maintain all books, records, accounts, and reports required under the Contract for a period of not less than five 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 Palm Beach County, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims, or exceptions related thereto. Reference 49 CFR 18.39(i) (11).

8. Civil Rights. The following requirements apply to this Contract.

a. Nondiscrimination. In accordance with Title VI of the Civil Rights Act, as amended, 42 USC §2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 USC §6102, section 202 of the Americans with Disabilities Act of 1990, 42 USC §12132, and Federal transit law at 49 USC §5332, the 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, the CONTRACTOR agrees to comply with applicable federal implementing regulations and other implementing requirements FTA may issue.

b. Equal Employment Opportunity. The following equal opportunity requirements apply to this solicitation:

(1) Race, Color, Creed, National Origin, Sex. In accordance with Title VII of the Civil Rights Act, as amended, 42 USC §2000e, and federal transit laws at 49 USC §5332, the 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 CFR Parts 60, et seq., (which implemented Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 USC §2000e note), and with any other applicable federal statutes, executive orders, regulations, and federal policies that may in the future affect construction activities undertaken in the course of the project. The 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, the CONTRACTOR agrees to comply with any implementing requirements FTA may issue.

(2) Age. In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 USC §623 and federal transit law at 49 USC §5332, the 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.

(3) Disabilities. In accordance with section 202 of the Americans with Disabilities Act, as amended, 42 USC §12112, the 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 CFR Part 1630, pertaining to employment of persons with disabilities. In addition, the CONTRACTOR agrees to comply with any implementing requirements FTA may issue.

c. The CONTRACTOR also agrees to include these requirements in each subcontract financed in whole or in part with federal assistance provided by FTA, modified only to identify the affected parties.

9. Disadvantaged Business Enterprise (DBE).

a. This Contract is subject to the requirements of 49 CFR Part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation (DOT) Financial Assistance Programs and Palm Beach County Resolution No. 99-1617 setting forth Palm Beach County's Disadvantaged Business Enterprise Program.

b. The CONTRACTOR agrees that it shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. The CONTRACTOR shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT assisted contracts. Failure by the CONTRACTOR to carry out these requirements is a material breach of contract, which may result in the termination of this CONTRACTOR or such other remedy as with the concurrence of Palm Beach County, deems appropriate. Each subcontract that the CONTRACTOR enters into must include the assurance of non-discrimination set forth in this paragraph.

c. The Disadvantaged Business Enterprise (DBE) regulation (49 CFR Part 26) establishes requirements for setting an overall goal for DBE participation in federally-funded contracts. This rule requires recipients of federal funds to use a methodology based on demonstrable data of relevant market conditions and is designed to reach a goal the recipient would expect DBEs to achieve in the absence of discrimination.

d. This Contract or purchase order is being funded, in whole or in part with Federal financial assistance. Accordingly, it is the policy of Palm Beach County, to ensure that Disadvantaged Business Enterprises (DBEs), as defined in 49 CFR Part 26, are afforded the maximum opportunity to receive and participate as subcontractors and

suppliers on all contracts funded by COUNTY; therefore, good-faith efforts must be made to provide DBEs an opportunity to participate in the project in accordance with the DBE Program Plan.

e. DBE Goal:

Palm Beach County fully supports the federal government's Disadvantaged Business Enterprises Program. The DBE commitment for this Contract is 45%.

The overall goal setting provisions of 49 CFR Part 26 require that the COUNTY, as a recipient of federal funds, set overall goals based on demonstrable evidence of the relative availability of ready, willing and able DBEs in the areas from which contractors are obtained. In this regard, the COUNTY has established DBE participation goals and said goals have been established based primarily on the availability of certified DBE firms that are ready, willing, and able to participate in the project.

f. CONTRACTOR agrees that throughout the term of this Agreement, the services as provided by the firms listed on **Exhibit 1 (Letter of Intent)** and **Exhibit 2 (Schedule of Participation)** of **Appendix P of the CONTRACTOR's proposal, attached to this Contract as Exhibit B**, shall remain at least at the percentage levels set forth therein.

g. CONTRACTOR will not be paid for work performed by a subcontractor until the CONTRACTOR ensures that the subcontractor has been paid in full.

h. CONTRACTOR agrees that nonpayment of a subcontractor or supplier shall be a material breach of this Agreement and that COUNTY may, at its option, increase allowable retainage or withhold progress payments unless and until CONTRACTOR demonstrates timely payments of sums due to such subcontractors or suppliers. CONTRACTOR agrees that the presence of a "pay when paid" provision in a subcontract shall not preclude COUNTY's inquiry into allegations of nonpayment. The foregoing remedies shall not be employed when CONTRACTOR demonstrates that failure to pay results from a bona fide dispute with its subcontractor or supplier.

i. CONTRACTOR agrees to submit a monthly report to COUNTY's contract representative (with a copy to Palm Tran's DBE Liaison), on DBE participation, which should contain a record of payments made to its DBE subcontractors during the current reporting period. CONTRACTOR shall utilize the form attached as **Exhibit 4 - DBE Utilization Report of Appendix P of the CONTRACTOR's proposal attached to this Contract as Exhibit B**. Reports shall be submitted with each invoice. Participation is based on percentage of revenues paid by CONTRACTOR to sub-contractors compared to payments received from the COUNTY.

j. CONTRACTOR agrees to submit a Final DBE Participation Report containing the total amount paid to its DBE subcontractors to COUNTY. This report must be submitted with the CONTRACTOR's request for final payment and release of retainage, if applicable. CONTRACTOR shall utilize the form attached as **Exhibit 5 - Final DBE Utilization Report of Appendix P of the CONTRACTOR's proposal attached to this Contract as Exhibit B**.

k. CONTRACTOR shall certify to COUNTY, the amounts paid to each DBE involved in the project as either a joint venture partner or pursuant to a subcontract with the disadvantaged businesses. All such certifications shall be signed by both CONTRACTOR and DBEs. One of the main purposes of these provisions is to make sure that DBEs actually perform work committed to them at contract award.

l. CONTRACTOR agrees that failure to provide appropriate certification as to the payment of DBEs and participants in the agreement and provide certification in a form acceptable to COUNTY that disadvantaged business participation requirements of the agreement have been met, notwithstanding any other provisions of the Agreement, shall be cause for COUNTY to withhold further payments under the agreement until such time as such certification is received and accepted by COUNTY, and shall not entitle CONTRACTOR to terminate the agreement, to cease work to be performed, or to be entitled to any damages or extensions of time, whatsoever, due to such withholding of payment or delay in work associated thereto.

A contractor whose performance falls short of its original commitments shall be subject to the compliance mechanisms the COUNTY had made applicable.

Sanctions for Noncompliance with DBE Program Provisions. Failure of the CONTRACTOR to carry out DBE program provisions shall constitute a breach of the Contract for default or such remedy as the COUNTY may deem appropriate. The willful making of false statements or providing incorrect information will be referred for appropriate legal action.

m. CONTRACTOR agrees that it cannot terminate a DBE subcontractor for convenience and then perform the work with its own forces or its affiliate. If a situation arises that a DBE subcontractor needs to be replaced or removed, CONTRACTOR must submit a written request to COUNTY's contract representative, with a copy to Palm Tran's DBE Liaison) with detailed explanation or justification for the submission of such request. If the request is due to a voluntary cessation of the DBE firm, documentation supporting the voluntary cessation must accompany the request. Requests for substitution or termination of DBE subcontractors will only be approved on a case-by-case basis provided that reasons cited are properly justified. When a DBE subcontractor is terminated or fails to complete its work, CONTRACTOR must make good faith efforts to find another DBE subcontractor to substitute for the original DBE.

n. CONTRACT COMPLIANCE MONITORING

i. Compliance monitoring is conducted to determine if CONTRACTOR and/or subcontractors are complying with the requirements of the DBE Program. Failure of the CONTRACTOR to comply with this provision may result in the COUNTY imposing penalties or sanctions pursuant to the provisions of the DBE regulations at 49 CFR Part 26.

ii. Contract compliance will encompass monitoring for contract dollar achievement and DBE contractor utilization. Palm Beach County and Connection staff each

shall have the authority to audit and monitor all contracts and contract related documents pertaining to activities under this Contract. The requirements of the DBE Program are applicable to the CONTRACTOR, its general contractors, third party contractors, and subcontractors and suppliers.

iii. CONTRACTOR shall be responsible for ensuring that proper documentation with regard to its utilization and payment of DBE subcontractors is maintained at all times and provided to COUNTY as required in this Article.

10. Energy Conservation. The CONTRACTOR agrees to comply with mandatory standards and policies related to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act. The CONTRACTOR further agrees to include a similar provision in each subcontract financed in whole or in part with federal assistance provided by FTA.

11. RESERVED

12. Termination for Convenience or Default. Palm Beach County may, as provided in Article 10, terminate this Contract, in whole or in part, at any time by written notice to the CONTRACTOR when it is in the COUNTY or the Government's best interest. The CONTRACTOR shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The CONTRACTOR shall not be entitled to any claim for lost or anticipated profits.

The CONTRACTOR shall promptly submit its termination claim to Palm Beach County. If the CONTRACTOR has any property in its possession belonging to the COUNTY, the CONTRACTOR will account for the same, and dispose of it in the manner the COUNTY directs. If the CONTRACTOR fails to deliver supplies or to perform the services within the time specified in the Contract or any extension, or if the CONTRACTOR fails to comply with any other provisions of the Contract, Palm Beach County may terminate the Contract for default. The COUNTY shall terminate the Contract by default by delivering to the CONTRACTOR a Notice of Termination specifying the nature of the default. The CONTRACTOR will only be paid the Contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the Contract. If the Contract is terminated while the CONTRACTOR has possession of Palm Beach County-owned goods, the CONTRACTOR shall, upon direction of the COUNTY's contract administrator, protect and preserve the goods until surrendered to Palm Beach County or its agent. The CONTRACTOR and Palm Beach County shall agree on payment for the preservation and protection of goods. If, after termination for failure to fulfill Contract obligations, it is determined that the CONTRACTOR was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the COUNTY. This provision shall supplement Article 10 of this Agreement.

13. Recycled Products. If this Contract is for items designated in Subpart B, 40 CFR part 247 by the EPA, and the purchaser or CONTRACTOR procures \$10,000 or more of one of these items during the fiscal year or has procured \$10,000 or more of such items in the previous fiscal year using federal funds, the CONTRACTOR agrees to comply

with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 USC 6962), including, but not limited to, the regulatory provisions of 40 CFR Part 247, and Executive Order 12873.

14. Government-wide Debarment and Suspension. If this Contract has a value of \$25,000 or more, this procurement is a covered transaction for purposes of 49 CFR Part 29. As such, the CONTRACTOR is required to verify that none of the CONTRACTOR, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945. The CONTRACTOR agrees to comply with, and assures compliance of each third-party CONTRACTOR and subrecipient at any tier, with 49 CFR 29, Subpart C, while this offer is valid and throughout the period of any contract that may arise from this offer. The CONTRACTOR further agrees to include a provision requiring such compliance in any lower tier covered transaction it enters into.

15. Buy America. N/A

16. Breaches and Dispute Resolution. FTA Circular 4220.1F imposes the requirements at 49 CFR Part 18 upon all contracts in excess of \$100,000, which contain provision of conditions that allow for administrative, contractual, or legal remedies where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate. Accordingly, should the provisions of the Contract not address a particular subject or issue involving disputes, performance during disputes, claims for damages, remedies, or rights and remedies, the CONTRACTOR agrees to comply with the provisions contained at 49 CFR Part 18, and further agrees to include a similar provision in all subcontracts over \$100,000.

17. Clean Air. The Clean Air requirements apply to all contracts exceeding \$100,000, including indefinite quantities where the amount is expected to exceed \$100,000 in any year. The CONTRACTOR agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act, as amended, 42 USC §7401, et seq. The CONTRACTOR agrees to report each violation to Palm Beach County and agrees that Palm Beach County will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA regional office. The CONTRACTOR further agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with federal assistance provided by FTA.

18. Clean Water. If this Contract is valued at \$100,000 or more, the CONTRACTOR agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 USC 1251 et seq. The CONTRACTOR agrees to report each violation to Palm Beach County and agrees that Palm Beach County will, in turn, report each violation as required to assure notification to the FTA and the appropriate EPA regional office. The CONTRACTOR also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with federal assistance provided by FTA.

19. Transit Employee Protective Agreements. The CONTRACTOR agrees to comply with applicable transit employee protective requirements, , and further agrees to include

the applicable requirement(s) in each subcontract involving transit operations financed in whole or in part with federal assistance provided by FTA:

- a. General Transit Employee Protective Requirements -- To the extent that FTA determines that transit operations are involved, the CONTRACTOR agrees to carry out the transit operations work on the underlying contract in compliance with terms and conditions determined by the U.S. Secretary of Labor to be fair and equitable to protect the interests of employees employed under the Contract and to meet the employee protective requirements of 49 USC 5333(b), COUNTY's 13(c) agreements and U.S. Department of Labor guidelines at 29 CFR part 215, and any amendments thereto to the extent applicable.
- b. Transit Employee Protective Requirements for Projects for Elderly Individuals and Individuals with Disabilities -- The CONTRACTOR agrees to carry out the paratransit operations work on this Contract (the Scope of Work/Services) 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 the Contract and to meet the employee protective requirements of 49 USC 5333(b) and U.S. Department of Labor (DOL) guidelines at 29 CFR part 215, and any amendments thereto, to the extent they are applicable to CONTRACTOR's performance of this Contract. The CONTRACTOR acknowledges its receipt of and familiarity with the document pertaining to COUNTY's 13(c) obligations as described in Section 2.25 of RFP 11-097R/SC, as amended, and the DOL's certifications. The CONTRACTOR must conduct its operations and provide services in compliance with terms and conditions of employment applicable to employees affected by the existing 13(c) agreement, DOL certifications under 49 USC 5333(b), 29 CFR Part 215 and applicable law. CONTRACTOR shall be responsible for the implementation of protective arrangements applicable to paratransit employees as required under the COUNTY's 13(c) Agreements, 49 USC 5333(b) and the DOL's certifications. The obligations described herein shall encompass employees of subcontractors and independent contractors to the extent required by law, COUNTY's 13 (c) Agreements, or DOL certifications.
- c. Nonurbanized Areas -- If the Contract involves transit operations financed in whole or in part with federal assistance authorized by 49 USC §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 Labor and Transportation, dated May 31, 1979, and the procedures implemented by the U.S. Department of Labor or any revision thereto to the extent they are otherwise applicable to this Agreement.

20. Fly America. The CONTRACTOR agrees to comply with 49 USC 40118 (the "Fly America" Act) in accordance with the General Services Administration regulations at 41 CFR Part 301-10, which provide that recipients and subrecipients of federal funds and their contractors are required to use U.S. Flag air carriers for U.S. Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of

necessity, as defined by the Fly America Act. The CONTRACTOR shall submit, if a foreign air carrier is used, an appropriate certification or memorandum adequately explaining why service by a U.S. Flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certification of compliance with the Fly America requirements. The CONTRACTOR agrees to include this requirement in all subcontracts that may involve international air transportation.

21. Drug and Alcohol Testing. This Contract involves the operation of a transit service or provides transit vehicle maintenance and/or repair services for or on behalf of Palm Beach County, the CONTRACTOR agrees to participate in Palm Tran's Drug and Alcohol testing program that complies with 49 CFR Part 655. In the event the CONTRACTOR subcontracts all or part of the transit service to a third party, a similar requirement including review and approval by the COUNTY's contract administrator must be included in any subsequent agreement. The CONTRACTOR further agrees to certify, prior to the commencement of services under the Contract and annually thereafter, compliance with current FTA regulations, including the submittal of the Management Information System (MIS) reports annually, to the COUNTY's representative/liaison.

22. Privacy Act. This Contract involves the operation of a transit service or provides transit vehicle maintenance and/or repair services for or on behalf of Palm Beach County, and drug and alcohol enforcement activities files are organized so that information could be retrieved by personal identifier. Accordingly, the CONTRACTOR agrees to comply with, and assures the compliance of its employees with, information restrictions and other applicable requirements of the Privacy Act of 1974, 5 USC 552a. Among other things, the CONTRACTOR agrees to obtain the express consent of the Federal Government before the CONTRACTOR or its employees operate a system of records on behalf of the Federal Government. The CONTRACTOR understands that the requirements of the Privacy Act, including the civil and criminal penalties for violating the Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying Contract. The CONTRACTOR also agrees to include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with federal assistance provided by FTA.

23. Charter Bus. The CONTRACTOR agrees to comply with 49 USC 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.

24. School Bus Requirements. Pursuant to 49 USC 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.

25. HIPAA: The CONTRACTOR shall comply with all laws and regulations relating to medical confidentiality and patient privacy, including, without limitation, the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and the Health Information Technology for Economic and Clinical Health Act of 2009 ("HITECH"), as they may be amended from time to time and the regulations promulgated thereunder by the Federal and State agencies responsible for their implementation.

The CONTRACTOR shall comply with the terms of Article 6, the standard "BUSINESS ASSOCIATE" Agreement as required by the COUNTY to implement the HIPAA regulations.

26. Use of Seat Belts: The CONTRACTOR is encouraged to adopt and promote on-the-job seat belt use policies for its employees and other personnel that operate company owned, rented or personally operated vehicles.

ARTICLE 33 - MODIFICATIONS OF WORK

The COUNTY reserves the right to make changes in Scope of Work, including alterations, reductions therein, or additions thereto. Upon receipt by the CONTRACTOR of the COUNTY's notification of a contemplated change, the CONTRACTOR shall, in writing: (1) provide a detailed estimate for the increase or decrease in cost due to the contemplated change; (2) notify the COUNTY of any estimated change in the completion date; and (3) advise the COUNTY if the contemplated change shall affect the CONTRACTOR's ability to meet the completion dates or schedules of this Contract.

If the COUNTY so instructs, in writing, the CONTRACTOR shall suspend work on that portion of the Scope of Work affected by a contemplated change, pending the COUNTY's decision to proceed with the change.

If the COUNTY elects to make the change, the COUNTY shall initiate a Contract Amendment, and the CONTRACTOR shall not commence work on any such change until such written amendment is signed by the CONTRACTOR and approved and executed on behalf of Palm Beach County.

ARTICLE 34 – NO INTENDED THIRD PARTY BENEFICIARIES

This Agreement is made solely and specifically among and for the benefit of the CONTRACTOR, the COUNTY and Palm Tran, Inc. It is not intended to be a third party beneficiary contract and confers no rights on anyone other than the parties hereto and Palm Tran, Inc. No other person or entity shall have any rights, interest, or claims hereunder or be entitled to any benefits under or on account of this Agreement as a third-party beneficiary.

ARTICLE 35 - NOTICE

All notices required in this Contract shall be sent by certified mail (return receipt requested), hand delivered, or sent by other delivery service requiring signed acceptance. If sent to the COUNTY, notices shall be addressed to:

Kathleen M. Scarlett, Director
Purchasing, Palm Beach County
50 South Military Trail, Suite 110
West Palm Beach, FL 33415

With a copy to:

Charles D. Cohen - Executive Director
PALM TRAN
3201 Electronics Way
West Palm Beach, FL 33407

If sent to the CONTRACTOR, notices shall be addressed to:

ARTICLE 36 - ENTIRETY OF CONTRACTUAL AGREEMENT

The COUNTY and the CONTRACTOR agree that this Contract sets forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein. None of the provisions, terms, and conditions contained in the Contract may be added to, modified, superseded, or otherwise altered, except by written instrument executed by the parties hereto in accordance with Article 33 - Modifications of Work.

CONTRACTOR shall require its subcontractors and all independent contractors used to perform the Scope of Services/Work to adhere to and act in conformity with all of CONTRACTOR's duties and obligations under the Agreement unless the provisions of this Agreement indicate a clear intent to the contrary. Any questions regarding the application or effects of this provision shall be resolved solely by COUNTY's Contract Representative.

ARTICLE 37 - REGULATIONS; LICENSING REQUIREMENTS

The CONTRACTOR shall comply with all laws, ordinances and regulations applicable to the services contemplated herein, to include those applicable to conflict of interest and collusion. CONTRACTOR is presumed to be familiar with all federal, state and local laws, ordinances, codes and regulations that may in any way affect the services offered.

IN WITNESS WHEREOF, the Board of County Commissioners of Palm Beach County, Florida has made and executed this Contract on behalf of the COUNTY and CONTRACTOR has hereunto set its hand the day and year above written.


ATTEST:
SHARON R. BOCK
CLERK AND COMPTROLLER

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS:

By: _____
Deputy Clerk

By: _____
Shelley Vana, Chairperson

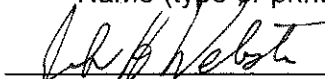
WITNESSES:



Signature

ROBERT GUAESER

Name (type or print)



Signature

John H. WEBSTER

Name (type or print)

CONTRACTOR

METRO MOBILITY MANAGEMENT
GROUP, LLC

Company Name



Signature

Clark J. Davis

Typed Name

Manager

Title

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

(corp. seal)

By 

County Attorney

APPROVED AS TO TERMS
AND CONDITIONS

By 

Charles D. Cohen
Executive Director, Palm Tran

Guarantee

PTG Enterprises, LLC, (referred to herein as "Guarantor") hereby guarantees the proper and full performance of all of Metro Mobility Management Group, LLC's (referred to herein as "CONTRACTOR") duties and obligations arising under, out of or through the CONTRACTOR's Contract with Palm Beach County for Paratransit Services (Contract No. 11-097R/SC), including but not limited to its indemnity obligation described in Article 17 of the Contract. Guarantor agrees that its guarantee shall encompass all amendments made to this Contract without further notice or acceptance thereof by Guarantor. Given Guarantor's close and interconnected relationship with CONTRACTOR, Guarantor agrees that COUNTY shall not be obligated to notify Guarantor of CONTRACTOR's failure to perform its duties and obligations under the Contract, and any notice to CONTRACTOR shall be deemed notice to Guarantor.

Witnesses:

ROBERT GLAESER

Name

Robert Glaeser

Signature

[Signature]

Name

John H WEBSTER

Signature

PTG ENTERPRISES, LLC

By:

Signature

Clark J. Davis

Title: Clark J. Davis, Manager

EXHIBIT A
SCOPE OF WORK/SERVICES
Contract No. 11-097R/SC

Palm Tran Connection (hereafter referred to as "CONNECTION") a division of Palm Tran is responsible for the paratransit services.

The term "CONTRACTOR" refers to the awarded Prime Contractor. The CONTRACTOR shall have sole responsibility for the oversight of all of its employees, subcontractors, and independent contractors to ensure contractual compliance with all requirements. Any use of the term CONTRACTOR herein implies, unless otherwise noted or not relevant, to include the full contractual compliance of all subcontractors.

1. SERVICES

CONTRACTOR shall provide paratransit services under the following two (2) scenarios:

1. Dedicated Service

- a. All vehicles used shall be dedicated solely to use by CONNECTION.
- b. CONNECTION will schedule all trips for the dedicated service onto the CONTRACTOR's routes/vehicles.
- c. The CONTRACTOR shall be compensated on a revenue hour basis for service provided on dedicated vehicles. Revenue hours of service is defined as the time from the first passenger pick-up to the last passenger drop-off, less any breaks.

2. Non-Dedicated Service

- a. Vehicles may, but are not required to be, solely dedicated to CONNECTION service.
- b. The CONTRACTOR shall schedule all non-dedicated trips.
- c. Non-dedicated services shall be provided under a flexible delivery Model which may include the use of sub-contractors, and/or independent contractors (also referred to as "taxis"). These trips will typically include trips provided prior to 7:00 a.m., after 5:00 p.m., hard to provide weekday trips, and most, if not all, weekend trips.

- d. CONTRACTOR will be compensated based on the mileage of each individual trip, as supplied by the Trapeze Paratransit Software, which is based on Palm Beach County Map distances plus 6% (conversion of triangulated miles to street miles). This calculation will be re-evaluated on an annual basis.

2. STANDARD OPERATING PROCEDURES

CONNECTION will:

- A. Determine customer's eligibility for all programs.
- B. Take all reservations. Trip reservations are currently taken from Sunday through Saturday up to 5:00 p.m. Customers can reserve a trip up to five (5) days before they wish to travel.
- C. Input trip information into the Trapeze Paratransit Management Software.
- D. Accept requests for trip changes, including trip cancellations, from the customer(s).
- E. Record and follow-up on comments and commendations.
- F. Conduct on-the-road monitoring of the CONTRACTOR.
- G. Audit CONTRACTOR's invoices prior to payment.
- H. Maintain the Trapeze Paratransit Management Software.
- I. Perform vehicle inspections, and maintain all inspection documentation.
- J. Test dispatcher and driver competency levels prior to their providing service and annually thereafter.
- K. Act as the Third Party Administrator for the CONTRACTOR's Drug and Alcohol program.

3. LEVEL OF ASSISTANCE TO BE PROVIDED

- A. CONTRACTOR shall provide door-to-door service.
- B. Drivers are required to provide general assistance to passengers between the door/entrance of their origin address and the vehicle, then from the vehicle to the door/entrance of the customer's destination.

- C. In the event that the door is above the ground floor, drivers are to make a good faith effort to locate the passenger. However, drivers are not to go to the second floor or above.
- D. Drivers are prohibited from traveling beyond the lobby of any public building and from going into any private residence, in the performance of this contract.
- E. Drivers are not permitted to lose sight of their vehicles.
- F. Driver assistance includes: pushing the customer's wheelchair, lending the customer a supporting arm, guiding the customer by the hand, assisting the customer on or off the vehicle, and/or carrying packages. Packages will be carried in accordance with Connection policies.
- G. Drivers may not assist passengers using mobility devices up or down more than one (1) step, through grass or through sand.
- H. Drivers are prohibited from lifting or carrying passengers and/or their children.
- I. Upon a customer boarding of the vehicle, the driver must confirm the destination address and collect the appropriate co-pay.

4. BOARDING TIME

- A. When the vehicle arrives within the pick-up window, a CONNECTION customer has five (5) minutes to board the vehicle, unless additional boarding time is preapproved by CONNECTION and indicated on the manifest or schedule.
- B. Standard procedures to locate the passenger:
 - 1. The driver will look for the passenger for five (5) minutes in all the normal waiting locations and any location information detailed on the driver's manifest. Drivers are permitted to give riders more time to board the vehicle provided that it does not make them late to pickup or drop-off the next rider.
 - 2. Drivers are required to knock at the pick-up point's ground floor entrance door.
 - 3. The driver will request that the passenger is paged in retail stores, if necessary.

4. The driver or dispatcher is to contact the reception desk at medical facilities, hospitals, senior centers, and the cashier in restaurants or other locations to locate the passengers.
5. The driver looks in and around areas near designated pickup points, in order to locate the client.
6. If contact with the client cannot be made, the driver contacts dispatch and informs them of a potential no-show.
7. Dispatch checks to insure the driver is at the correct location.
8. Dispatch attempts to phone the passenger using any available contact numbers on file.
9. Drivers must receive permission from their dispatcher prior to leaving the pickup location without their scheduled customer(s).
10. If no contact with the customer has been made, the dispatcher will inform the driver to mark the passenger as a "no-show" on the manifest and the dispatcher marks the trip as a "no-show" in Trapeze Paratransit Management Software within five (5) minutes of occurrence and notes the name of the receptionist or person the driver spoke with, if applicable.
11. If the customer's trip is a "no-show," the driver shall leave a no-show hanger to inform the customer that a transportation provider attempted to pick them up. Drivers are required to turn in the top sheet of the no-show hanger along with their completed manifest at the end of each shift. CONNECTION will supply the no-show door hangers.
12. CONNECTION will be responsible for enforcement of the approved no-show policy. The current no-show policy states "Any customer charged with valid no-shows which exceed three (3) no-shows per calendar month shall be considered as an "Occurrence" of violating the No-Show policy."

5. SCHEDULED PICK-UP WINDOW

- A. When CONNECTION accepts a customer's trip request, the customer will be informed of the scheduled pick-up window.

- B. The pickup window is based on the appointment time, time of day, day of week, distance traveled, travel time needed, multi-loading opportunities, and passenger load time
- C. The driver shall arrive as close as possible to the scheduled pick-up time and within the published thirty (30) minute pick-up window as identified on the vehicle manifest/schedule.
- D. The driver is required to wait until the start of the thirty (30) minute pick-up window, as shown on the vehicle manifest/schedule, before going to the customer's door; however, the customer is free to travel early if he/she is aware of the CONTRACTOR's presence and chooses to travel early. The CONTRACTOR shall be charged with a valid early vehicle complaint when its vehicle arrives to transport a customer more than fifteen (15) minutes before the scheduled pick-up window as shown on the vehicle manifest/schedule and the driver forces, coerces, requires, or demands the customer board prior to the start of the pickup window or marks the trip as a no-show if the customer fails to board prior to the scheduled pick-up time.

6. ON-TIME PERFORMANCE

- A. The CONTRACTOR shall be considered to be on-time when:
 - 1. The customer arrives to their destination prior to the scheduled appointment time.
 - 2. When an appointment time is not given, the vehicle arrives to transport a customer within the scheduled pick-up window as shown on the vehicle manifest/schedule.
- B. On-time performance will be measured from data received from completed driver manifests/schedules, and may be verified, at CONNECTION's sole discretion, with data from any form of monitoring, such as "Where Is My Ride" calls, and from customer satisfaction surveys.
- C. The CONTRACTOR shall be charged with a missed trip when its vehicle arrives to transport a customer more than forty-five (45) minutes after the close of the pick-up window or more than thirty (30) minutes after the requested appointment time.

7. TRANSPORTING PACKAGES

- A. The CONTRACTOR is required to transport packages belonging to customers as long as the customer has boarded with his/her package(s) and as long as the package(s) fits on the customer's lap or beneath his/her seat.
- B. Package limitation: purchased goods can weigh no more than thirty-five (35 lbs.) pounds, with a limit of five (5) plastic bags or two (2) brown paper bags. The rider may also bring one (1) piece of luggage and one (1) carry-on bag.
- C. Customers may bring personal folding grocery carts on the vehicles, which may exceed the previous requirements. These devices are to be secured within the vehicle or safely stored as needed. Such instances will be prescheduled by the customer at the time the reservation is made.
- D. The driver is prohibited from transporting illegal controlled substances, hazardous materials, fire arms or explosive devices.

8. TRANSPORTING SERVICE ANIMALS

- A. The CONTRACTOR is required to transport service animals, in accordance with State and Federal Laws.
- B. Service animals are to be properly leashed and/or harnessed and under the control of their handlers at all times.
- C. If the driver questions the validity of a service animal, the driver is not to confront the passenger in any way; rather the CONTRACTOR shall inform CONNECTION who will then investigate.

9. TRANSPORTING PETS

- A. The CONTRACTOR is required to transport the pets of customers as long as such pets are completely enclosed in commercial pet carriers which fit on the customer's lap or beneath their seat and the weight shall not exceed thirty-five (35 lbs.) pounds.
- B. A customer must inform the COUNTY that he/she wishes to travel with a pet at the time his/her trip is requested. Customers scheduled to travel with pets will be identified on the manifest or schedule. The CONTRACTOR may refuse to transport a customer who is traveling with a pet which disrupts service for that customer or any other customer.

10. TRANSPORTING CHILDREN

The CONTRACTOR is required to transport children in the following manner:

- A. Children who are between the ages of birth and four (4) years old inclusive, and/or children who weigh less than forty (40) pounds must travel with a responsible guardian and must ride in a child safety seat which complies with Section 316.613 F.S.
- B. Children under eight (8) years of age inclusive must travel with a responsible guardian.
- C. The CONTRACTOR shall not provide child safety seats. The CONTRACTOR shall refuse to transport any child under four (4) years old when a child safety seat is not provided by the client or responsible party. This information shall be documented on an incident report form and shall be considered a client No-show. CONTRACTOR shall comply with any subsequent revisions of this policy.
- D. If the CONTRACTOR transports a rider without the appropriate safety devices, the CONTRACTOR shall then be responsible for arranging for the safe customer transport for the return trip at no cost to the COUNTY.

11. PERSONAL CARE ATTENDANTS AND COMPANIONS

- A. The CONTRACTOR is required to transport pre-scheduled personal care attendants (PCA's) and escorts with eligible customers.
- B. The manifest/schedule will specify the total amount of fare(s) to be collected from the customer(s) and/or the escort(s).
- C. PCA's and/or the escort(s) are to be treated as a customer, and fall under the same rules and regulations as a customer.

12. PASSENGER FARES

- A. The fare will be established by the Palm Beach County Board of County Commissioners at all times. The fare may be paid in cash or with pre-purchased tickets (Tickets-to-Ride). The COUNTY reserves the right to change the fare amount at anytime.

- B. The fare amount and accepted method(s) of payment for this program will be defined by the COUNTY and are subject to change.
- C. The manifests and schedules provide complete instructions to the driver concerning the amount of fares to be collected.
- D. The CONTRACTOR is required to collect the fare specified on the manifest or schedule at the time of the vehicle's arrival to transport the customer(s) prior to the customer(s) boarding the vehicle.
- E. If a customer does not provide the appropriate fare, the driver is required to notify the dispatcher, the dispatcher will then notify CONNECTION, who is responsible for determining whether or not the customer is to be transported.
- F. The CONTRACTOR is prohibited from transporting customers who fail to present the appropriate fare unless failure to transport the customer would result in the customer being stranded away from home. In such instances, the CONTRACTOR is required to transport the customer, with prior approval from CONNECTION, and then treat the incident as a matter of customer misconduct which is subject to the customer misconduct provisions.
- G. Drivers are prohibited from accepting gifts or gratuities of any kind, either as payment of a fare or in addition to the payment of a fare.
- H. The CONTRACTOR shall retain all fares which are received in the form of cash or pre-purchased tickets as partial payment for services rendered.
- I. If CONNECTION requires the CONTRACTOR to transport a customer, with prior approval, who fails to pay the fare, CONNECTION will pay the CONTRACTOR for that trip as long as the driver documents who at CONNECTION authorized the transport. Fares waived by the CONTRACTOR without CONNECTION approval will be deducted from the CONTRACTOR's payment.
- J. COUNTY may modify these requirements from time to time and add additional requirements.

- K. The current fare is \$3.00 per one way trip for ADA and TD service. Division of Senior Service riders travel at no charge.
- L. CONNECTION is responsible for the selling and distribution of the pre-purchased tickets.

13. DRUG AND ALCOHOL TESTING

- A. The CONTRACTOR shall be subject to and shall comply with the requirements of Title 49 CFR Parts 40 and 655.
- B. CONNECTION will act as the Third Party Administrator for the CONTRACTOR's Drug and Alcohol program. This program shall include all personnel providing safety sensitive functions. Third Party Administrator includes handling random tests, maintaining safety sensitive employee lists, completing the end of the year MIS report for the FTA, insuring collections sites and that Substance Abuse Professionals are qualified, training for reasonable suspicion and record keeping.
- C. Drug and alcohol testing of safety sensitive personnel shall include, but not be limited to: pre-employment, random, reasonable suspicion, post-accident, and follow-up testing.
- D. Safety sensitive personnel will be subject to random selection by CONNECTION to take drug and alcohol tests in accordance with the requirements of the CONTRACTOR's, or sub-contractors', drug and alcohol testing program.
- E. The CONTRACTOR will be notified by CONNECTION which personnel will be subject to random testing. CONNECTION will not give warning(s) of random drug tests. Random testing will occur during all hours of service.
- F. The CONTRACTOR must transport personnel, at the CONTRACTOR's expense, to a CONNECTION approved testing facility.
- G. All drug and alcohol testing costs shall be borne by the CONTRACTOR.
- H. All subcontractors must comply with FTA drug and alcohol requirements.

14. REMOVAL OF PERSONNEL

- A. The CONTRACTOR shall be fully responsible for all negligent, intentional, malicious, wrongful acts and omissions of its employees, independent contractors, subcontractors, agents, or assignees, and their respective officers, employees, servants, or agents, and any other person performing any portion of this work under this contract or a sub-contract with the CONTRACTOR. Neither Palm Tran Inc. nor the COUNTY shall have any liability as a result of any negligent, intentional, malicious, wrongful acts or omissions of the CONTRACTOR, or its subcontractors, independent contractors, employees, servants, agents, or assignees.
- B. The CONTRACTOR warrants that only competent and skilled employees, independent contractors and employees of subcontractors shall be used in the performance of the work under this Contract, and that it will not assign any person to perform work who is unfit or unqualified to perform the task assigned. The CONTRACTOR further acknowledges that its performance of the work hereunder will require daily contact with the users of CONNECTION's paratransit system, and interaction with CONNECTION and COUNTY staff, and members of the public. The CONTRACTOR agrees that it shall utilize only personnel who are polite and courteous and who consistently exhibit those traits necessary to provide a high level of customer service.
- C. All individuals or employees who are not performing in a satisfactory manner, who exhibit unsatisfactory behavior, who are alleged to have committed a criminal act, or who are under criminal investigation shall be removed from the paratransit service (i.e., work required to be performed under this Contract) by the CONTRACTOR and reassigned to other work of the CONTRACTOR not related to its performance of this Contract. Such persons will not be reassigned to the work under this Contract without the prior written consent of CONNECTION.
- D. Examples of unsatisfactory performance and/or behavior include, but are not limited to: excessive and/or repeated lateness, rudeness, use of profanity, engaging in inappropriate physical or verbal contact or communication with customers, soliciting or accepting gratuities or gifts from customers, providing special attention or favors to customers, or handling a vehicle in an unsafe manner.

- E. CONNECTION may require the CONTRACTOR to remove any individual or employee from service whose performance reflects negatively upon CONNECTION as determined by the COUNTY, in its sole discretion.

15. PERSONNEL RECORDS

The CONTRACTOR must maintain during the term of the Contract and for no less than five (5) years thereafter, a file for each driver, on-site dispatcher and mechanic in the program which must include the following:

- A. A copy of signed, dated and completed employment application for employees, enrollment forms for independent drivers, with the completed drug and alcohol questionnaire.
- B. A copy of the valid Florida driver's license, with the driver's permanent address.
- C. A copy of the compliant MVR and Level 2 background screening run prior to the employee's hiring.
- D. E-verify documentation.
- E. Copies of all certificates for all training which the employee has successfully completed. This includes drug and alcohol training.
- F. A copy of the drivers' I-9 form or INS card, as applicable indicating his/her right to work in the U.S.
- G. A copy of the employee's social security card.
- H. A copy of the physical examination card.
- I. All required drug and alcohol screening results, up to and including a negative driver FTA drug test before being placed into service.
- J. This file should also include all verifiable complaints and compliments and any written reprimands and/or commendations from the CONTRACTOR regarding the driver's performance on CONNECTION project.
- K. These files must be maintained for current and former employees and independent contractors for a period of five (5) years.

16. PROJECT MANAGER

- A. Subject to written approval, the CONTRACTOR shall designate a Project Manager who is capable of acting for and on behalf of the CONTRACTOR in the day-to-day service delivery.
- B. The Project Manager shall be a full-time employee and shall work at the CONTRACTOR facility from which this project/contract is performed.
- C. The Project Manager shall have a minimum of five (5) years management experience in the area of specialized paratransit services for seniors and people with disabilities.
- D. The Project Manager must also speak, write, and understand English fluently.
- E. The Project Manager shall have knowledge of the Trapeze Paratransit Management Software or any other paratransit scheduling software used to perform the contract.
- F. If, for any reason, the CONTRACTOR wants to replace the Project Manager, the new Project Manager shall meet the terms outlined herein, and his/her designation by the CONTRACTOR as Project Manager is subject to written approval.
- G. The Project Manager and senior staff shall be available via cell phone during all hours of service.
- H. The Project Manager (or his/her designee) shall have the authority to make all decisions and take all actions necessary to meet the provisions of this Contract.
- I. The Project Manager must be familiar with and understand all Federal, State and County requirements; relating in any manner to the service to be performed including but not limited to the Americans with Disabilities Act (ADA), 49 CFR parts 40 and 655, Sections 37 and 38, the requirements of the Florida Transportation Disadvantaged Program Chapter 427, F.S. and Section 41-2, F.A.C., drug and alcohol regulations, all requirements of Chapter 14 90, F.A.C. and all applicable provisions of the Palm Beach County Vehicle for Hire Ordinances; as all may be amended or superseded from time to time.

17. ROAD SUPERVISORS

- A. The CONTRACTOR shall have on duty during all hours of operations, throughout the Contract term, Road Supervisors to oversee their drivers and/or sub-contractors and insure that they are conducting themselves in accordance with the policies of CONNECTION as well as all requirements of this Contract.
- B. Supervisors shall be deployed in a manner consistent with the system demand and the CONTRACTOR's operating plan, and shall be equipped with the appropriate communications and safety equipment, and assigned to a designated Support Vehicle suitable for response to emergencies, in-service problems, accidents and other events. A minimum of three (3) Road Supervisors must be on duty during peak operation and two (2) during base operations.
- C. All Road Supervisors must have the ability to interact with our customers and possess excellent written and oral communication skills, superior problem solving skills, in addition to thorough knowledge of the CONTRACTOR's contractual obligations as well as knowledge of the paratransit industry.
- D. For the purpose of this Contract, a Road Supervisor is an employee of the CONTRACTOR or sub-contractor, whose primary function is to be in the field working with the drivers and customers.

18. SCHEDULING

- A. Dedicated Service
 - 1. CONNECTION will schedule the dedicated service.
 - 2. CONNECTION will provide the CONTRACTOR with vehicle manifests for all dedicated service runs.
 - 3. Adjustments of trips on dedicated vehicle routes cannot be made without CONNECTION approval unless moved to other dedicated vehicle routes.
 - 4. Trips cannot be moved from dedicated to non-dedicated vehicles without CONNECTION's approval.

5. The CONTRACTOR is prohibited from transporting anyone on a dedicated service vehicle not specifically authorized by CONNECTION, in the performance of this Contract. All non-CONTRACTOR personnel on the vehicle must be reported as customers, escorts or PCA's.
6. The CONTRACTOR shall not assign a trip(s) to any route which has the effect of initiating service before the CONNECTION assigned start time established on the original daily manifest/schedule or extending the end of the CONNECTION scheduled route by more than fifteen (15) minutes beyond the scheduled route end time without having first obtained CONNECTION's approval.
7. The CONTRACTOR shall not be compensated for any revenue service hours beyond those scheduled by CONNECTION on the original manifest/schedule presented to the CONTRACTOR for each day of service unless the additional hours are requested by CONNECTION to meet additional demand or result from incidents that require an additional vehicle(s) to be placed into service as a result of no fault of the CONTRACTOR.
8. CONNECTION will not compensate the CONTRACTOR for any additional service hours that result from the CONTRACTOR's failure to meet CONNECTION's service requirements as initially scheduled or established in the original daily manifest/schedule for each route.
9. CONNECTION will not schedule any route that exceeds twelve (12) driving hours, including deadhead.
10. The CONTRACTOR shall not be paid for scheduled idle time, lunches, breaks, the time between split shifts, personal time or time lost in which the route is out of service including vehicle breakdown which exceed one (1) hour.
11. The CONTRACTOR must schedule a lunch/break for any driver whose down time exceeds one (1) hour on CONNECTION scheduled routes. Connection will pre-schedule all dedicated routes with a one-hour break, which may be adjusted as necessary to facilitate service delivery, but said one-hour break may not be removed.

12. All routes six or more hours in length must have a minimum one hour break unless otherwise approved by CONNECTION.
13. All dedicated service is to be provided on approved vehicles only.

B. Non-Dedicated Service

- a. The CONTRACTOR shall schedule non-dedicated service.
- b. The CONTRACTOR shall provide CONNECTION with a list of all information required by CONNECTION on all the scheduled trips to be provided by the non-dedicated service including, but not limited to scheduled pick-up/drop-off times, mileage and company/driver/vehicle that this work was assigned to.
- c. The CONTRACTOR may adjust pickups times within the pickup window as needed to facilitate multi-loading. The CONTRACTOR may adjust the pickup up to fifteen (15) minutes outside of the window, as long as the customer is informed of the change and the customer approves the change. The new pickup time must be reflected in the Trapeze Paratransit Management Software, as well as a note that the customer has been notified of the change. The pickup time may not be changed to an extent which will cause the customer to arrive late to their appointment or arrive prior to the facility opening. The pickup time may not be changed to an extent which will cause the customer to arrive late to their appointment or arrive prior to the facility opening.
- d. The work scheduled and the unscheduled trips shall be provided to the CONTRACTOR for scheduling by 6:00 p.m., the day prior to the operating day.
- e. Trip requests are taken five days in advance. The contractor may pre-schedule trips with the understanding that any and all information is subject to change and is not final until 6:00 pm the day before the date of service.
- f. Travel time shall not exceed a reasonable length of time with a maximum of two (2) hours.
- g. The CONTRACTOR may perform the scheduling functions from within the dispatch center, if needed.

- h. The CONTRACTOR shall provide a sufficient number of qualified and trained staff to review, refine and adjust all run start and end times and trips scheduled prior to the service day for work assigned to non-dedicated routes. This includes having the capability to initiate call-backs of passengers as needed to adjust scheduled services, monitor and adjust service resources to maximize system efficiency and performance, and analyze service performance.

19. DRIVER AND ROAD SUPERVISOR QUALIFICATIONS

Prior to performing under this Contract, the CONTRACTOR must ensure that all drivers utilized on this project/contract meet all of the following requirements:

- A. All drivers must undergo a Level 2 background screening as required by Section 430.0402, F.S. and described in Section 435.04, F.S. Understanding and compliance will be the responsibility of the CONTRACTOR.
- B. The driver must not have been convicted of a serious traffic violation such as driving under the influence of alcohol or drugs, leaving the scene of an accident, using a vehicle in the commission of a felony, reckless driving and/or reckless endangerment within the last five (5) years.
- C. Each driver must undergo a commercial and personal driving record check with the Florida Department of Highway Safety and Motor Vehicles and/or from a previous State if in Florida less than five (5) years.
- D. The driver must not have accumulated more than five (5) points within the previous twelve (12) months or during any twelve (12) month period in this Contract.
- E. The driver must not have had a driver's license suspended or revoked for moving violations within the last three (3) years.
- F. The driver must have held a valid Driver's License from any U.S. State or U.S. Territory for the last three (3) years.
- G. All drivers must be able to speak and understand English, and drivers must be proficient in writing English to successfully complete all paperwork required for this Contract, including, but not limited to, vehicle manifests, incident and accident reports.

- H. Drivers of vehicles must pass a pre-employment physical and drug/alcohol test in accordance with U.S. Department of Transportation requirements. Drivers and all other employees performing safety-sensitive function(s) will satisfy the requirements of the CONTRACTOR's Drug and Alcohol Testing Program, which will be administered in accordance with the requirements of 49 C.F.R., Parts 40 and 655, as they may be amended or superseded from time to time.
- I. Drivers must be physically able to perform all duties and tasks required or necessary to achieve full performance of the CONTRACTOR's obligations:
 - 1. Assisting passengers in getting to, on and off the vehicles.
 - 2. Securing mobility devices within the paratransit vehicle.
 - 3. Assisting passengers with the carrying of small packages.

20. DRIVER DUTIES

- A. Drivers will be professional and courteous at all times. Drivers who yell, swear or insult passengers shall be removed from the performance of services under this Contract.
- B. When drivers meet customers, the drivers are required to identify themselves as CONNECTION drivers employed by their CONTRACTOR, confirm the identity of the customer and verify the destination address.
- C. Prior to beginning the trip, drivers are required to ensure that all passengers are wearing seatbelts and shoulder harnesses and that all mobility devices are properly secured. If requested by the passenger, drivers will assist with securing seatbelts. Drivers are required to wear their seatbelts and follow all traffic laws.
- D. Drivers are required to request, but they are not permitted to insist, that customers who use scooters and who are able, transfer to a seat rather than ride on the scooter. If the customer does not transfer, the driver must make every effort to secure the scooter.
- E. Before the customer exits from the vehicle, drivers are required to complete the manifest.

- F. If the customer indicates that he/she is unable to sign the manifest, the driver is required to mark the signature line with an "UTS," thereby indicating that the customer was unable to sign for himself/herself.
- G. Before a customer exits the vehicle, drivers are required to assist the customer in locating and/or gathering and removing all personal belongings brought on board.
- H. Drivers are prohibited from playing loud music or using a cell phone for any purpose while in operation of the vehicle or boarding or alighting customers.
- I. Drivers are prohibited from smoking, at all times while on board the vehicle and/or while assisting customers.
- J. Drivers are prohibited from eating or drinking while a customer is on board the vehicle.
- K. Drivers are required to notify their dispatcher of any incident involving the safety of a passenger, the misconduct of a passenger, the injury of a passenger, damage to a vehicle or any other unusual incident immediately. Verbal notification, via the two-way communication system required by this Scope of Work/Services, must take place immediately and a written report, whose format will be determined by CONNECTION.
- L. Drivers must report any mechanical defects that impact the safety of the operation or health/welfare of the customer, including non-working air conditioning immediately.
- M. Drivers are prohibited from taking customers to any address other than that specified on the manifest/schedule. If the customer insists on a different address, the driver must contact the dispatch office and obtain authorization from CONNECTION before deviating from the address listed on the manifest.
- N. Drivers are restricted from having social contact with any customer during the performance of services under this Contract and are strongly discouraged from having contact with customers at any other time.
- O. While on duty, drivers of vehicles are required to wear a uniform, approved by CONNECTION. All drivers must appear clean and neat and present a professional image and wear pants or shorts with a tucked in, collared, polo type shirt.

- P. All drivers are required to wear the Photo I.D. Badge, which CONNECTION provides after the drivers' successful completion of the driver test, on the upper left side of their uniform hanging from their collar.
- Q. When drivers leave the CONTRACTOR's employment, the CONTRACTOR is required to collect and return the Photo I.D. badges in the driver's personnel file, for the duration of the Contract.
- R. Drivers are prohibited from distributing any materials to customers which has not been pre-approved, in writing, by CONNECTION.
- S. Drivers must complete a pre-trip inspection on the vehicle prior to pull-out and noting any defects and signing the pre-trip inspection form.
- T. Each driver's work hours shall not exceed legal standards.

21. DRIVER TRAINING

- A. Prior to transporting customers, drivers will successfully complete all training requirements specified herein, as they may be amended from time to time, and undergo a test given by CONNECTION under which they will be required to demonstrate their competency, at a level deemed acceptable by CONNECTION, of all the training they have received. No employee will be permitted to take the CONNECTION administered test more than twice annually. Upon successful completion of CONNECTION administered test, the driver will be issued a CONNECTION ID Badge. The CONTRACTOR shall train and certify all drivers before being tested by CONNECTION. Only after successful completion of the written and vocational test will a driver be issued a photo ID badge from CONNECTION. All drivers will be retested annually.

The competency test is administered once a week or more, during the start-up period, as needed. It is administered at CONNECTION'S administrative offices. The time needed for the test, per individual, is determined by the abilities/knowledge of the individual and the number of individuals concurrently testing. It is recommended you allow for twenty (20) minutes per driver for the wheelchair securement test and an additional two (2) hours for up to fifteen (15) drivers concurrently taking the written test.

- B. All new drivers must be trained by the CONTRACTOR, for a minimum of eighty (80) hours. A driver may not receive less than eighty (80) hours of

training without a written waiver from CONNECTION. Drivers will be trained to be proficient in the following areas:

1. Know, understand, follow and implement CONNECTION policies and procedures that are provided to them.
2. Know, understand, follow and implement disability recognition and sensitivity.
3. Know, understand, follow and implement Passenger Assistance Techniques (PAT) or equivalent training.
4. Ensure sensitivity to and safe transport of persons with disabilities.
5. Basic professional courtesy, customer service and the elimination of attitudinal barriers.
6. Passenger assistance techniques for passengers with: wheelchairs (including 4-point wheelchair tie down procedures), walkers, canes, crutches, speech impairments, vision impairments (including sighted guide techniques), hearing impairments, mental/cognitive impairments, Alzheimer's Disease, seizure disorders, and a basic explanation of dialysis treatment and its effect on the customer's stamina during transport.
7. Dealing with Service Animals.
8. Emergency Evacuation Plans.
9. Defensive Driving Skills, per National Safety Council standards, or an equivalent program.
10. Know and understand local geography. Local geography training must include locations of public and private agencies, points of interest, and other locations to which CONNECTION customers are likely to travel.
11. The proper handling of assigned vehicles.
12. The use of the CONTRACTOR's two-way communication system and any other inter-connective device, mechanism or software used by the CONTRACTOR to perform the contract.

13. The securement and storage of mobility devices.
14. The use of child safety seats required under this Contract.
15. The use of all safety equipment on board the vehicle.
16. Steps to take in the event of an accident, incident, or breakdown.
17. Any other aspects which contribute to the safety, comfort and efficiency of CONNECTION service.
18. The understanding of the use of the manifest.
19. How to read a map. The standard map which will be used is the Palm Beach County Road Atlas (as annually updated). This is also the map which will be used during driver testing. It is the CONTRACTOR's responsibility to supply these map books.

22. DISPATCHING

- A. The CONTRACTOR shall employ no less than the sufficient number of dispatchers, identified in Exhibit B to the Contract, so as to ensure timely processing of same-day schedule changes and cancellations while maintaining continuous two-way communication with all vehicles on this project for all hours of operation.
- B. Dispatchers shall be responsible for the live monitoring of service delivery, adjustment of routes to maintain on-time performance, customer contact, providing written reports of any accidents/incidents, assisting drivers with directions and assistance.
- C. For the term of this Contract, CONNECTION will supply a centrally located dispatch office where the CONTRACTOR shall station dispatch staff. The current location of the dispatch center is 3044 S. Military Trail, Lake Worth, 33462.
- D. CONNECTION will supply the office space and computer software for up to fifteen (15) dispatch work stations.
- E. Dispatchers will be required to correctly input the time of each pick-up and drop-off into the Trapeze Paratransit Software.

- F. Dispatchers will be notified by the drivers of each pick-up and drop-off of each client within five (5) minutes of the occurrence.
- G. The CONTRACTOR is required to have a Dispatch Manager at CONNECTION's Dispatch Center during all hours of operation.
- H. If the driver will not arrive within the scheduled pickup window, the dispatcher shall contact the rider and inform them of the delay.
- I. All on-site dispatchers must pass a ten (10)-year criminal background check with the Florida Department of Law Enforcement (FDLE) before being put into service. Background checks must be rechecked no less than every eighteen (18) months.
- J. On-site dispatchers shall not be used in the performance of this Contract if they have been convicted of a felony offense involving murder, attempted murder, assault, sexual assault or battery, theft, fraud, burglary, grand theft auto, robbery, crimes against children and/or adults, a felony offense including drug related incidents, or other offense related to the performance of this Contract.
- K. For the purpose of the Contract, a conviction includes a guilty verdict, a determination of guilt after trial to a judge, a guilty plea, deferred adjudication, or a plea of nolo contendere or no contest.
- L. The CONTRACTOR shall utilize CONNECTION supplied Trapeze Paratransit Software for all dispatch functions. This includes route assignments, the tracking of vehicle arrivals at all stops, including gate times, vehicle and driver assignments, trip transfers and trip billing in a "live" environment.
- M. The CONTRACTOR shall utilize the CONNECTION supplied location, which supports the operation.

23. DISPATCH TRAINING

Prior to providing on-site dispatch functions, on-site dispatchers will successfully complete a training program provided by the CONTRACTOR, and undergo a test given by CONNECTION under which they will be required to demonstrate their competency, at a level deemed acceptable by CONNECTION, of all the training that they have received. No employee will be permitted to take the CONNECTION administered test more than twice. Upon successful completion of the CONNECTION administered test,

the dispatcher will be issued a CONNECTION ID badge. The CONTRACTOR shall train and certify all dispatchers before requesting a photo ID badge from CONNECTION. At a minimum, training shall include, but shall not be limited to:

1. Knowledge of local geography and major trip generators.
2. Use of two-way communication systems and all other inter-connective devices.
3. Trapeze Paratransit Software and all necessary software programs used as directed by CONNECTION.
4. The proper use of safety equipment on board the vehicle.
5. Training of all emergency accident procedures.
6. Use of securement devices and child safety seats.
7. Passenger Assistance Techniques (PAT), and disability awareness.
8. Emergency Evacuation Procedures.
9. Customer courtesy and problem resolution.
10. CONNECTION policies and procedures that are provided to the CONTRACTOR including fare collection and passenger types.

24. DISPATCH AND RADIOS

- A. The CONTRACTOR is required to install a two-way communication system, approved by CONNECTION, which allows for continuous voice communication between dispatchers and drivers throughout Palm Beach County.
- B. The CONTRACTOR shall not permit any unauthorized individuals to communicate on the system.
- C. The CONTRACTOR shall supply and maintain connection with at least two (2) portable base station type radios for monitoring purposes and for use during emergency evacuations.

25. TRAINING

- A. The CONTRACTOR is required to provide CONNECTION approved training to all employees and sub-contractors appropriate to their specific responsibilities.
- B. Drivers, dispatchers and all other employees who communicate with CONNECTION customers are subject to the training requirements named in this Scope of Work/Services and any other requirements established by CONNECTION during the term of the contract.

26. CONTINUING TRAINING REQUIREMENTS

All employees who have direct contact with CONNECTION customers are required to undergo a refresher test each year and demonstrate to CONNECTION's satisfaction their ongoing mastery of CONNECTION's training and other relevant contract requirements. The test will be administered by CONNECTION.

27. VEHICLE TYPES

- A. The CONTRACTOR is required to provide sufficient vehicles to meet its obligations under the provisions of this Contract. All of these vehicles must be in accordance with all requirements outlined herein.
- B. The CONTRACTOR is responsible for having sufficient capacity to transport all customers within the requirements of the Americans with Disabilities Act and as otherwise provided in this CONTRACT.
- C. The CONTRACTOR is responsible for having sufficient vehicles (including accessible vehicles) so that all customers will be picked-up within fifteen (15) minutes of their requested time with actual pickups to be completed within thirty (30) minutes of the scheduled pick-up time and drop-offs done prior to required time.
- D. Dedicated Service:
 - 1. The contractor will provide 90 (for the first year of the contract) ADA compliant cutaway type wheelchair accessible vehicles that accommodate at a minimum, six (6) ambulatory customers plus two (2) common wheelchair securement positions with a transit style front door and ambulatory stairwell. This does not include spare vehicles.

2. An additional, fifteen (15) vehicles will be cutaway vans that accommodate, at a minimum, twelve (12) ambulatory customers plus two (2) common wheelchair securement positions with transit style front door and ambulatory stairwell. This does not include spare vehicles.
3. An additional five (5) wheelchair equipped vehicles must have a lift size of thirty-four (34) inches wide by fifty-four (54) inches long.
4. Dedicated vehicles will be white in color with a distinctive teal stripe.

E. Non-Dedicated Service:

1. In addition to dedicated vehicle needs, the CONTRACTOR must supply vehicles which may or may not be dedicated solely to Palm Tran Connection service to accommodate the 25 to 40% non-dedicated service demand. Under this CONTRACT, Connection will take all trip reservations received for a given service day and schedule 60% to 75% of the trips (Dedicated Service).
2. A vehicle inventory must be supplied as stated in Section 3.4.1.
3. "High-top" style vehicles are not to be used in the performance of this Contract.
4. Connection recommends that the smallest vehicles are accessible minivans (1 wheelchair position and two or more ambulatory seats).
5. Fifty (50%) percent of non-dedicated vehicles must be wheelchair accessible vehicles. The CONTRACTOR must maintain the 50% wheelchair accessible vehicle requirement during all hours of operation and may not fall below 50% for any reason. This is inclusive of any/all work sub-contracted or operated by DBE providers.
6. Any sedan type vehicle used in performance of this Contract must be mid-size or full-size (preferred) with four doors.
7. Any minivan used in performance of this Contract must have both driver and passenger side doors, with side sliding doors preferred.

- J. Palm Tran's Executive Director, may at Palm Tran's sole discretion, on a year to year basis, authorize up to a five (5%) percent change in vehicle composition and/or fleet size to ensure compliance with ADA or based on changes in ridership.
- K. The CONTRACTOR, in order to meet increased demand, is required to provide additional vehicles and sufficiently trained drivers within TWENTY (20) DAYS, or such additional period of time as authorized by the COUNTY's contract representative not to exceed ninety (90) days, of receipt of written notice from CONNECTION. Nothing contained in this document shall preclude the COUNTY from adding additional contractors, if in the sole discretion of the COUNTY, the CONTRACTOR lacks sufficient capacity or is unable to provide the required additional capacity or if CONNECTION determines that program services will be improved by the addition of another CONTRACTOR.

28. VEHICLE STANDARDS

The following applies to both Dedicated and Non-Dedicated service:

1. All accessible lift-equipped vehicles shall be equipped with a wide wheelchair lift or ramp that has thirty-four (34") inches of useable platform width and a minimum eight-hundred (800 lb.) pound weight capacity.
2. All 6/2 and 12/2 vehicles must be equipped with a manually operated, outward opening "transit style" door located opposite the driver. The door shall have a clear opening width of twenty-three (23") inches (minimum) as measured from inside edge to inside edge of door frame and a full height of eighty-two (82") inches (minimum) clear "walk-in" headroom as measured from the top of the front first step to the entrance header. All seats on board every vehicle must be equipped with either armrests or padded grab handles.
3. The CONTRACTOR is required to display the CONNECTION logo whose design will be provided by CONNECTION. The CONTRACTOR shall purchase and install the logos. The vehicle shall also display the CONTRACTOR's name, telephone number and a "Vehicle Identification Number" on the exterior of the vehicle, in two (2") inch black letters. The exact specifications for placement will be determined by CONNECTION. The logo may be a temporary type for all non-dedicated vehicles.
4. The CONTRACTOR may allow advertising on the rear of the vehicle and the interior only. The CONTRACTOR is prohibited from displaying any advertising

material on the exterior and interior of any vehicle performing work on this Contract, until approved by CONNECTION. The CONTRACTOR must supply CONNECTION with any records associated with any advertising and an advertising financial statement. Advertising is at the sole discretion of the CONTRACTOR.

Advertising is not permitted which is libelous, slanderous, obscene, salacious, unlawful, shows tobacco products, or liquor of any type, political messages, or any advertising which the County determines to be inappropriate.

5. The wheelchair securement system must comply with the Americans with Disabilities Act, (ADA) SAEJ2249 and ISO 10542, as they may be amended from time to time. Wheelchair securement system belts must be retractable to prevent accidental tripping and swivel to accommodate wheelchairs of various widths. Wheelchair securement system securing retractors must be self-locking and self-tensioning to automatically take up slack which does not require the driver to manually adjust tension with a "J" shape end for ease of use. All four (4) wheelchair securement system securing retractors must be the same size and shape to be interchangeable to avoid placement confusion. The occupant restraint system must have an emergency locking retractor with retractable height adjuster. Wheelchair securement systems must be of an "L" track design or such other system approved by the COUNTY's Contract Representative. All wheelchair securement systems will accommodate forward facing mobility devices.
6. It is preferred that all ambulatory seating shall be forward facing. Rear facing ambulatory seats will only be used as a last option within the vehicle.
7. Vehicle lifts may be either rear or side loading.
8. Vehicle suspension system must assure for a comfortable ride for all passengers.
9. All vehicles must meet all requirements of the Americans with Disabilities Act including lifts, ramps and entrance ways.
10. Each vehicle shall have an interior rear view mirror and side view mirrors mounted on both sides of the vehicle and will have unobstructed vision on all sides. Each vehicle shall have sufficient functioning lights within the interior compartment and shall have a functioning horn and all standard equipment safety features (e.g., hazard flashers, etc.) shall be maintained in operable

condition. Flooring (aisles, steps, and floor areas) must be slip resistant to ensure customer safety.

11. Each vehicle shall have functioning mechanisms that ensure all doors are capable of being opened from the inside, and remain closed and secure while the vehicle is in motion.
12. Each vehicle must have a working air conditioning system and its performance is of paramount importance to CONNECTION. Particular attention should be directed to the high summer temperatures, and humidity factors found in Palm Beach County, Florida. The performance of the air conditioning system offered shall be maintained to the manufacturer's specifications and demonstrated to CONNECTION's satisfaction.
13. Each vehicle shall have a functioning speedometer, properly calibrated, indicating speed in miles per hour and an accurate functioning odometer indicating distance traveled in units of tenths of a mile.
14. CONNECTION reserves the right to remove any non-compliant vehicle from service at the cost of the CONTRACTOR. All vehicles must be re-inspected by CONNECTION before being put back into service. Service provided on a vehicle not authorized by CONNECTION shall not be paid for the service performed until the re-inspection has been completed, and the CONTRACTOR shall be subject to an assessment of Liquidated Damages for each day the vehicle is not in service.
15. Vehicles are forbidden from being fueled while in revenue service or with customers on board. If the CONTRACTOR is found fueling during revenue service the vehicle will be considered a non-compliant vehicle and shall not be paid for the revenue hours associated with the fueling.
16. Sedan and minivan type vehicles shall be no older than seven (7) model years of age or exceed 250,000 miles.
17. All other vehicles shall not exceed five (5) model years of age any time during the term of the contract or exceed 250,000 miles.
18. Any vehicle older than three (3) model years of age must be re-inspected no less than semi-annually which is in addition to all other required inspections.

19. Vehicles not dedicated to CONNECTION service must be in full compliance with local vehicle for hire ordinances.
20. All vehicles must be inspected by CONNECTION's staff prior to providing service under this Contract. CONNECTION reserves the right to remove any non-compliant vehicle from service at the cost of the CONTRACTOR. All vehicles must be re-inspected by CONNECTION's staff before being put back into service. Service provided on a vehicle not authorized by CONNECTION will not be paid for the service performed until the inspection has been completed, and the CONTRACTOR shall be subject to an assessment of Liquidated Damages for each day the vehicle is in service.
21. No vehicle shall be operated without all required safety equipment on board at all times.
22. All vehicles must be free of all body damage while in service. Only vehicles with minor body damage that do not affect the safety or performance of the vehicle may be placed into and used in service if a written waiver of the requirement that the vehicle be free of all body damage while in service has been obtained in advance of the vehicle being placed into service from CONNECTION's Contract Representative. A waiver may not be granted for a period in excess of fourteen (14) calendar days. Any vehicle found to have body damage without a written waiver or placed in service in excess of said fourteen (14) day period shall constitute an event of Contract non-compliance and the CONTRACTOR shall be subject to an assessment of Liquidated Damages for each day the vehicle is in service. Payment shall not be made for services provided on a non-compliant vehicle.
23. Passenger compartments shall be free from torn or excessively worn floor coverings or upholstery. Seats shall not be broken, damaged or have protruding sharp edges.
24. Each dedicated vehicle shall have an interior sign stating that smoking on the vehicle is strictly prohibited and that eating and drinking are prohibited unless medically necessary.
25. CONNECTION shall provide interior placards for each dedicated vehicle that state a toll-free telephone number and address for lodging complaints/commendations is available. These are to be posted inside each vehicle at the location specified by CONNECTION.

26. The CONTRACTOR must maintain a current list of active/inactive vehicles for the CONNECTION program and report them to CONNECTION staff on a weekly basis, or as often as requested.
27. If a dedicated vehicle breaks down or is involved in an accident while in service, the CONTRACTOR shall dispatch a back-up vehicle to the site of the breakdown. The back-up vehicle shall be dispatched and placed in route within fifteen (15) minutes of breakdown notification.
28. All vehicles must be inspected by CONNECTION prior to providing service under this Contract. CONNECTION reserves the right to remove any non-compliant vehicle from service at the cost of the CONTRACTOR. All vehicles must be re-inspected by CONNECTION staff before being put back into revenue service. Service provided with a vehicle not authorized by CONNECTION staff will not be compensated for trips performed. Additionally, the CONTRACTOR shall be subject to an assessment of Liquidated Damages for each day the vehicle is in service.
29. A dry chemical, type A-B-C fire extinguisher with a minimum of a five (5) pound capacity equipped with a pressure gauge, mounted and easily accessible to the driver.
30. A non-expired First Aid kit as specified by the Florida Department of Transportation, Public Transit Office, Technical Specifications for Modified Vans (Document FVPP00-01-MV), shall be mounted in each vehicle at a location easily accessible to the driver.
31. Three (3) safety triangles secured in a convenient location which will not interfere with passengers.
32. Blood borne pathogen spill kit ("Bio-Hazard Kit").
33. Emergency web-cutter.
34. Seatbelts for all occupants of the vehicle including the driver.
35. A "posey belt" for each wheelchair position. This is a single belt which provides a securement of the wheelchair rider in the wheelchair separate and in addition to the vehicle's seat belt system and the requirements of the ADA.
36. Any other equipment, agent, product or material required by Federal, State or local law or required by CONNECTION.

29. VEHICLE INSPECTIONS

- A. The COUNTY, CONNECTION, Florida Department of Transportation (FDOT), Federal Transit Administration (FTA), the Commission for the Transportation Disadvantaged (TD), or any of their designees, and any other governmental entities with regulatory control over the program services may conduct periodic inspections of vehicles used for this program. Any cost associated with the inspections will not be reimbursable.
- B. The CONTRACTOR and sub-contractor's vehicles must be inspected by CONNECTION before they are put into service. Vehicles that pass the inspection will have a CONNECTION inspection sticker placed on it. Each vehicle will be re-inspected, at least, annually.
- C. CONNECTION's inspections will not interfere with service obligations but inspections may be conducted with or without notification at the CONTRACTOR facilities.
- D. Spot checks may be carried out while vehicles are in service.
- E. Any vehicle that does not meet the required standards will be immediately removed from service, until such time as necessary corrective actions are taken. Such removals will not relieve the CONTRACTOR from any responsibilities of this Contract. Any vehicle pulled from service must be re-inspected by CONNECTION before being placed back into service. Payment will not be made for services provided on any vehicle which has not been re-inspected before being put back into service.
- F. All vehicles proposed to be used for CONNECTION service must be available for inspection no less than ten (10) days prior to the start of the Contract.

30. VEHICLE FILES

- A. The CONTRACTOR shall maintain an updated copy of its' compliant System Safety Program Plan (SSPP) for the term of the Contract.
- B. The CONTRACTOR shall also maintain a file for each vehicle in revenue service. This file must include the following information:
 - 1. A copy of the vehicle's valid registration.

2. A copy of any maintenance report including all scheduled and ad-hoc repairs (pre-trip, preventative or annual inspections must also be in the vehicle file) performed on the vehicle.
3. Any accident or injury reports involving the vehicle.
4. The CONTRACTOR shall keep copies of all accident/incident reports as well as any correspondence or documentation which results from them.
5. The CONTRACTOR shall keep all insurance certificates current and on file at all times. Additionally, the CONTRACTOR shall provide current copies to CONNECTION as they are received from their insurance provider, but no less than seven (7) days prior to the policy expiration.
6. Use of vehicles not meeting the specifications will initiate an LQD.
7. All vehicles will comply with all provisions of all applicable federal, state, local and County laws, regulations or requirements, including the Americans with Disabilities Act (ADA), 49 CFR parts 40 and 655, Sections 37 and 38, the requirements of the Florida Transportation Disadvantaged Program Chapter 427, F.S. and Section 41-2, F.A.C., all requirements of Chapter 14 90, F.A.C., and all applicable provisions of the Palm Beach County Vehicle for Hire Ordinances, as any or all may be amended or superseded from time to time.
8. No driver is allowed to operate any vehicle that does not meet all of these requirements.

31. REQUIRED VEHICLE MAINTENANCE PROCEDURES

- A. All vehicles shall be maintained in good overall operating condition in accordance with all requirements outlined herein.
- B. Vehicle exteriors shall be washed and interiors shall be swept and cleaned daily before the vehicle is put into service. Once a week all vehicles must undergo a deep cleaning and sanitizing by washing all windows, seats, floors, seatbelts, lifts, etc., with a germ killing cleanser. All vehicles shall have their exteriors free of broken mirrors, broken or cracked windows, graffiti, grime, rust, chipped paint, dents, and body damage. Each time the vehicle is cleaned a record shall be kept for a minimum of fourteen (14) days in the vehicle file. This record must state what was washed, who washed it, and when it was washed.

- C. Each vehicle shall be water tight and free of leaks. The engine compartment shall also be free of leaks from oils and fluids.
- D. To ensure that vehicles are maintained in proper working order, the CONTRACTOR is required to utilize the following maintenance procedures:
 - 1. Pre-Trip Inspections:
 - a. Pre-Trip inspections are required to be performed according to Section 14-90.006 Florida Administrative Code.
 - b. Records of such inspections shall be retained by the CONTRACTOR for at least one (1) year from the date of inspection.
 - c. The CONTRACTOR is required to conduct a pre-trip inspection for each vehicle prior to its use in service each day.
 - d. This pre-trip inspection shall include a visual inspection of the vehicle's interior and exterior. This will ensure that all the requirements outlined in the Florida Statute and Company Policy are checked. This check must include, at minimum: cycling of the wheelchair lift, and checking of all fluids, including fuel, oil, brake fluid, etc.
 - e. The results of the pre-trip inspection are to be documented on a "Pre-Trip Inspection Form," which is to be maintained by the CONTRACTOR. Any vehicle which fails the pre-trip inspection shall not be placed into service.
 - f. Any vehicle placed into service which does not meet the pre-trip requirements shall be treated as a non-compliant vehicle.
 - g. The CONTRACTOR must allow a minimum of ten (10) minutes for all wheelchair equipped vehicles and five (5) minutes for all non-wheelchair vehicles for drivers to perform a pre-trip inspection. Pre-trip time is not compensated.
 - h. Failure to correctly complete a pre-trip inspection shall result in the vehicle being treated as a non-compliant vehicle.

2. Preventive and Regular Maintenance:

- a. The CONTRACTOR is required to perform all preventive and regular maintenance in accordance with the manufacturers' recommendations and the CONTRACTOR's System Safety Program Plan.
- b. The CONTRACTOR is required to maintain written (electronic files will be acceptable) documentation of any maintenance or repair to each revenue service vehicle. The documentation must include: the date of the service, current mileage, VIN /plate/vehicle numbers and the type and extent of the service being performed. Such documentation shall be retained by the CONTRACTOR for the duration of the Contract. All maintenance must comply with Section 14-90.004 of the Florida Administrative Code.
- c. All mechanics will have a valid Automotive Service Excellence (ASE) certificate for the specialty they are performing.

32. ACCIDENTS AND INCIDENTS

The CONTRACTOR is required to notify CONNECTION staff immediately by fax, phone, email or two-way communication, of all road calls and accidents or any incidents which disrupt service or involves a CONNECTION vehicle.

If the accident or incident involves one or more CONNECTION customers, the CONTRACTOR is required to notify CONNECTION immediately upon becoming aware of the accident or incident.

The CONTRACTOR is required to provide a detailed written report, including supplying all supporting documents, to CONNECTION's staff within twenty-four (24) hours of becoming aware of the accident or incident. The CONTRACTOR must furnish copies of law enforcement reports as they become available.

Safety sensitive employees must be sent for a drug/alcohol test according to state and federal requirements.

At the request of CONNECTION's staff, the CONTRACTOR shall make any employee involved in an accident or incident available for questioning. Additionally, a CONTRACTOR's employee may be required to act as a witness for CONNECTION in any litigation that may result from or arise out of any act or

omission of the CONTRACTOR. CONTRACTOR shall make any employee available as required by CONNECTION.

Depending on the severity of the accident/incident, CONNECTION may, at its sole discretion, require the CONTRACTOR to remove the driver from service while any investigation is being conducted.

33. VEHICLE MANIFESTS/SCHEDULES

- A. CONNECTION will electronically provide time indexed vehicle routing for each CONNECTION scheduled route in the form of a vehicle manifest schedule.
- B. Trip information for non-dedicated services will be available no later than 6:00 p.m. nightly.
- C. Route start times will vary based on daily demand and service needs.
- D. The CONTRACTOR is required to print and then deliver the vehicle manifest/schedule to the driver or sub-contractor.
- E. All drivers are required to write CONNECTION specified information on the vehicle manifest/schedule as they proceed with their routes.
- F. Information entered on the vehicle manifest/schedule will include, but not be limited to: the actual time and odometer reading for each pick-up and drop-off, driver name, vehicle number, each customer's signature, and fare collection information. Digital signatures are acceptable, but the CONTRACTOR must provide a detailed explanation as to how this will work within the requirements of the CONTRACT.
- G. The CONTRACTOR is required to ensure that all vehicle manifests/schedules are completed correctly and legibly by the driver and that these manifests are forwarded to CONNECTION along with the CONTRACTOR invoice as set forth.
- H. If the vehicle manifests/schedules are incomplete, inaccurate, illegible, missing signatures or cannot be verified, CONNECTION will return them and will not accept them until they are corrected.
- I. The driver is required to follow the manifest/schedule as provided to them by CONNECTION, unless otherwise directed by dispatch.

- J. The CONTRACTOR, under no circumstances is permitted to change, modify, or fail to complete the manifest/schedule without authorization of CONNECTION.
- K. Drivers providing service under this Contract are expected to use reason and discretion. Drivers are to be permitted to adjust the pickup and drop-off order of trips in order to improve customer comfort or service efficiency. The driver shall obtain prior approval from Dispatch prior to making any adjustments. Dispatch will assure the adjustment is done in a manner which is within the scheduled start and end time of the route, maintains on-time performance, appropriately responds to the customer's needs, and is in the best interest of CONNECTION's paratransit system.
- L. All trips assignments or re-assignments must be made and updated within the Trapeze Paratransit Software at least ninety (90) minutes prior to the start of the customer pickup window.

34. DELIVERY OF COMPLETED VEHICLE MANIFESTS/SCHEDULES

- A. The CONTRACTOR is required to provide an invoice, in addition to all completed vehicle manifests for each week (Sunday through Saturday) and supporting documentation to CONNECTION by the close of business on the second Friday after the completion of the billing period. Information received for any prior week's service will not be considered for payment in the current invoice or any subsequent invoice. The completed invoice shall include the following information:
 - 1. The total number of billable units (i.e. revenue hours, revenue miles) and the CONTRACTOR's billable rate for each type of billing unit.
 - 2. The total amount due to the CONTRACTOR based on the CONTRACTOR's unit rate multiplied by the number of billable units for each type of billing unit.
 - 3. The amount of total fares collected and amount of cash fares retained.
 - 4. The number of paratransit tickets being returned by the CONTRACTOR.
 - 5. The returned paratransit tickets shall be clearly stamped with "Cancelled" on the front of each ticket. The stamp will indicate that the

ticket was used and should be stamped in the middle of the ticket and be large enough to prevent the reuse of the ticket.

6. Any fuel escalation/de-escalation costs/charges.
 7. The adjusted total amount which the CONTRACTOR is requesting from CONNECTION as payment.
- B. CONTRACTOR shall include all paratransit tickets collected with this invoice.
 - C. If the CONTRACTOR fails to meet the standard for the timely submission of vehicle billing/manifests for three (3) or more consecutive months, the CONTRACTOR is in breach of its contract with CONNECTION and is subject to the default provisions of the Contract.
 - D. Invoice documentation shall be provided consisting of all manifests, paratransit tickets, and any other supporting documents.
 - E. Once CONNECTION receives the CONTRACTOR's invoice and all required documentation, CONNECTION will verify the information on the CONTRACTOR's invoice.
 - F. If there is a discrepancy, CONNECTION will work with the CONTRACTOR to resolve the discrepancy.
 - G. CONNECTION shall pay the CONTRACTOR based on the CONTRACTOR's unit rate multiplied by the number of billable units for each type of billing unit and adjusted for cash fares retained, liquidated damages adjustments and any fuel escalation/de-escalation costs/charges.
 - H. Invoices received from the CONTRACTOR pursuant to this Contract will be reviewed and approved by the COUNTY's representative, indicating that services have been rendered in conformity with the Contract, which will normally take two (2) weeks. Approved invoices will be sent to the COUNTY's Finance department for payment. No payment inquiries will be responded to until the three (3) week processing time has passed. Invoices will normally be paid within thirty (30) days following the COUNTY's representative's approval. Notwithstanding the foregoing, the CONTRACTOR may request an alternative payment plan and COUNTY agrees that it will discuss the CONTRACTOR'S plan with the Clerk and Comptroller; provided if COUNTY first determines that the payment plan is feasible.

- I. Approved invoices will be considered certified, complete and accurate.
- J. Final Invoice: In order for both parties herein to close their books and records, the CONTRACTOR shall clearly state "final invoice" on the CONTRACTOR's final/last billing to CONNECTION. This shall constitute the CONTRACTOR's certification that all services have been properly performed and all charges and costs have been invoiced to CONNECTION. Any further charges, if not properly included on this final invoice, are waived by the CONTRACTOR.

35. COMMENTS AND COMMENDATIONS

- A. CONNECTION will record all complaints and will determine to whom the complaint should be directed for research and resolution.
- B. When the CONTRACTOR receives a complaint from CONNECTION, the CONTRACTOR is required to research the complaint with its personnel and take corrective action as necessary.
- C. The CONTRACTOR is then required to provide a response to CONNECTION as to how the complaint has been addressed as well as what corrective actions, if any, have been taken to avoid future complaints of the same nature. The CONTRACTOR must provide the driver's name and a copy of the manifest with each complaint.
- D. The CONTRACTOR is required to respond to service complaints within two (2) business days of it being entered in the Trapeze Paratransit Management Software Com Module, excluding the date entered. This does not include weekends and holidays. If a complaint is not responded to within two (2) business days it will be converted to Liquidated Damages which will be assessed daily for each day the complaint response is not responded to. For example, barring any Holidays;

Day Complaint Entered

Monday
Tuesday
Wednesday
Thursday
Friday

Complaint Late at Close of Business

Wednesday
Thursday
Friday
Monday
Tuesday

- E. If the complaint involves an accident, safety or serious misconduct, the CONTRACTOR is required to respond within twenty-four (24) hours or less.
- F. CONNECTION will review complaint responses, and if CONNECTION staff deems the response to be inadequate, will redirect the complaint to the CONTRACTOR for further action. The requirement to answer all complaints within two (2) business days remains in effect even if the complaint is returned to the CONTRACTOR.
- G. At the direction of CONNECTION, designated CONTRACTOR personnel may discuss specific complaints with CONNECTION customers or their representatives. All CONTRACTOR personnel are prohibited from taking any actions against any individual who has made complaints in connection with this Contract.
- H. In all cases, CONNECTION is the final arbiter as to whether or not complaints have been adequately resolved by the CONTRACTOR.
- I. CONNECTION will also record commendations; however, the CONTRACTOR may also accept commendations directly and forward them to CONNECTION.
- J. Any complaint filed by a customer in which the vehicle arrives to transport a customer more than fifteen (15) minutes after the close of the scheduled pick-up window, as shown on the vehicle manifest/schedule, will automatically be ruled as valid.
- K. The CONTRACTOR shall be charged with a valid complaint when CONNECTION determines that the CONTRACTOR has failed to provide service in accordance with either the requirements of this Scope of Work/Services and/or in instances where the CONTRACTOR response to a complaint is inadequate or incomplete.
- L. Issues which may generate complaints include, but are not limited to: cell phone usage, late vehicles, unclean vehicles, unsafe vehicles, rude personnel, unsafe securement practices, unsafe driving, loud music on board the vehicle.

36. COMPUTER HARDWARE AND SOFTWARE REQUIREMENTS

- A. The CONTRACTOR shall supply an adequate number of personal computers and printers, for use at their base of operations and the dispatch center, in order to meet the obligations of the Contract.

- B. The CONTRACTOR shall supply all business software needed for performance of this contract. The CONTRACTOR shall supply anti-virus protection and firewall protection on their equipment.
- C. CONNECTION will not support CONTRACTOR owned equipment.
- D. The CONTRACTOR shall supply a high speed data connection for access to the COUNTY's Network and access to the Trapeze Paratransit Software.
- E. The CONTRACTOR is responsible for all consumables, i.e., toner, paper, etc.
- F. CONNECTION will provide assistance in accessing the Trapeze Paratransit Software. All other technical support is the responsibility of the CONTRACTOR.
- G. Trapeze Paratransit Management Software, is the software used by CONNECTION for all aspects of the paratransit service. All trip reservations will be taken using Trapeze Paratransit Management Software. The CONTRACTOR must update the Trapeze Paratransit Management Software in a live environment as services are performed. This does not preclude the CONTRACTOR from using an alternate software system providing there is live interaction between the CONTRACTOR software and the Trapeze Paratransit Management Software. If the CONTRACTOR intends to use any software other than Trapeze Paratransit Management Software they must submit a plan as to how this software will interface with Trapeze Paratransit Software in a *live environment. The CONTRACTOR must prove to CONNECTION's satisfaction that the interface between systems does work.

*(A delay of no more than one minute would be considered "live" as long as this included 100% of the information (i.e., stop times) is updated.)

- H. CONNECTION will be responsible for annual maintenance and concurrent users licensing fees for the Trapeze Paratransit Management Software, version Build: 10.06.0. Fees paid for by Connection will only be for the concurrent users (seat licenses). Any costs associated with additional access needs will be the responsibility of the CONTRACTOR.

37. REPORTS

The CONTRACTOR is required to provide data to assist CONNECTION in compiling and completing required daily, weekly, monthly, quarterly and annual reports. Specific reports for which the CONTRACTOR shall be required to provide information and assistance shall include, but are not limited to:

1. National Transit Database (NTD) report: A template will be provided and the completed report will be due by the 15th of each month for the prior month's data.
2. Transportation Disadvantaged Annual Operating Report (TDAOR): A template will be provided and the completed report will be due by the 15th of each month for the prior month's data.
3. Mileage Report - Monthly revenue miles and revenue hours and total revenue miles and hours.
4. A report of all Disadvantaged Business Enterprise (DBE) payments will be submitted with all invoices for payment. This report shall include; the date/week of service, date payment was made to the CONTRACTOR, invoice number, amount paid to the CONTRACTOR, CONTRACTOR's cumulative revenue, and for each DBE: date of payment and amount of payment. Report must also show the cumulative payments to DBE contractors and the weekly and cumulative percentages of participation. This information will be required in order to process invoices.
5. Monthly report of all accidents, incidents and road calls.
6. A driver roster or Safety Sensitive List of all current drivers shall be reported to CONNECTION on Friday for each and every week. Each roster shall indicate driver's name, address, date of birth, driver's license number and expiration date, date of hire, training dates, last drug & alcohol test date, and Motor Vehicle Record (MVR) review date. New employees shall be highlighted.
7. Insurance certificates must be on file no less than fifteen (15) business days prior to expiration of the current policy with the approved endorsements.
8. The assistance may include, but not be limited to: providing records, receipts, reports, etc., answering questions from CONNECTION's staff, completing report forms, etc.

38. OTHER RESPONSIBILITIES

- A. At the direction of CONNECTION, the CONTRACTOR may be given additional responsibilities, which shall include but not be limited to the following:
1. Distribute notices, flyers, brochures, surveys and other CONNECTION authorized documents to CONNECTION customers on board CONNECTION vehicles.
 2. Attend regularly scheduled meetings between CONNECTION and the CONTRACTOR, as required by CONNECTION.
 3. Attend public meetings as required by CONNECTION.
 4. During disasters and public evacuation, the CONTRACTOR shall make available all requested resources to respond to a public evacuation.
 5. Operate additional evening/night or Sunday service as may be requested by CONNECTION with a minimum of 48 hours notice which includes any unforeseen spikes in ridership or special events.
- B. The CONTRACTOR may perform specific duties, such as storage, maintenance and fueling of vehicles, and/or administrative support services through other facilities and/or through sub-contracts. All such arrangements must be approved by CONNECTION. All records, documents, reports, etc. created or received by the CONTRACTOR during the performance of this Contract shall be maintained at the CONTRACTOR's Palm Beach County facility during the term of the Contract and within Palm Beach County for five (5) years thereafter, unless otherwise provided herein.
- C. The CONTRACTOR, at its own expense, is required to return any personal belongings left on vehicles, within three (3) business days, to the customers who left them. The customer may pick-up their own belongings if they desire.
- D. The CONTRACTOR does not have the ability to refuse transportation of any scheduled eligible rider.

39. SERVICE STANDARDS

- A. The CONTRACTOR is expected to have no more than one (1) at-fault accident per one hundred thousand (100,000) miles of revenue service. The

CONTRACTOR is responsible for reviewing all accidents and making all determinations with a recommendation as to fault. The CONTRACTOR is also responsible for any corrective action which needs to be taken. CONNECTION will review all accident determinations and corrective action taken. CONNECTION staff, at their discretion, may overrule the determination as well as requiring additional corrective action, which may include removing driver from service.

- B. If the CONTRACTOR fails to meet the service standard for at-fault accidents for any consecutive two (2) months or any three (3) months in a twelve (12) month period, the CONTRACTOR shall be in breach of its Contract with CONNECTION and is subject to the default provisions of the Contract.
- C. The CONTRACTOR is expected to have no more than one (1) road call per ten thousand (10,000) miles of revenue service. A road call is classified as any time trips are transferred off a vehicle due to a breakdown. If the CONTRACTOR has more than one road call per 10,000 miles for three (3) or more consecutive months, the CONTRACTOR is in breach of its Contract with CONNECTION and is subject to the default provisions of the Contract.
- D. The CONTRACTOR is expected to provide all trips. If the CONTRACTOR misses more than one trip per five thousand (5,000) trips preformed for three or more consecutive months, the CONTRACTOR shall be in breach of its Contract with CONNECTION and is subject to the default provisions of the Contract.

40. LIQUIDATED DAMAGES (LQD)

- A. CONTRACTOR represents and agrees that the damages that will be sustained as a result of the CONTRACTOR's breaches as described below are not readily ascertainable, that the sums as described below as liquidated damages for such breaches are reasonable and appropriate given the uncertain nature of the damages that will be sustained by CONNECTION, and that said liquidated damages are not a penalty.
- B. If the CONTRACTOR fails to perform the services within the time specified or at the level of performance specified in this Contract, the CONTRACTOR shall, in place of actual damages, pay to CONNECTION liquidated damages as specified below.

- C. CONNECTION will deduct the payment for assessed liquidated damages from monies due or to become due thirty (30) calendar days after notification of the assessment.
- D. If the COUNTY terminates this Contract in whole or in part under the Default clause, the CONTRACTOR is liable for liquidated damages accruing until the date of termination and service ceases.
- E. The CONTRACTOR shall not be charged with liquidated damages when the delay or lack of performance is beyond the control and without the fault or negligence of the CONTRACTOR as defined in Article 10, Section C.3. of this Contract. There is no negotiation of valid LQDs. The CONTRACTOR may appeal a LQD and CONNECTION will review. If the LQD is determined to be not valid, it will not be assessed.
- F. On-Time Performance Liquidated Damage: CONTRACTOR shall maintain an acceptable on-time performance rate of at least ninety-one (91%) percent and shall not establish a pattern of untimely pick-ups. The on-time performance goal is based on the number of completed trips either a) arrived to the destination prior to the requested arrival time or b) picked up within the negotiated pickup window. On-time performance will be determined based upon a review of all service for the calendar month. The only trips not tracked for on-time performance will be those performed as part of declared emergencies or evacuations. Failure to meet on-time performance standards for three (3) or more consecutive months or any month where on-time performance falls below eighty-five (85%) percent shall be considered a breach of Contract. Liquidated Damages will be assessed in the amount of Five Thousand Dollars (\$5,000) for any month which on-time performance falls below ninety (91%) percent.
- G. Complaint Ratio Liquidated Damage: Complaints will be tallied each month indicating the total number of valid complaints. The complaint ratio standard is established at 2.00 complaints per one thousand (1,000) completed trips in a given month. Complaint Ratio liquidated damages in the amount of Twelve Hundred Dollars \$1,200 shall be assessed when the CONTRACTOR's number of valid complaints divided by the number of trips performed per one thousand (1,000) completed trips for any given month reaches 2.01 or higher as documented by CONNECTION's Monthly Complaint Summary and backup documentation. Failure to meet complaint ratio standards for three (3) or more consecutive months or any month were

the complaint ratio exceeds 2.01 complaints per 1,000 trips shall be considered a breach of Contract.

- H. Drivers: All drivers (or records) found to be out of compliance with the terms of this Contract must be re-inspected prior to being put into or returned to service. This includes all required driver records, drug and alcohol testing, uniforms, ID badge, licenses, registration and training. Payment will not be made for service provided by a non-approved and/or non-compliant driver. Each instance of CONTRACTOR's non-compliance in this area shall be assessed liquidated damages of Sixty Dollars (\$60.00) per individual driver.
- I. Vehicles: All vehicles found to be out of compliance with the terms of this Contract must be re-inspected prior to being put into or returned to service. This includes all required safety features, ADA compliance, maintenance records, vehicle signage, and accident damage and vehicle condition. Payment will not be made for service provided by a non-approved and/or non-compliant vehicle. Each instance of CONTRACTOR's non-compliance in this area shall be assessed liquidated damages of Sixty Dollars (\$60.00) per non-compliant vehicle.
- J. Service Delivery Liquidated Damage: The CONTRACTOR shall be assessed liquidated damages of Sixty Dollars (\$60.00) per incident, unless otherwise stated, for each of the below situations for each service delivery violation.
 - 1. Dwell (Waiting) Time: Drivers are required to wait for a client at a pick-up point for a minimum of five (5) minutes.
 - 2. Customer Assistance: Drivers failing to provide required assistance to a customer.
 - 3. Improper Drop-off: Customers who are dropped off at the wrong address.
 - 4. Missed Trips: A trip that was not performed regardless of the reason for non-performance or was performed more than one (1) hour after the end of the pickup window.
 - 5. No-Show Tags: Failure of the driver to leave a No-Show tag as required.

- K. Reports: Failure of the CONTRACTOR to timely submit to CONNECTION a required report, response or document which may include, but not be limited to, monthly reports, operating summaries, employee rosters, lists, accidents, service data summaries, complaint responses, accident reports, failure to maintain the Trapeze Paratransit Software in real time and National Transit Database reports, shall result in the assessment of liquidated damages against the CONTRACTOR in the amount of Forty-Five dollars (\$45.00) per day for every day the report/response document is submitted untimely. Reports/response documents deemed by CONNECTION to be incomplete and/or inaccurate shall be considered untimely.
- L. Failure of the CONTRACTOR to respond to ninety percent (90%) of estimated time of arrival (ETA) requests within fifteen (15) minutes of the issuance of the request shall result in a liquidated damage of Ten Dollars (\$10.00) per unresponsive ETA.
- M. Failure of the CONTRACTOR to notify CONNECTION of any individual who no longer needs service for any reason will result in liquidated damage in the amount of Fifty Dollars (\$50.00) per day, per customer. Notification must be made through the Remedy System, or alternative. This includes customers who have moved, customers who have passed away, customers whose treatment has ended, etc.
- N. Notwithstanding the assessment and payment, by the CONTRACTOR, of liquidated damages, CONNECTION reserves the right to default the CONTRACTOR for cause if the CONTRACTOR demonstrates a pattern of substandard performance. Patterns of substandard performance may include but are not limited to: three (3) or more consecutive months of assessment of liquidated damages for the same issue or assessment of liquidated damages exceeding One Hundred Thousand Dollars (\$100,000.00) in any twelve (12) month period.

41. ADDITIONAL REQUIREMENT OF CTD GRANTEES.

When a contractor receives from a state agency any payment for contractual services, commodities, supplies, or construction contracts, except those construction contracts subject to the provisions of chapter 339, the contractor shall pay such moneys received to each subcontractor and supplier in proportion to the percentage of work completed by each subcontractor and supplier at the time of receipt of the payment. If the contractor receives less than full payment, then the contractor shall be required to disburse only the funds received on a pro rata basis with the contractor, subcontractors, and suppliers, each receiving a prorated portion based on the amount due on the payment. If the contractor without reasonable cause fails to make payments required by this

section to subcontractors and suppliers within seven (7) working days after the receipt by the contractor of full or partial payment, the contractor shall pay to the subcontractors and suppliers a penalty in the amount of one-half of one percent of the amount due, per day, from the expiration of the period allowed herein for payment. Such penalty shall be in addition to actual payments owed and shall not exceed 15 percent of the outstanding balance due. In addition to other fines or penalties, a person found not in compliance with any provision of this subsection may be ordered by the court to make restitution for attorney's fees and all related costs to the aggrieved party or the Department of Legal Affairs when it provides legal assistance pursuant to this section. The Department of Legal Affairs may provide legal assistance to subcontractors or vendors in proceedings brought against contractors under the provisions of this section.

EXHIBIT B
CONTRACTOR'S PROPOSAL dated January 30, 2012
Contract No. 11-097R/SC