

**REQUEST FOR PROPOSALS  
FOR MANAGEMENT AND OPERATIONS OF  
APPLE COUNTRY PUBLIC TRANSIT SYSTEM  
December 1, 2021**

**HENDERSON COUNTY PLANNING DEPARTMENT  
100 N. KING STREET  
HENDERSONVILLE NC 28792**

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## **HENDERSON COUNTY, NORTH CAROLINA REQUEST FOR PROPOSALS FOR MANAGEMENT AND OPERATIONS APPLE COUNTRY PUBLIC TRANSIT SERVICES**

Henderson County is soliciting a Request for Proposals (RFP) from firms interested in providing **Management and Operations of Public Transportation Services** in accordance with governing regulations of the Federal Transit Administration.

The following criteria are of importance and relevance to the evaluation of this RFP.

- 1) Qualifications and Experience – (35%)** Experience, Personnel Qualifications, Financial Stability
- 2) Project Approach – (25%)** Suitability of Proposed Services and Project Understanding
- 3) Cost - (25%)** Adequacy of fee based on services to be rendered
- 4) Implementation Plan - (15%)** Provision for O&M Facility and Ability to Meet Schedule

TOTAL (Financial & Technical) Maximum of 100 Points

Proposers shall attend a mandatory **Vehicle Inspection Meeting at 1:00 P.M. on December 10, 2021** at the following location.

**HENDERSON COUNTY OFFICES  
KING STREET MEETING ROOM  
100 N. KING STREET  
Hendersonville, NC 28792**

Proposers shall participate in a mandatory **pre-proposal Conference on December 13, 2021 at 2:00 P.M.** The pre-proposal conference will be conducted virtually via Zoom. Proposers shall join the conference at the scheduled time using the following URL:

[https://urldefense.com/v3/https://hendersoncountync.zoom.us/j/85923811681?!!ETWISUBM!nMMzh-UkYOa3\\_4Fmd6wDE9JX4o6Eu42IWYI1y\\_cV\\_oEnkrwpEcfLtGLT1iUaDliXtg\\$](https://urldefense.com/v3/https://hendersoncountync.zoom.us/j/85923811681?!!ETWISUBM!nMMzh-UkYOa3_4Fmd6wDE9JX4o6Eu42IWYI1y_cV_oEnkrwpEcfLtGLT1iUaDliXtg$)

**PROPOSALS WILL BE RECEIVED IN THE HENDERSON COUNTY PLANNING DEPARTMENT OFFICES 100 KING STREET Hendersonville, NC 28792 UNTIL 3:00 P.M. (EDT) LOCAL TIME ON January 10, 2022.**

The HENDERSON COUNTY BOARD OF COMMISSIONERS reserves the right to accept or reject any and all proposals, in whole or part. Proposers should be aware that this RFP is subject to rules and regulations of the Federal Transit Administration. A copy of the document is available on the County's website at <http://www.hendersoncountync.org/rfp/> (click on Bid Downloads)

or by calling (828) 697-4819

**All written questions or communications regarding the document and RFP process must be addressed to:**

Janna Bianculli, Senior Planner, via email: [jbianculli@hendersoncountync.gov](mailto:jbianculli@hendersoncountync.gov)

## APPLE COUNTRY SERVICE PROVIDER REQUEST FOR PROPOSAL (“RFP”)

# 1 GENERAL REQUIREMENTS RELATED TO THE REQUEST FOR PROPOSALS

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## 1.1 INTRODUCTION

Henderson County, North Carolina, a body politic and corporate (“the COUNTY”), will be responsible for planning, scheduling, delivery, management, and operation of fixed route bus service and complementary paratransit service within Henderson County. It is the intent of the COUNTY to retain a Service Provider to provide complete operations, maintenance, fueling, and administration of the Apple Country Public Transit fixed route bus and complementary paratransit service, such that nothing remains to be purchased, provided or supplied by the COUNTY, with the exception of rolling stock County-provided vehicles once useful life requirements have been met, paratransit vehicles, and other items as noted within the provisions of this RFP. The Service Provider will be responsible for supplying administrative staff and facilities; operations and maintenance staff, equipment, fuel, vehicle maintenance and repair, vehicle cleaning services; and other activities as described in Section 4 of this RFP.

The current services are provided with a fleet of six (6) cutaway passenger vehicles for the fixed-route service and one (1) van for the paratransit service. These vehicles are owned by Henderson County and will be provided at no cost to the successful Service Provider for carrying out the scope of work of this contract. The Service Provider will provide fuel, maintenance services, cleaning, and secure parking areas for the vehicles when not in use.

Apple Country Public Transit now operates three local fixed routes: Blue, Red and White, and provides paratransit service within three quarters of a mile of the fixed route. Services are available from Monday through Friday during the hours of 6:30 a.m. through 6:30 p.m. There is currently no Saturday or Sunday bus service. The Apple Country Public Transit Service Plan is described in Section 4.1 of this RFP.

Specific performance standards have been delineated in the RFP in order to achieve the COUNTY’s goal of providing safe, efficient, reliable transit service. Strict adherence to the specified performance standards is required from the Service Provider.

The following sections outline the specific requirements for the Proposals and the RFP process. Proposers are cautioned to read the RFP carefully. Failure to provide all of the requested information may cause the Proposal to be rejected as non-responsive.

The COUNTY reserves the right to waive minor irregularities or information in Proposals.

## 1.2 TYPE OF SOLICITATION

This is an RFP for the services described. Each Proposal will be evaluated in accordance with evaluation criteria outlined in Section 1.13. The COUNTY, through its Board of Commissioners, will award a Contract to the Proposer which the COUNTY deems, in its sole discretion, to be the most qualified.

## 1.3 SOLICITATION SCHEDULE

- |   |                              |
|---|------------------------------|
| ▪ Advertisement of Request for Proposals                  | December 1, 2021             |
| ▪ Site Visit  | December 10, 2021 (1 pm)     |
| ▪ Pre-Proposal Meeting – virtual meeting                  | December 13, 2021 (2 pm)     |
| ▪ Written questions from Proposers due                    | December 15, 2021 (5 pm)     |
| ▪ COUNTY issues responses to Proposers' written questions | December 30, 2021            |
| ▪ Responses due from Proposers                            | January 10, 2022 at (3 pm)   |
| ▪ Oral Interview (may be requested)                       | January 31-February 11, 2022 |
| ▪ Notification of Intent of Contract Award                | February 18, 2022            |
| ▪ New Contract Start-up                                   | July 1, 2022                 |

The COUNTY may amend this schedule by written notice. **All written responses to this RFP are due before 3:00 pm EST on January 10, 2022**

## 1.4 PROPOSAL FORMAT AND CONTENTS

Proposals submitted in response to this RFP shall consist of the Proposer's response to this RFP as described in Section 2. Proposers must provide a proposal using the format in Section 2, which complies fully with the requirements of this RFP. A proposal which uses another format or which does not fulfill all requirements of this RFP may be deemed non-responsive.

Proposals should be clear and concise, and should depict only information that is truly relevant to this project. The COUNTY will be the final authority in determining responsiveness.

## 1.5 SIGNATURE REQUIREMENTS

Proposals must be accompanied by a transmittal letter and signed by a duly authorized officer(s) of the firm. Consortiums, joint ventures, or teams submitting proposals, although permitted and encouraged, will not be considered responsive unless it is established that all contractual responsibility rests solely with one legal entity as SERVICE PROVIDER, which shall not be a subsidiary or an affiliate with limited resources. Each submittal should indicate the entity responsible for execution on behalf of the team.

## 1.6 PROPOSAL SUBMISSION

Apple Country Public Transit Service and Support Proposals must be submitted to Henderson County using the following address and email:

**Henderson County Planning Department**  
**Attention: Janna Bianculli, Senior Planner**  
**100 N. King Street**  
**Hendersonville, NC 28792**  
[jbianculli@hendersoncountync.gov](mailto:jbianculli@hendersoncountync.gov)

Proposers shall submit **eight (8)** completed and sealed copies of their Proposal. The full package and each copy must be labeled "Apple Country Public Transit Service and Support Proposal" and must show the name and address of the firm proposing. Supporting documents may be submitted with the Proposal or in a separate envelope marked "Literature for Transit Proposal to the County" with the Proposer's name indicated on each piece of literature.

The Proposal must also be accompanied by a signed Proposal Transmittal Letter as required in Section 2.3.1.

**Proposals must be received before 3:00 pm EST on January 10, 2022.** Proposals delivered after the appointed time and date will be deemed non-responsive and will be returned unopened and will not be considered.

## 1.7 PROPOSAL EFFECTIVE PERIOD

Each Proposal shall remain open for a period of one hundred and eighty (180) days beginning with the date that proposals are opened.

## 1.8 PRE-PROPOSAL MEETING

A Pre-Proposal meeting will be held virtually on December 13, 2021 at 2 p.m. Attendance at the pre-proposal meeting is mandatory for Proposers. Proposers shall join the conference at the scheduled time using the following URL:

[https://urldefense.com/v3/\\_https://hendersoncountync.zoom.us/j/85923811681\\_!!ETWISUBM!nMMz\\_h-UkYOa3\\_4Fmd6wDE9JX4o6Eu42IWY11y\\_cV\\_oEnkrwpEcfLtGLT1iUaDliXtg\\$](https://urldefense.com/v3/_https://hendersoncountync.zoom.us/j/85923811681_!!ETWISUBM!nMMz_h-UkYOa3_4Fmd6wDE9JX4o6Eu42IWY11y_cV_oEnkrwpEcfLtGLT1iUaDliXtg$)

## 1.9 SITE VISIT

Proposers may inspect the Apple Country Public Transit vehicles as well as vehicle maintenance records on December 10, 2021 between 1:00 and 3:00 pm. Interested parties should report to 100 King Street at 1:00 pm and they will receive directions to the current transit offices. The specific details for the inspections will be made available at 1:00 pm.

The site visitation is mandatory for Proposers.

## 1.10 QUESTIONS

All questions and requests by Proposers concerning this solicitation shall be in writing and shall be directed to:

**Janna Bianculli, Senior Planner**  
**Henderson County**  
**100 N. King Street**  
**Hendersonville, NC 28792**  
jbianculli@hendersoncountync.gov

**CONTACT WITH PERSONNEL OF HENDERSON COUNTY, OTHER THAN THE NAME(S) ABOVE, REGARDING THIS REQUEST FOR PROPOSALS MAY BE GROUNDS FOR ELIMINATION FROM THE SELECTION PROCESS. NO COMMUNICATION WITH PERSONNEL OF HENDERSON COUNTY, OTHER THAN THE NAME(S) ABOVE, WILL BE CONSIDERED IN ANY WAY BINDING ON HENDERSON COUNTY.**

Responses to any communication will be made available to all known prospective Proposers.

Proposers are cautioned, however, that no prior, current, or post-award conversations, representation or agreement(s) with any officer, agent, or employee of the COUNTY shall affect or modify any terms or obligations of the RFP or any Contract resulting from this procurement.

## 1.11 REVISIONS TO RFP

The COUNTY may issue Addenda to the RFP if it deems necessary or advisable to do so to revise any part of the RFP or to give additional information. All Addenda will be provided to each prospective Proposer identified to the COUNTY. All Addenda shall be acknowledged by date and number in the Proposer's Proposal using the template provided in (Attachment VII Addendum Acknowledgement) Section 2.3.14.

## 1.12 EVALUATION AND NEGOTIATIONS

An Evaluation Committee has been established to review and evaluate all Proposals submitted in response to this RFP. The Evaluation Committee will conduct a preliminary evaluation of all Proposals to determine if all the requested information has been provided. Any Proposals not containing all of the requested information may be declared non-responsive and may be withdrawn from further consideration.

All Proposals determined to be responsive will be evaluated against the established criteria. The Evaluation Committee may request clarifications, in writing, to any element of the Proposer's Proposal package. Such clarifications shall be requested, in writing, by the COUNTY's representative, and shall specify the information requested and the response date required.

The Evaluation Committee may choose to hold oral interviews with the highest rated Proposers. If a Proposer is invited to the interview, the Proposer's Key Management personnel must be available at the interview, including, at minimum, the proposed General Manager, Maintenance Manager and a responsible senior management employee. The COUNTY may choose, at its sole

discretion, to not interview all Proposers or to award a Contract without conducting any oral interviews.

The Committee may or may not choose to conduct negotiations with Proposers within a competitive range. If the Committee chooses to conduct negotiations, the Proposers will be requested to submit "best and final" offers. Such offers shall include any modifications made to Proposals. The Evaluation Committee shall review the "best and final" offers and conduct a final evaluation of Proposals based on the Evaluation Criteria. The Evaluation Committee will recommend the top ranked Proposer for approval by the COUNTY Board of Commissioners.

### 1.13 EVALUATION CRITERIA

Proposals will be evaluated in accord with North Carolina General Statutes and against the following criteria (all percentages are approximate and are not intended to be precise):

#### **I. Qualifications/Experience (35%)**

- Proposer's experience in performing transit service of similar scope and complexity
- Qualifications and experience of proposed General Manager, Maintenance Manager and other key personnel
- Financial stability of Proposer
- Up to three references

#### **II. Approach to Providing Transit Services and Support (25%)**

- Understanding of requirements
- Suitability of proposed services and support
- Provision of Start-up Plan

#### **III. Cost Proposal (25%)**

- Reasonableness of proposed rates and allocation of resources

#### **IV. Ability to Implement (15%)**

- Provisions for O&M Facility
- Ability to meet Implementation Schedule

### 1.14 CONTRACT AWARD AND CONDITIONS

The Contract will be awarded to the most qualified Proposer whose offer conforms to the Request for Proposals and whose offer is most advantageous to the COUNTY using the process outlined in Section 1.12 Evaluation and Negotiations and 1.13 Evaluation Criteria.

Section 3 of this RFP contains a proposed Contract. Section 4 of this RFP specifies the Scope of Work required for this project. The successful Proposer to whom an award is made is required to enter into a Contract with the COUNTY substantially similar to the proposed Contract. Any changes to the terms and conditions shall be mutually agreed upon and incorporated in writing into the final executed document.

### 1.15 COMPLIANCE WITH FEDERAL LAWS AND REGULATIONS

The project will be funded in part by grants from the Federal government. The proposed Contract includes the requirements related to this funding. Federally required Contract clauses are included in Appendix A. By submitting a proposal, the Proposer agrees with all the federal clauses.

In addition, the Proposer must submit with its Proposal completed representations or certifications provided in Section 2 of this RFP. Not doing so will be a reason for unresponsiveness.

### 1.16 RESERVED RIGHTS

The COUNTY reserves the right to reject any or all Proposals and to waive what it considers to be informalities and minor irregularities in Proposals received. The COUNTY reserves the right to accept a Proposal other than the lowest cost Proposal.

The COUNTY also reserves the right to enter into a Contract with any Proposer based upon the initial Proposal or on the basis of a "best and final" offer without conducting oral discussions.

Any Contract resulting from this RFP will be financed in part with funds available to the COUNTY through grants from Federal Transit Administration. The obligations of the COUNTY are contingent upon receipt of those requested federal funds by the COUNTY. In the event that funding from this source is eliminated or decreased, the COUNTY reserves the right to terminate this Contract or to modify it accordingly.

### 1.17 IMPLEMENTATION SCHEDULE

Apple Country Public Transit's existing transit services shall not be disrupted as a result of the implementation of the Service Contract. All Proposers shall submit a Transition Plan that guarantees a smooth transition for all transit system service and support. That plan should provide for safe, uninterrupted service, focusing on bus operations, maintenance, employees and customer relations.

Following award of Contract and execution of the Contract, the COUNTY will issue a Notice to Proceed to the SERVICE PROVIDER, which will specify that the SERVICE PROVIDER will assume full responsibility for all service components on July 1, 2022.

### 1.18 PRE-CONTRACTUAL EXPENSES

Upon receipt of a Proposal by the COUNTY, the Proposal shall be the property of the COUNTY, without compensation to the Proposer, for disposition or usage by the COUNTY at its discretion. Expenses incurred by Proposers in:

- 1) Preparing the Proposal in response to this RFP and submitting the Proposal
- 2) Negotiating with the COUNTY on any matter related to the Proposal, and
- 3) Any other expense incurred by the Proposer prior to the date of Contract award shall not be the liability of the COUNTY.



The COUNTY and its agents, servants and employees shall be held harmless from any liability, claims, or expenses incurred by, or on behalf of, any person or organization in responding to this RFP.

### 1.19 CONTENTS OF CONTRACT

The Contract resulting from this Request for Proposal will consist of the following:

Request for Proposal Scope of Work and Addenda, Contract Provisions described in Section 3, the SERVICE PROVIDER's Proposal and modifications mutually agreed upon by the COUNTY and the SERVICE PROVIDER between the Contract award and execution of the Contract, and the SERVICE PROVIDER's plans developed prior to service start-up.

## 2 INSTRUCTIONS TO PROPOSERS

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This section provides specific instructions for the Proposals to be submitted for this solicitation.

### 2.1 DOCUMENTS

A complete set of Proposal documents shall be used in preparing the Proposal. The COUNTY assumes no responsibility for errors or misinterpretations resulting from the use of incomplete sets of documents.

Each Proposer should carefully examine these documents and take such other steps as may be reasonably necessary to ascertain the nature of the work and the conditions which can affect the work or the cost thereof. Failure to do so will not relieve Proposers from responsibility for estimating properly the difficulty or cost of successfully performing the work.

Responsive Proposals are those complying in all material aspects of the solicitation. Proposals which do not comply with all the requirements of the solicitation may be rejected as non-responsive.

### 2.2 PREPARATION OF PROPOSAL

A Proposal shall be submitted on the forms furnished, or copies thereof; shall be completed in ink or by typewriter, and, shall be manually signed. If erasures or other changes appear on the forms, each erasure or change shall be initialed by the person signing the Proposal.

If a Proposal is from an individual, sole proprietorship, or a Proposer operating under a trade name, the Proposal shall be signed by that individual.

A Proposal by a partnership shall be executed in the partnership name and signed by a partner; the official address of the partnership shall be shown below the signature.

A Proposal by a corporation shall be executed in the corporate name by the president or a vice-president (or other corporate officer accompanied by evidence of authority to sign) and the corporate seal shall be affixed and attested by the corporate secretary or assistant secretary.

A Proposal submitted by a joint venture shall list the name of the joint venture, the mailing address, and shall be executed by all joint ventures in the same manner as if they were individually submitting Proposals. The signature portion of the Proposal form shall be altered as appropriate for execution by the joint venture and all joint ventures. However, this is subject to the provisions of Section 1.5, above.

## 2.3 PROPOSAL CONTENT AND FORMAT

The following outlines the format and required content of Proposals to be submitted to the COUNTY in response to this RFP. Proposers must submit material in the following sequence:

### 2.3.1 Proposal Transmittal Letter

Executed Proposal Transmittal Letter as shown in Attachment I.

### 2.3.2 General Information (to be completed on a separate page)

1. Name of Proposer
2. Full address of Proposer's principal office
3. Proposer's telephone number
4. Name(s), telephone number(s), fax number(s) and addresses if different from above, of primary contact(s) in Proposer's organization with responsibility for responding to this RFP to whom matters regarding this RFP should be directed.
5. Indicate whether Proposer is an individual, partnership, corporation or joint venture. If the Proposer is a consortium, joint venture or team, indicate the entity responsible for the Proposal.
6. If a partnership, list names and addresses of partners; if a corporation, list names of officers, directors and shareholders and state of incorporation; if a joint venture, list names and addresses of ventures and, if any venture is a corporation, partnership, or joint venture, list the same information for each such corporation, partnership and joint venture.
7. Vendor Information Form as shown in Attachment X

### 2.3.3 Required Certifications

#### 1. DBE Participation

The Proposer must submit one of the following forms to demonstrate DBE participation or document their good faith efforts to solicit DBE participation:

- Schedule of participation by DBE firms – Attachment II

OR

- DBE unavailability certification – Attachment III

2. Certification regarding Lobbying. (Attachment IV)
3. Certification regarding Debarment, Suspension and Other Responsibility Matters. (Attachment V)
4. Certification Regarding Non-Segregated Facilities (Attachment VI)

## 5. Affidavit of Non-collusion (Attachment IX)

### 2.3.4 Addenda

Provide acknowledgement, by number and date issued, of each addendum to this RFP issued by the COUNTY and received by Proposer. (Completed Attachment VII).

### 2.3.5 Proposer's Qualifications

(To be completed on separate pages)

#### 1. Experience

Provide the following information:

- a. Number of years that Proposer has been in the public transportation business.
- b. Number of years of experience Proposer has had in public transportation services similar to those required in the RFP, as a service provider and/or also as a subcontractor.
- c. List projects that Proposer currently has underway. Include the following information for each project
  1. Name and telephone number of client contact
  2. Contract price
  3. Description of transportation services provided, including size of service
  4. Length of Contract
  5. Performing service as a prime or subcontractor
- d. List other projects that Proposer has completed during the last five years that demonstrate qualifications to perform the work of this RFP. For joint venture or partnership work, name the other individuals or companies and indicate who was the sponsoring individual or company. Include information on the project including the following: client, name and telephone number of contact, description on transportation services provided, length of Contract and reason for termination (if applicable).
- e. Provide a list of clients that Proposer no longer serves. Include a contact person and telephone number for each former client.
- f. State whether or not any arbitration or litigation has occurred or is pending or threatened by or against Proposer or any officer or partner of Proposer relating to performance under a contract by Proposer or Proposer's predecessors. Give details.

- g. Provide any other information (including appropriate business references) describing Proposer's experience and past performance in providing transportation services.

## 2. Key Personnel

**General Manager** - Provide a resume for the General Manager your firm is proposing. Include education, experience (including location) and accomplishments.

**Transportation & Maintenance Managers** – Provide resumes of your proposed Transportation and Maintenance Managers. Include education, experience (including location) and accomplishments.

**Management Support Team** – Describe how your firm will support the General Manager's efforts. Discuss the resources and services which your firm will provide at no extra charge as part of the Contract.

## 3. Financial Responsibility

Provide information relating to the financial condition of Proposer, including information demonstrating that it has the necessary financial resources to meet the requirements shown in this RFP. This information will include:

- a. Audited balance sheets of Proposer for the last three fiscal years.
- b. Audited consolidated balance sheets of Proposer and its subsidiaries, if any, for the last three fiscal years.
- c. Audited statements of income and stockholders' equity, if any, and changes in the financial position of the Proposer for its last three years.
- d. Audited consolidated statements of income and stockholders' equity, if any, and changes in the financial position of Proposer and its subsidiaries, if any, for the last three fiscal years.
- e. Unaudited balance sheets of Proposer and unaudited balance sheets of Proposer and its subsidiaries, if any, for interim quarterly periods since close of its last fiscal year.
- f. State whether or not Proposer, its predecessors, or its principals have been involved in bankruptcy. If so, give details.
- g. Evidence of ability to obtain the specified amounts of insurance in the form of a written commitment from an insurance company authorized to do business in the State of North Carolina.

## 2.3.6 Proposer's Approach to Providing Services and Support

(To be completed on separate pages)

### 1. Understanding of Requirements

After studying this RFP, including the Scope of Work Section 4, provide a statement demonstrating an understanding of the services and support required by this RFP of the SERVICE PROVIDER for each service type. Keep in mind that all elements of services and support needed to meet the requirements of this RFP which are not listed as responsibilities of the COUNTY and/or the County in Section 4.2, are assumed to be responsibilities of the SERVICE PROVIDER.

### 2. Description of Approach

- a. Provide a brief summary of Proposer's operating philosophy
- b. Provide a brief summary of how Proposer intends to fulfill SERVICE PROVIDER's requirements in this RFP
- c. Outline proposed approach to meeting each of the specific responsibilities outlined in the Scope of Work SERVICE PROVIDER's Duties and Responsibilities (Section 4.3)

### 3. Operations

For both the fixed route and paratransit programs, outline methodology that Proposer will use to ensure quality control of the on-street operation. This is to include on-time performance, operators' adherence to rules and regulations, maintenance vehicle exchanges, use of extra vehicles to minimize loss of service, ADA requirements, and customer service.

The paratransit component must specifically identify strategies to be employed for addressing service quality and efficiency. Provide proposed schedules and record keeping practices that will meet ADA requirements and discuss how these activities will be maintained during all service hours. Submit report samples and forms addressing all aspects of the operations, including drivers' pre-trip and post-trip inspections, on time performance checks, monitoring of operators' performance, dispatch logs, daily operations reports, and vehicle assignments.

Discuss how the paratransit certification review process and the recertification process will be accomplished. Describe how paratransit reservations and schedules will be processed.

Provide proposed schedules for dispatching and supervision for the Apple Country Public Transit service routes and discuss how the activities will be maintained during all service hours.

Submit report samples and forms addressing all aspects of the operations, including drivers' pre-trip and post-trip inspections, on time performance

checks, monitoring of operators' performance, dispatch logs, daily operations reports, and vehicle assignments.

#### **4. Safety**

Provide description of Proposer's comprehensive safety program, including accident prevention; road, equipment and facility monitoring; emergency preparation; and accident response, investigation, and reporting procedures.

Indicate how Proposer will comply with all requirements relating to the federal Drug and Alcohol Testing Program and Americans with Disabilities Act.

#### **5. Customer Service**

Describe Proposer's methods for investigating, responding to, and tracking customer complaints, inquiries and concerns.

Outline provisions for selling transit tickets and passes to the public on board buses and at the SERVICE PROVIDER's operations and maintenance facility.

Describe management of a lost and found program.

Describe methods and procedures for issuing photo identification cards to the elderly and disabled for discount fare programs.

#### **6. Maintenance**

Provide description of Proposer's comprehensive maintenance program that will meet the requirements of the Federal Transit Administration and the COUNTY's requirements as specified in Section 4.3.8. The plan must include the following components: preventative maintenance program, vehicle and equipment repairs, air conditioning and heating maintenance and repair program, parts inventory, and record keeping and accounting system.

Identification of what maintenance activities will be done in-house and identify those that will be contracted out.

Describe approach to monitoring and repairing accident damage.

Describe methodology to ensure quality control of the maintenance program, including follow-up on defective items.

#### **7. Servicing and Cleaning**

Describe the proposed plan for daily and periodic detailed cleaning, together with a checklist for each type of cleaning and servicing operation. The plan should delineate how the appearance of the bus fleet will be maintained.

## **8. Operations and Maintenance Plan**

Provide a detailed description of the location, functions and capabilities of the proposed Operations and Maintenance (O&M) location. The description should include specific information regarding the location, size of the facility, including access/egress and ability to secure park vehicles overnight. Include location of maintenance facility if that activity is to be subcontracted. Include number of maintenance bays, bus washing area and method for washing, and employee parking.

SERVICE PROVIDER should also specify whether this is an existing site owned and/or operated by the SERVICE PROVIDER, whether it is contingent upon future purchase or lease agreement, what modifications (if any) to the site will be necessary, and whether the costs and time to complete these modifications has been included in both the Technical and Cost Proposals.

SERVICE PROVIDERS are encouraged to attach maps, drawings, or other supporting documentation that describes the proposed O&M facility and improvements deemed necessary to the site. SERVICE PROVIDERS should also list any and all zoning variances and other permits necessary to improve, occupy and operate from this facility.

## **9. Revenue Collection, Reconciliation and Deposit**

Outline program for collection, counting, and reconciliation of passenger fares and ticket and pass revenues, including a specific identification of procedures to ensure the proper safeguarding and reporting of fares.

## **10. Records and Reports**

Define records and reporting program that encompasses all aspects of the operation and meets the County requirements.

Provide detailed description for electronic or manual tracking of required National Transit Database data.

## **11. Personnel**

Provide proposed organization chart and staffing plan, indicating organization structure, number of management and staff employee positions by division, fulltime or part-time status of each employee, and salary and benefit schedules for each employee classification.

The Staffing Plan should describe the skills and experience required of each of the employees, and the overall training program that will be implemented to ensure that all personnel meet satisfactory standards of knowledge.

The plan must also address strategies that will be adopted for recruitment and retention of employees to address the challenges associated with the labor market in the Western North Carolina Region.



## 12. Transition

Proposers should submit a time schedule which sets forth the sequence of events and associated time requirements to be undertaken from the Contract award through the first full month of system operations under the Contract. The time schedule must provide for the transition to the new Contract on July 1, 2022.

This section must be completed by all Proposers. The existing SERVICE PROVIDER must include a discussion of how the transition to a new provider would be accomplished.

### 2.3.7 Cost Proposal

The Proposer shall provide a firm fixed Cost Proposal for services outlined in this RFP. The Cost Proposal should set forth the firm fixed cost which the prospective SERVICE PROVIDER would propose to charge for the services specified herein on an annual basis for three base years plus three one-year options.

The Cost Proposal should be based on the characteristics of the current service, including route structure, mileage, revenue hours and deadhead hours as outlined in Section 4. Proposers should be aware that this service is subject to change should circumstances dictate. If the COUNTY increases or decreases the amount of service by greater or less than fifteen percent (15%) of the existing service level, new rates for that service will be negotiated for the remainder of that portion of the Contract. All service revisions will be based upon the revenue hours at the start of the Contract and will be calculated separately for each service (i.e., fixed route service and paratransit). Revenue hours will be the only variable affecting the cost, and not mileage, or peak fleet requirements.

**In addition to other general certifications, Proposers shall submit the following completed Attachments:**

Attachment VIII-1	Annual Fixed Route Costs
Attachment VIII-2	Annual Paratransit Costs
Attachment VIII-3	Mobilization Costs
Attachment VIII-4	Proposed Wage Rates
Attachment VIII-5	Fuel
Attachment VIII-6	O&M Facility Improvement and Modification Costs
Attachment VIII-7	Cost Summary

2.3.8 ATTACHMENT I - PROPOSAL TRANSMITTAL LETTER

The undersigned, \_\_\_\_\_, hereby submits its Proposal to provide fixed route bus and paratransit system service and support for Apple Country Public Transit pursuant to the Request for Proposals/Apple Country Public Transit Bus System Service and Support (the "RFP"), delivered to the undersigned by Henderson County, North Carolina (the COUNTY).

The undersigned acknowledges and agrees that the Proposal submitted by the undersigned shall be binding upon the undersigned and that if the COUNTY awards the Contract to the undersigned, the Proposal made by the undersigned and delivered to the COUNTY herewith, together with such award, will constitute a legal, valid and binding Contract between the undersigned and the COUNTY. The Contract created pursuant to the previous sentence shall incorporate the terms and conditions of the RFP including, but not limited to, the RFP Scope of Work, Solicitation instructions and Conditions, the Contract Provisions and the Contractor's Pricing Sheets, all as described in the RFP.

IN WITNESS WHEREOF, the undersigned has duly executed and delivered this Proposal Transmittal Letter this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

By: \_\_\_\_\_

Title: \_\_\_\_\_

Sworn to and subscribed

Before me this \_\_\_\_ day

of \_\_\_\_\_, 2022.

\_\_\_\_\_

Notary Public

My Commission Expires:

\_\_\_\_\_

Date

## **INSTRUCTIONS FOR COMPLETING DBE FORMS**

### **Instructions for Attachment II. Schedule of DBE Participation.**

The Proposer must submit the following information regarding the proposed participation of DBE firm in this contract:

- a) The names and addresses of DBE firms that will participate in the contract. All DBE firms must be certified by a government agency or authority. A copy of the certification requirements must be provided to:  

Henderson County  
Attention: Janna Bianculli  
100 North King Street  
Hendersonville, North Carolina 28792
- b) A description of the work that each DBE will perform;
- c) The dollar amount of the participation of each DBE firm participating;
- d) A written and signed confirmation from the DBE firm that it is participating in the contract as provided in the prime contractor's commitment;
- e) A calculation of the DBE participation percentage, divide the dollar value of all DBE participation by the total value of the contract; and,
- f) A written and signed documentation of commitment to use all proposed DBE subcontractors.
- g) If additional pages are needed, please add using this format.

### **Instructions for Attachment III. DBE Unavailability Certification**

In completing the DBE Unavailability Certification, the contractor must assure that they have undertaken the following as evidence of making a good faith effort:

- a) Whether the contractor attended any pre-solicitation or pre-bid meetings that were scheduled by the recipient to inform DBEs of contracting and subcontracting opportunities;
- b) Whether the contractor advertised in a general circulation, trade association, and/or minority focus media concerning the subcontracting opportunities;
- c) Whether the contractor provided written notice to a reasonable number of specific DBEs that their interest in the contract was being solicited, in sufficient time to allow the DBEs to participate effectively;
- d) Whether the contractor followed up initial solicitations of interest by contacting DBE's to determine with certainty whether the DBEs were interested;

- e) Whether the contractor selected portions of the work to be performed by DBEs in order to increase the likelihood of DBE participation (including, where appropriate, breaking down contracts into economically feasible units to facilitate DBE participation);
- f) Whether the contractor provided interested DBEs with adequate information about the plans, specifications, scope of work and requirements of the contract;
- g) Whether the contractor negotiated in good faith with interested DBEs, not rejecting DBE's as unqualified without sound reasons based on a thorough investigation of their capabilities;
- h) Whether the contractor made efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance required by the recipient or contractor; and,
- i) Whether the contractor effectively used the services of available minority community organizations, minority contractor groups, local, state and Federal minority business assistance offices, and other organizations that provide assistance in the recruitment and placement of DBEs.

For further guidance and additional steps to take concerning the good faith efforts, see 49 CFR 23, Federal Register, Volume 46, Number 80, final rule 4/27/81, as amended by Volume 48, Number 141, final rule, 8/22/83.

2.3.9 ATTACHMENT II - SCHEDULE OF PARTICIPATION BY DBE FIRMS

**DBE Firm - #1**

Firm Name \_\_\_\_\_

Address \_\_\_\_\_

Description of Work \_\_\_\_\_

Dollar Value \_\_\_\_\_

**Confirmation by DBE Firm - #1**

Firm Name \_\_\_\_\_

Signature \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

**DBE Firm - #2**

Firm Name \_\_\_\_\_

Address \_\_\_\_\_

Description of Work \_\_\_\_\_

Dollar Value \_\_\_\_\_

**Confirmation by DBE Firm #2**

Firm Name \_\_\_\_\_

Signature \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

**DBE Firm - #3**

Firm Name \_\_\_\_\_

Address \_\_\_\_\_

Description of Work \_\_\_\_\_

Dollar Value \_\_\_\_\_

**Confirmation by DBE Firm #3**

Name of Firm \_\_\_\_\_

Signature \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

**DBE Summary Sheet**

Total Dollar Value of all DBE Participation \$ \_\_\_\_\_

Total Cost of Work \$ \_\_\_\_\_

Total Percent of DBE Participation \_\_\_\_\_ %

**Certification and Commitment by Proposer**

\_\_\_\_\_ certifies that the information provided on the DBE program is true and correct and that the firm has committed to this level of DBE participation on this project.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

2.3.10 ATTACHMENT III - UNAVAILABILITY CERTIFICATION OF DISADVANTAGED BUSINESS ENTERPRISES

Project Number: \_\_\_\_\_

Contractor's Name: \_\_\_\_\_

In order to demonstrate a good faith effort to utilize Disadvantaged Business Enterprises contractors, Proposers must respond to either Item A or Item B below:

**ITEM A**

Name, Address, AND Telephone Number of DBE firms contacted	Dates Contacted	Amount of Participation	Method of Contact	Results

Name, Address, AND Telephone Number of DBE firms contacted	Dates Contacted	Amount of Participation	Method of Contact	Results



**ITEM B**

There exists no opportunity for subcontracting as a part of this project. It is the general practice of \_\_\_\_\_  
(Name of Proposer)

to perform all work of this nature solely with its own work force and to do otherwise would constitute a violation of industry standards.

**Certification**

I, \_\_\_\_\_, \_\_\_\_\_  
(Persons Name) (Title)

of \_\_\_\_\_, do hereby  
(Name of Firm)

certify that the above information is true and correct, and that I have made a good faith effort as documented in Item A to obtain Disadvantaged Business Enterprise participation in the performance of this contract.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

## 2.3.11 ATTACHMENT IV - LOBBYING

**31 U.S.C. 1352  
49 CFR Part 19  
49 CFR Part 20****Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, et seq.] –**

Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-federal funds with respect to that federal contract, grant, or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.

**APPENDIX A, 49 CFR PART 20--CERTIFICATION REGARDING LOBBYING**

Certification for Contracts, Grants, Loans, and Cooperative Agreements

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

The undersigned [Contractor] certifies, to the best of his or her knowledge and belief, that:

1. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
2. If any funds other than federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form--LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, et seq)]

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

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

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

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

Signature of Contractor's Authorized Official

---

Name and Title of Contractor's Authorized Official

---

Date

---

2.3.12 ATTACHMENT V - GOVERNMENT-WIDE DEBARMENT AND SUSPENSION

**49 CFR Part 29  
Executive Order 12549**

**Certification Regarding Debarment, Suspension, and Other  
Responsibility Matters**

The Contractor, \_\_\_\_\_, certifies to the best of its knowledge and belief, that its principals;

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
2. Have not within a three-year period preceding this bid been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with the commission of any offenses enumerated in paragraph (2) of this certification; and
4. Have not within a three-year period preceding this Bid had one or more public transactions (Federal, State or local) terminated for cause or default.

Where the Contractor is unable to certify to any of the statements in this certification, such participant shall attach an explanation to this Bid.

The CONTRACTOR, \_\_\_\_\_, CERTIFIES OR AFFIRMS the TRUTHFULNESS AND ACCURACY OF the CONTENTS OF the STATEMENTS SUBMITTED ON OR WITH THIS CERTIFICATION AND UNDERSTANDS THAT the PROVISIONS OF 31 U.S.C. SECTIONS 3801 ET SEQ. ARE APPLICABLE the RETO.

\_\_\_\_\_  
Signature of Authorized Official

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Title of Authorized Official

\_\_\_\_\_  
Date

2.3.13 ATTACHMENT VI - CERTIFICATION BY PROPOSER REGARDING NON-SEGREGATED FACILITIES

The Proposer certifies that he does not, and will not, provide and maintain segregated facilities for his employees at his establishments and, further that he does not, and will not, permit his employees to perform their services at those locations, under his control, where segregated facilities are provided and maintained. Segregated facilities include, but are not necessarily limited to drinking fountains, transportation, parking, entertainment, recreation, and housing facilities; waiting, rest, wash, dressing, and locker rooms, and time clock, work, storage, restaurant, and other eating area which are set apart in fact, or by explicit directive, habit, local custom, or otherwise, on the basis of color, creed, national origin, and race. The Proposer agrees that, except where he has obtained identical certifications from proposed subcontractors for specific time periods, he will obtain identical certifications from proposed subcontractors prior to the award of subcontracts exceeding \$10,000.00 which are not exempt from the provisions of the Equal Opportunity clause, and that he will retain such certifications in his files.

The Proposer agrees that a breach of this certification is a violation of the Equal Opportunity clause in this Contract. The penalty for making false statements is prescribed in 18 U.S.C. 1001.

\_\_\_\_\_  
Contractor

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
Name and Title of Signer

\_\_\_\_\_  
Date

2.3.14 ATTACHMENT VII - ADDENDUM ACKNOWLEDGEMENT

This form is for the acknowledgement of addendum and the date the Proposer received the addendum.

Number of Addendum	Date Received	Name of Person Receiving Addendum
1		
2		
3		
4		
5		
6		
7		

\_\_\_\_\_  
Contractor

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
Name and Title of Signer

\_\_\_\_\_  
Date

## 2.3.15 ATTACHMENT VIII-1 – FIXED ROUTE COST PROPOSAL

<b>SERVICE CONTRACT REQUEST FOR PROPOSAL</b>						
<b>FIXED ROUTE COST PROPOSAL</b>						
<b>Expenses</b>	<b>Base Year 1: July 1, 2022 to June 30, 2023</b>	<b>Base Year 2: July 1, 2023 to June 30, 2024</b>	<b>Base Year 3: July 1, 2024 to June 30, 2025</b>	<b>Optional Year 1: July 1, 2025 to June 30, 2026</b>	<b>Optional Year 2: July 1, 2026 to June 30, 2027</b>	<b>Optional Year 3: July 1, 2027 to June 30, 2028</b>
<b>Operations Cost</b>	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Management/Administration	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Dispatching	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Road Supervision	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Operator Training	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Vehicle Operation	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
CNG/Gas Fuel for Revenue Vehicle	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Other Costs (specify)	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
<b>Total Operations Cost</b>	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
<b>Maintenance Costs</b>						
Management/Administration	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Supervisor/Foreman	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Mechanics	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Servicepersons & Cleaners	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Other Maintenance Labor	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Materials & Supplies	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Spare Parts	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Revenue Vehicle Tires	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Maintenance Support Vehicles	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Fare Collection System	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Fluids, Lubricants, Oil	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Maintenance Parts & Supplies	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00

Maintenance Software	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Tools & Minor Equipment	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Other Costs (specify)	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
<b>Total Maintenance Costs</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>
<b>Administration Cost</b>						
Management/Administration	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Personnel	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Accounting/Finance	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Claims/Insurance	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Customer Service	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Professional Services (specify)	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Utilities	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Leases & Rentals	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Uniforms for Drivers	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Fee or Profit	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Other Costs (specify)	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
<b>Total Administrative Cost</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>
<b>Total Annual Cost</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>
<b>Total Annual Revenue Hours</b>	<b>8,976</b>	<b>8,976</b>	<b>8,976</b>	<b>8,976</b>	<b>8,976</b>	<b>8,976</b>
<b>Annual Cost per Revenue Hour</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>

## NOTES:

1. Mobilization Costs should NOT be included in annual hourly costs for fixed route and paratransit operations.
2. For items that indicate "specify", submit separate page(s) listing capital and operating items, with cost of each item.
3. Total Annual Revenue Hours are based on FY2019 actuals.



## 2.3.16 ATTACHMENT VIII-2 – PARATRANSIT COST PROPOSAL

<b>SERVICE CONTRACT REQUEST FOR PROPOSAL</b>						
<b>PARATRANSIT COST PROPOSAL</b>						
<b>Expenses</b>	<b>Base Year 1: July 1, 2022 to June 30, 2023</b>	<b>Base Year 2: July 1, 2023 to June 30, 2024</b>	<b>Base Year 3: July 1, 2024 to June 30, 2025</b>	<b>Optional Year 1: July 1, 2025 to June 30, 2026</b>	<b>Optional Year 2: July 1, 2026 to June 30, 2027</b>	<b>Optional Year 3: July 1, 2027 to June 30, 2028</b>
<b>Operations Cost</b>	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Management/Administration	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Dispatching	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Road Supervision	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Operator Training	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Vehicle Operation	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
CNG/Gas Fuel for Revenue Vehicle	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Gasoline for Non-Revenue Vehicles	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Other Costs (specify)	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
<b>Total Operations Cost</b>	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
<b>Maintenance Costs</b>						
Management/Administration	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Supervisor/Foreman	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Mechanics	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Servicepersons & Cleaners	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Other Maintenance Labor	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Materials & Supplies	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Spare Parts	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Revenue Vehicle Tires	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Maintenance Support Vehicles	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Fare Collection System	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Fluids, Lubricants, Oil	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Maintenance Parts & Supplies	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00

Maintenance Software	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Tools & Minor Equipment	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Other Costs (specify)	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
<b>Total Maintenance Costs</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>
<b>Administration Cost</b>						
Management/Administration	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Personnel	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Accounting/Finance	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Claims/Insurance	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Customer Service	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Professional Services (specify)	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Utilities	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Leases & Rentals	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Uniforms for Drivers	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Fee or Profit	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Other Costs (specify)	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
<b>Total Administrative Cost</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>
<b>Total Annual Cost</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>
<b>Total Annual Revenue Hours</b>	<b>642</b>	<b>642</b>	<b>642</b>	<b>642</b>	<b>642</b>	<b>642</b>
<b>Annual Cost per Revenue Hour</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>	<b>\$0.00</b>

## NOTES:

1. Mobilization Costs should NOT be included in annual hourly costs for fixed route and paratransit operations.
2. For items that indicate “specify”, submit separate page(s) listing capital and operating items, with cost of each item.
3. Total Annual Revenue Hours are based on FY2019 actuals.

## 2.3.17 ATTACHMENT VIII-3 – MOBILIZATION COST PROPOSAL

<b>SERVICE CONTRACT REQUEST FOR PROPOSAL</b>					
<b>COST PROPOSAL</b>					
<b>MOBILIZATION COSTS – April 4, 2022 through June 30, 2022</b>					
<b>Expenses</b>	<b>Average Hourly Wage Rate</b>	<b>Total Pay Hours</b>	<b>Units</b>	<b>Unit Cost</b>	<b>Total Cost</b>
<b>Labor Costs</b>					
General Manager Wages	\$0.00	0	n/a	n/a	\$0.00
Maintenance Manager Wages	\$0.00	0	n/a	n/a	\$0.00
Transportation Manager Wages	\$0.00	0	n/a	n/a	\$0.00
Drivers Wages	\$0.00	0	n/a	n/a	\$0.00
Mechanics Wages	\$0.00	0	n/a	n/a	\$0.00
Supervisor Wages	\$0.00	0	n/a	n/a	\$0.00
Other Personnel Wages	\$0.00	0	n/a	n/a	\$0.00
Fringe Benefits	n/a	n/a	0.00%	n/a	\$0.00
<b>Total Labor</b>	n/a	0	n/a	n/a	\$0.00
<b>Materials &amp; Capital costs</b>					
Insurance	n/a	n/a	0	\$0.00	\$0.00
Telephone	n/a	n/a	0	\$0.00	\$0.00
Revenue Vehicle Tires	n/a	n/a	0	\$0.00	\$0.00
Oil, Lubricants	n/a	n/a	0	\$0.00	\$0.00
Cleaning Materials & Supplies	n/a	n/a	0	\$0.00	\$0.00
Maintenance Parts & Supplies	n/a	n/a	0	\$0.00	\$0.00
Fuel	n/a	n/a	0	\$0.00	\$0.00
Contract Services	n/a	n/a	0	\$0.00	\$0.00
O&M Facility Modifications	n/a	n/a	0	\$0.00	\$0.00
Major Equipment (specify)	n/a	n/a	0	\$0.00	\$0.00
Tools & Minor Equipment	n/a	n/a	0	\$0.00	\$0.00
<b>Total Materials &amp; Capital Costs</b>	n/a	n/a	0	\$0.00	\$0.00
<b>Other Costs</b>					
Central Office Support					
Fee or Profit					
Other (Itemize)					
<b>Total Other Costs</b>					<b>\$0.00</b>
<b>Total Mobilization Costs</b>					<b>\$0.00</b>

## NOTES:

1. Mobilization Costs should NOT be included in annual hourly costs for fixed route and paratransit operations.
2. Mobilization Costs should INCLUDE O&M Facility procurement and modification costs specified in Attachment VIII-6.
3. Mobilization Costs exclude costs attributed to preparation of this proposal, contract negotiations, etc.

**2.3.18 ATTACHMENT VIII-4 – WAGE RATES PROPOSAL**

<b>SERVICE CONTRACT REQUEST FOR PROPOSAL</b>												
<b>COST PROPOSAL</b>												
<b>PROPOSED WAGE RATES</b>												
<b>Position</b>	<b>Starting Rates for New Employee</b>						<b>Average Hourly Rate</b>					
	<b>Year 1</b>	<b>Year 2</b>	<b>Year 3</b>	<b>Year 4</b>	<b>Year 5</b>	<b>Year 6</b>	<b>Year 1</b>	<b>Year 2</b>	<b>Year 3</b>	<b>Year 4</b>	<b>Year 5</b>	<b>Year 6</b>
General Manager	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Transportation Manager	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Maintenance Manager	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Driver	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Mechanic	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Road Supervisor/Dispatcher	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Maint. Supervisor/Foreman	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Service Worker/cleaner	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Clerical	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Trainer/Instructor	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Other (specify)	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00

**2.3.19 ATTACHMENT VIII-5 – FUEL COST PROPOSAL**

<b>SERVICE CONTRACT REQUEST FOR PROPOSAL</b>						
<b>COST PROPOSAL</b>						
<b>PROPOSED FUEL COST FOR FIXED ROUTE OPERATIONS</b>						
<b>Unit Cost</b>	<b>Base Year 1: July 1, 2022 to June 30, 2023</b>	<b>Base Year 2: July 1, 2023 to June 30, 2024</b>	<b>Base Year 3: July 1, 2024 to June 30, 2025</b>	<b>Optional Year 1: July 1, 2025 to June 30, 2026</b>	<b>Optional Year 2: July 1, 2026 to June 30, 2027</b>	<b>Optional Year 3: July 1, 2027 to June 30, 2028</b>
Estimated GGE per mile (CNG)	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Estimated Diesel gallons Per Mile	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Average Fuel Cost Per Mile	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Estimated Annual Fuel Cost	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00

**NOTES:**

1. Fuel costs should be included in annual hourly costs for fixed route operations (Attachment VIII-1)

**2.3.20 ATTACHMENT VIII-6 – OPERATIONS AND MAINTENANCE FACILITY IMPROVEMENT AND MODIFICATION  
COST PROPOSAL**

<b>SERVICE CONTRACT REQUEST FOR PROPOSAL</b>			
<b>COST PROPOSAL</b>			
<b>COST SUMMARY FOR OPERATIONS AND MAINTENANCE FACILITY</b>			
<b>Expense</b>	<b>Unit</b>	<b>Unit</b>	<b>Total</b>
<b>Improvements</b>	0	\$0.00	\$0.00
CNG Detection	0	\$0.00	\$0.00
Grading	0	\$0.00	\$0.00
Maintenance	0	\$0.00	\$0.00
Parts	0	\$0.00	\$0.00
Operator, Mechanic Locker	0	\$0.00	\$0.00
Restrooms	0	\$0.00	\$0.00
Bus	0	\$0.00	\$0.00
Revenue collection	0	\$0.00	\$0.00
Administration, Operations	0	\$0.00	\$0.00
<b>Other</b>	0	\$0.00	\$0.00
Office	0	\$0.00	\$0.00
Major Equipment	0	\$0.00	\$0.00
Tools & Minor	0	\$0.00	\$0.00
Other	0	\$0.00	\$0.00
<b>Total O&amp;M Facility Improvement</b>			<b>\$0.00</b>

**NOTES:**

- O&M facility Annual Lease and Rental costs should be included for fixed route and paratransit operations Attachments VIII-1 and VIII-2.
- O&M Facility Improvements & Modifications should be INCLUDED in (Attached VIII-3).

**2.3.21 ATTACHMENT VIII-7 – COST SUMMARY**

<b>SERVICE CONTRACT REQUEST FOR PROPOSAL</b>						
<b>COST SUMMARY</b>						
<b>Expenses</b>	<b>Base Year 1: July 1, 2022 to June 30, 2023</b>	<b>Base Year 2: July 1, 2023 to June 30, 2024</b>	<b>Base Year 3: July 1, 2024 to June 30, 2025</b>	<b>Optional Year 1: July 1, 2025 to June 30, 2026</b>	<b>Optional Year 2: July 1, 2026 to June 30, 2027</b>	<b>Optional Year 3: July 1, 2027 to June 30, 2028</b>
Fixed Route Operation	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Paratransit Operation	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Mobilization	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Fuel	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
O&M Facility Improvement & Modification	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Other (specify)	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00

2.3.22 ATTACHMENT IX - AFFIDAVIT OF NON-COLLUSION

I hereby swear (or affirm) under the penalty of perjury:

- (1) That I am the Proposer (if the Proposer is an individual), a partner of the Proposer (if the Proposer is a partnership), or an officer or employee of the proposing corporation with authority to sign on its behalf (if the Proposer is a corporation);
- (2) That the attached bid or proposal has been arrived at by the Proposer independently, and have been submitted without collusion with, and without any agreement, understanding, or planned common course of action with any other vendor of materials, supplies, equipment, or services described in the request for proposals, designed to limit independent bidding or competition.
- (3) That the contents of the bid or proposal has not been communicated by the Proposer or its employees or agents to any person not an employee or agent of the Proposer or its surety on any bond furnished with the bid or proposal; and
- (4) That I have fully informed myself regarding the accuracy of the statements made in this affidavit.

Signed:\_\_\_\_\_

Firm Name:\_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_.

\_\_\_\_\_

Notary Public

My commission expires \_\_\_\_\_, 20\_\_\_\_\_.

Proposer's E.I. number:\_\_\_\_\_

(Number used on Employer's Quarterly Federal tax return)

2.3.23 ATTACHMENT X – VENDOR INFORMATION

<b>Vendor Information Form</b>				
<b>Company Name</b>				
<b>Mailing Address</b>				
<b>Point of Contact Name</b>			<b>Point of Contact Title</b>	
<b>Phone Number</b>	<b>Fax</b>		<b>Email</b>	
<b>Federal Tax ID Number</b>	<b>DUNS Number</b>		<b>Website</b>	
<b>INTERNAL ROUTING</b>			<b>Required Attachments:</b>	
<b>PERSONNEL</b>	<b>DATE RECEIVED</b>	<b>DATE PROCESSED</b>		Completed IRS W-9 form dated within calendar year and signed by authorized personnel
<b>PURCHASING AGENT</b>				Minority and Women Owned Business (MWBE) certification if applicable
<b>ASSISTANT FINANCE DIRECTOR (EFT ONLY)</b>				Documentation showing registration within SAM.gov

## 3 CONTRACT PROVISIONS

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### 3.1 DEFINITIONS

The following terms used in this CONTRACT will have the meaning set forth below:

- a. The term "Henderson County" or the "COUNTY" means Henderson County, North Carolina, (which acts through its Board of Commissioners).
- b. The term "BOARD OF COMMISSIONERS" means the governing body of Henderson County, North Carolina.
- c. The term Apple Country Public Transit means the title for the Henderson County Transportation System designated in Resolution 2001-79 passed by the Henderson County Commissioners in August 2001.
- d. The term "SERVICES" means Transit System Service and Support (also "transit system") as described in this RFP and workmanship and material furnished or used in performing the services.
- e. The term "PROPOSER" means any firm or entity responding to this Request for Proposals.
- f. The term "PROPOSAL" means the qualifications, services, support and prices offered by the PROPOSER.
- g. The term "SUCCESSFUL PROPOSER" means the firm or entity to be selected to provide mass transit services to Henderson County.
- h. The term "CONTRACT" means the agreement that the COUNTY will have with the successful PROPOSER for the provision of transit services to Henderson County. Such CONTRACT incorporates the items referenced in Section 1.19.
- i. The term "SERVICE PROVIDER" means the firm or entity awarded the CONTRACT for providing transit system service and support to the COUNTY.

### 3.2 COMPLETE CONTRACT

This CONTRACT and the attachments and documents incorporated herein constitute the complete and exclusive statement of the terms of the agreement between the COUNTY and the SERVICE PROVIDER, and it supersedes all prior representations, understanding and communications. The invalidity in whole or in part of any provision of this CONTRACT shall not affect the validity of other provisions. The COUNTY's failure to insist in one or more instances upon the performance of any term or terms of this CONTRACT shall not be construed as a waiver or relinquishment of the COUNTY's right to such performance by SERVICE PROVIDER.



### 3.3 INDEPENDENT SERVICE PROVIDER STATUS

Under the CONTRACT, the SERVICE PROVIDER shall be an independent SERVICE PROVIDER and not an agent of the COUNTY or the Board of Directors. The SERVICE PROVIDER shall be fully responsible for all acts and omissions of its employees, subcontractors and their suppliers, and specifically shall be responsible for sufficient supervision and inspection to ensure compliance in every respect with the CONTRACT requirements. There shall be no contractual relationship between any subcontractor or supplier and the COUNTY by virtue of the CONTRACT with the SERVICE PROVIDER. No provision of this CONTRACT shall be for the benefit of any party other than the COUNTY and the SERVICE PROVIDER.

The COUNTY, in consideration of the compensation provided to the SERVICE PROVIDER, shall also be the lessee of all equipment used pursuant to this RFP (other than buses or other equipment purchased by the COUNTY and the COUNTY). The SERVICE PROVIDER shall be entirely responsible and liable for the operation and maintenance of such equipment whether purchased or leased by the COUNTY AND the COUNTY. The SERVICE PROVIDER, and not the COUNTY, is the employer of all the transit employees and the SERVICE PROVIDER is responsible for their wages, hours, benefits, worker's compensation, social security, and all other incidents of employment.

### 3.4 KEY PERSONNEL

The SERVICE PROVIDER's General Manager and Maintenance Manager are considered to be essential to the work being performed under this CONTRACT. Prior to diverting any of these individuals to other programs, the SERVICE PROVIDER should notify the COUNTY reasonably in advance and submit justification and proposed substitutions in sufficient detail to permit evaluation of the impact on the PROJECT. SERVICE PROVIDER shall make no diversion without the written consent of the COUNTY's Transit Director or his/her designee.

### 3.5 SUBCONTRACTING

The SERVICE PROVIDER shall not assign, award, or delegate any of its rights, duties or obligations under this CONTRACT to a subcontractor without prior written approval of the COUNTY. The COUNTY shall not unreasonably withhold, condition or delay such approval. The COUNTY's approval of any assignment, award or delegation shall not release the SERVICE PROVIDER of an obligation under the CONTRACT. The SERVICE PROVIDER shall be fully responsible for the acts and omissions of the subcontractors, and of persons either directly or indirectly employed by the SERVICE PROVIDER, as the SERVICE PROVIDER is fully responsible for the acts and omissions of persons directly employed by it.

Nothing contained in this CONTRACT shall create any contractual relation between any subcontractor and the COUNTY.

### 3.6 CONTRACT DURATION

The SERVICE PROVIDER shall provide all necessary resources as called for in this RFP and contract, and as called for in any subsequent order(s) for the period of three (3) years

of revenue service beginning July 1, 2022 and ending June 30, 2024. The COUNTY shall have three one-year options of renewing the contract for up to additional three (3) years; to exercise such an option, the COUNTY shall give the SERVICE PROVIDER at least one hundred and twenty (120) days prior written notice; and exercise of the options depends upon availability of funds. The SERVICE PROVIDER's original price proposal in the solicitation, offer, and award will remain in effect in the event the COUNTY exercises any options. Any contract renewals shall include all relevant provision of this solicitation.

### 3.7 SCOPE OF WORK

The COUNTY hereby engages the SERVICE PROVIDER and the SERVICE PROVIDER agrees to perform the SERVICES, hereinafter described in connection with the management and operation of Apple Country Public Transit.

Subject only to the general policies and directions of the COUNTY with regard to Apple Country Public Transit management and operations, and to the provisions and requirements of this CONTRACT, SERVICE PROVIDER shall, upon receiving the COUNTY's notice to proceed, do all things necessary to manage, operate, and maintain Apple Country Public Transit including but not limited to: Provide operations management of all services outlined in Section 4.

### 3.8 PAYMENT TO THE SERVICE PROVIDER

The COUNTY shall make payments to the SERVICE PROVIDER within forty-five days (45) after receipt of invoices and all required monthly reports. The monthly payments shall be based on service performed in the preceding month.

The terms of this Section (Section 3.8) and the terms of the entire CONTRACT are intended to supersede all provisions of the North Carolina Prompt Pay Act, O.C.G.A. § 13-11-1 through 13-11-11.

#### 3.8.1 Payment for Fixed Route and Paratransit Services

Payment for the fixed route and paratransit services shall be based on the price schedule as outlined in Attachment VIII-1 & VIII-2.

Vehicle Revenue Hours will be calculated based on the actual time that each revenue vehicle is in service and available to passengers.

For Fixed Route service, Vehicle Revenue Hours are defined as the scheduled hours of service as set forth in Section 4.1, or any revisions thereto, plus or minus adjustments for schedule deviations, trippers, or other service level changes as specifically authorized by the COUNTY under Section 4. For Paratransit service, Vehicle Revenue Hours are defined as the time from when a vehicle makes its first pick up through the time of its last drop off.

For the Fixed Route and Paratransit services, Vehicle Revenue Hours shall specifically exclude deadhead hours, including time for travel to and from storage facilities, changing routes, downtime for road calls, road tests, fueling, vehicle inspections, driver training, driver lunches and breaks, and missed trips. The

Revenue Hours operated shall be directly traceable by driver trip sheets and the Daily Operating Reports.

The fixed hourly rates specified hereinabove shall compensate SERVICE PROVIDER for all fixed hour rate cost elements detailed in Section 4.1 attached hereto and made a part hereof by this reference.

For the Fixed Route and Paratransit Services, these rates are applicable to service greater or less than fifteen percent (15%) of the existing level of service. If the COUNTY increases or decreases the amount of service by an amount greater or less than fifteen percent (15%) of the existing service level, new rates for that service will be negotiated for the remainder of that portion of the CONTRACT. All service revisions will be based upon the revenue hours at the start of the CONTRACT, and will be calculated separately for each service. Revenue hours will be the only variable affecting the cost, and not mileage, or peak fleet requirements.

### 3.8.2 Payment for Operations and Maintenance Facility

Payment for costs associated with the location of the SERVICE PROVIDER's Operations and Maintenance Facility will be based on the price schedule outlined in Attachment VIII-3 (Mobilization Costs).

### 3.8.3 Subtraction of Fare Revenue

Fare revenue will be subtracted from the amount of payment to SERVICE PROVIDER calculated in Sections 3.8.1 and 3.8.2.

## 3.9 OPERATING REVENUES

All operating revenues collected by SERVICE PROVIDER are the property of the COUNTY. For the purposes of this CONTRACT, operating revenues shall include but not necessarily be limited to farebox revenue, ticket and pass sales revenue, and advertising revenues. SERVICE PROVIDER shall be responsible for handling farebox receipts, and pass and ticket sales revenues in the manner discussed in Section 4.3, and as necessary for the COUNTY to meet the requirements of State and Federal funding sources.

## 3.10 TERMINATION

1. Termination for Convenience: the COUNTY may terminate this CONTRACT at any time for any reason upon ninety (90) days written notice to the SERVICE PROVIDER. Any notice to terminate this CONTRACT shall be given by certified mail, return receipt requested. The effective date of termination shall be ninety (90) days from the date of receipt as noted on the return receipt.
2. Termination for Cause: Either party may terminate this CONTRACT should either party default in the performance of any of the terms, covenants, obligations, or conditions of this CONTRACT and the non-defaulting party may proceed by following any of the options listed below in the Default section.

A written request by the COUNTY to the SERVICE PROVIDER, to reduce the level of fixed route service shall not be construed as a partial termination of the contract, unless the weekday scheduled revenue hours for fixed route service is reduced below seventy-five percent (75%) of the initial level.

### 3.11 DEFAULT

Default shall mean a failure to comply with any of the provisions of this CONTRACT or any applicable County, State, or Federal laws, which do not fall within the force majeure provisions of this CONTRACT.

- a. In the event of default under this CONTRACT, non-defaulting party shall send written notice of specific instances of failure to fulfill any of its obligations under the CONTRACT and, within ten (10) days of the date of notice is sent, such failure has not cured or otherwise remedied to the satisfaction of the non-defaulting party during this ten-day period, then the non-defaulting party may, at its election, terminate the CONTRACT in whole or in part, for default. Non-defaulting party may give written notice of termination; or
- b. In the event of default under this CONTRACT, the non-defaulting party shall have the rights, but not the obligation, to cure such default and to charge the defaulting party for the costs of curing the default against any sums due or which become due to the defaulting party under this CONTRACT. The non-defaulting party shall use the most economically reasonable method of curing any such defaults; or
- c. The SERVICE PROVIDER will be in default should the SERVICE PROVIDER become insolvent or unable to pay its debts as they mature or make an assignment for the benefit of creditors or should a bankruptcy petition under the Bankruptcy Code of 1978, as amended, be brought by or against the SERVICE PROVIDER; or
- d. The SERVICE PROVIDER will be in default should a judgment or order for payment of money no longer subject to appeal or which judgment or order, in the opinion of the COUNTY, would be fruitless to appeal, be entered against the SERVICE PROVIDER by any court or other tribunal which exceeds \$100,000 in amount and (a) such judgment or order shall continue undischarged or unpaid for a period of 30 days and (b) an insurer acceptable to the COUNTY has not acknowledged that such judgment or order is fully covered by a relevant policy of insurance and (c) or the COUNTY is otherwise reasonably satisfied that the SERVICE PROVIDER would be able to satisfy the judgment without affecting its ability to provide those services.

### 3.12 FORCE MAJEURE

Any delay or failure of performance by either party shall not constitute a default or give rise to any claims for damages if and to the extent the failure is primarily caused by any act, event or condition reasonably beyond that party's control and adversely affecting its ability to perform its obligations including but not limited to:

- a. Acts of God, lightning, earthquake, fire, epidemic, landslide, drought, hurricane, tornado, storm, explosion, failure of utilities, flood, nuclear radiation, or any other act by third parties that interferes with operations.

- b. Condemnation or other taking by any government body, change in any applicable law, rule, regulation, ordinance, or permit condition not in effect as of the date hereof.
- c. Any order, judgment, action or determination of any federal or state court, administrative agency, or government body.

### 3.13 NOTICE REQUIREMENT

All notices and correspondences required under this CONTRACT, with the exception of routine questions related to the Request for Proposals, shall be in writing and shall be delivered personally, prepaid registered or certified mail, return receipt requested or overnight receipted delivery service.

All notices and correspondences to the COUNTY shall be addressed as follows:

Janna Bianculli, Senior Planner  
 Henderson County  
 100 North King Street  
 Hendersonville, North Carolina 28791  
 FAX: (828) 698-6014

All notices and correspondences to the SERVICE PROVIDER shall be addressed as follows:

[NAME]  
 [AGENCY]  
 [ADDRESS]

Copies shall also be provided to the COUNTY Attorney and the COUNTY Transportation Planner. All notices and correspondences to the SERVICE PROVIDER shall be addressed as indicated in the PROPOSAL or as thereafter designated in writing.

### 3.14 INDEMNIFICATION

1. To the fullest extent permitted by law, the SERVICE PROVIDER shall indemnify and hold harmless the COUNTY, its Board of Directors, and Henderson County, its Board of Commissioners, in both their official and individual capacities, the COUNTY and the COUNTY's employees, consultants, agents, servants, successors, heirs, executors and administrators, from and against any and all claims or future claims, actions, causes of actions, demands, obligations, liens, rights, damages, judgments, costs, loss of services, expenses, including but not limited to attorney's fees, and compensation of any nature whoever arising out of or relating to any and all claims, suits, liens, demands, obligations, actions, procedures or causes of action of every kind and character caused in whole or in part by negligent acts or omissions of the SERVICE PROVIDER, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts arise directly or indirectly out of the performance of the CONTRACT and/or the operation of the transit system. This indemnity provision includes any action or claim resulting from the following:
  - a. Accident, injury, death, loss, or damage, to any person or property, or other economic loss or claimed liability to the extent caused by, resulting from,

connected with or arising out of the negligence, acts, or omissions of the SERVICE PROVIDER, its officers, directors, employees, agents or subcontractors;

- b. Violation of any statute, ordinance, administrative order, rule, regulation or order of any governmental body or any order or decree of any court or other tribunal applicable to the operation of the transit system contemplated herein including, but not limited to, all state and federal environmental, motor vehicle, Title VI of the Civil Rights Act, Title VII of the Civil Rights Act, Disadvantaged Business Enterprises (DBE), American with Disabilities Act, labor laws and regulations and other laws and regulations actions undertaken by the SERVICE PROVIDER in the CONTRACT; and
  - c. Infringement of any patent, trademark, or intellectual property right, or violation of any state or federal patent, trademark, or intellectual property law; provided, however, that SERVICE PROVIDER's indemnity shall not cover any claims or losses arising from or related to the alleged infringement of any patent, trademark, copyright or similar property right regarding any logo, mark, insignia, advertising, or marketing materials provided to SERVICE PROVIDER by the COUNTY or the COUNTY.
2. The COUNTY shall give the SERVICE PROVIDER timely notice of, and shall forward to it every demand, notice, summons or other process received with respect to any claim or legal proceedings within the purview hereof, but the failure of the COUNTY to give such notice shall not affect such right to indemnification unless such failure was a result of the COUNTY's gross negligence, fraud or shameful misconduct and such failure is materially prejudicial to SERVICE PROVIDER. The COUNTY agrees to reasonably cooperate with the SERVICE PROVIDER in connection with the defense of any such claim.
  3. The foregoing indemnities shall be in addition to, and not in derogation of, the indemnity set forth in attached exhibits to this contract which are Incorporated by Reference hereof.

### 3.15 LAWS AND GOVERNING VENUE OF ACTIONS

The CONTRACT shall be governed by, and construed in accordance with, the laws of the State of North Carolina. The courts of North Carolina, allocated in Henderson County, North Carolina, and, as applicable, the United States District Court for the Northern District of North Carolina shall have exclusive jurisdiction to hear any claim between the SERVICE PROVIDER and the COUNTY in connection with the CONTRACT or the operation of the transit system, and SERVICE PROVIDER submits to the jurisdiction and venue of such courts.

### 3.16 EMERGENCIES

In the event of a declared civil disorder or natural catastrophe, the SERVICE PROVIDER shall direct the employees to operate as ordered by federal, state, and/or the County civil authorities. Compensation shall be based on actual hours of service performed.

### 3.17 MEETINGS

Upon request of the COUNTY, the SERVICE PROVIDER shall, at its own expense, attend public, committee, or board meetings to provide information concerning the transit system. The General Manager, representing the SERVICE PROVIDER, shall attend, at a minimum, bi-weekly meetings or as requested with the COUNTY Transit staff at times and locations to be determined.

### 3.18 REMOVAL OF EMPLOYEES

Promptly upon the written demand of the COUNTY's Project Coordinator, SERVICE PROVIDER shall remove from activities associated with this CONTRACT any employees whom the COUNTY at its sole discretion considers unsuitable for such work.

### 3.19 APPROVAL OF PROCEDURES

The plans submitted in response to this Request for Proposals are hereby incorporated into this CONTRACT by reference. These plans, together with the requirements in the Request for Proposals, shall constitute the SERVICE PROVIDER's operating procedures, policies and practices, and, upon reasonable written request from the COUNTY, the SERVICE PROVIDER shall amend such procedures, policies and practices in accordance therewith. The SERVICE PROVIDER shall request the COUNTY's prior written approval for any change to these plans. Such procedures, policies and practices shall be deemed to include all operators' and other SERVICE PROVIDER's employees' training and orientation and SERVICE PROVIDER's employee performance codes and disciplinary procedures, dress codes, run cuts, timetables and other performance-related procedures or policies.

### 3.20 COMPLIANCE WITH LAW

The SERVICE PROVIDER shall comply with all applicable federal, state and local laws and regulations relating directly or indirectly to providing transit services. All buses and other equipment shall be maintained and operated at all times in compliance with all applicable rules, regulations and codes governing the operation of vehicles of public conveyance of the COUNTY and its municipalities, and those of the State of North Carolina and the United States.

The COUNTY shall comply with all federal and state laws and regulations applicable to the COUNTY and related directly or indirectly to providing transit services.

### 3.21 ADVERTISING

At this time, the COUNTY does not permit paid interior or exterior advertising on Apple Country Public Transit buses. However, the COUNTY shall have the right to determine interior and exterior advertising policies on revenue vehicles. All revenue received from advertising on buses shall be paid to the COUNTY. The SERVICE PROVIDER shall be responsible for the installation of advertising in the buses.

### 3.22 ERISA

The SERVICE PROVIDER shall comply with the provisions of the Employee Retirement Income Security Act of 1974, as amended with respect to each of its employee benefit plans. The SERVICE PROVIDER shall supply the COUNTY with such information concerning the status of each of the SERVICE PROVIDER's employee benefit plans, as the COUNTY shall reasonably request.

### 3.23 LICENSES, PERMITS, AND FILING FEES

The SERVICE PROVIDER is solely responsible for obtaining any licenses or other authorization required by law to perform the services required in this CONTRACT. The cost of all licenses and permits necessary to operate each bus and other equipment under all such applicable laws and regulation shall be the responsibility of the SERVICE PROVIDER. These permits and licenses shall include, but not limited to, all necessary North Carolina motor vehicle licenses and certificates.

The SERVICE PROVIDER shall pay all filing fees and legal fees involved in submitting route, schedule, and rate changes.

The SERVICE PROVIDER shall pay all federal, state and local taxes imposed on the SERVICE PROVIDER by reason of the ownership or leasing of any vehicle, equipment, inventory or operation of the transit system.

### 3.24 PROHIBITED USES

Unless expressly authorized in writing by the COUNTY, the SERVICE PROVIDER shall not use any bus or other equipment, which is part of the Apple Country Public Transit service other than in connection with the services required to be performed under the CONTRACT. The SERVICE PROVIDER shall not use any such bus or other equipment for any private charters or any purpose other than as may be specifically permitted by the COUNTY and in the COUNTY's sole discretion and under such terms as the COUNTY elects.

### 3.25 RISK OF LOSS OR DAMAGE

The SERVICE PROVIDER shall be responsible for the vehicles, equipment and supplies used in the performance of the services called for under the CONTRACT and shall be responsible for all loss or damage with respect to any such vehicles, equipment and supplies, excepting those losses or damages due to either intentional acts of the COUNTY or the COUNTY's gross negligence.

The SERVICE PROVIDER will be responsible for all losses and/or damages to buildings, structures, and facilities, whether owned or leased by the COUNTY, used in the performance of this CONTRACT, which are due to the negligence of the SERVICE PROVIDER, its agents, representatives, employees, or subcontractors.



### 3.26 INSURANCE

The SERVICE PROVIDER shall procure and maintain, or cause others to procure and maintain, for the duration of the CONTRACT insurance against claims for injuries to persons or damages to property, or theft which may arise from or in connection with the performance of the work hereunder by the SERVICE PROVIDER, its agents, representatives, employees, subcontractors or authorized the COUNTY transit staff, including but not limited to the procuring of insurance against claims for injuries to persons or damages to property including claims that may arise at the COUNTY owned or leased transfer centers, park and ride lots or bus stops, or theft, or property damage of any and all transit vehicles and equipment either owned by the COUNTY, or leased by the COUNTY, or otherwise used by the SERVICE PROVIDER or the COUNTY in connection with the operation of the transit system and the services described in the CONTRACT. The cost of such insurance shall be identifiable as separate items and included in the SERVICE PROVIDER's Cost Proposal:

#### 3.26.1 Minimum Limits of Insurance

SERVICE PROVIDER shall maintain limits no less than:

- a. General Liability including Garage Liability: \$1,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage. Subject to Policy aggregate limit of \$2,000,000.
- b. Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury, personal injury and property damage including passenger liability.
- c. Umbrella Liability: \$10,000,000 per occurrence for bodily injury, personal injury, and property damage in excess of limits required under "a" and "b" above.
- d. Workers' Compensation and Employers Liability: Workers Compensation limits as required by the Labor Code of the State of North Carolina and Employers Liability limits of \$1,000,000 per accident.
- e. All Risk Fire and Extended Coverage for full replacement cost on all equipment, tools, supplies, and contents used in the performance of services under the CONTRACT. The COUNTY will be included as Loss Payees in this coverage for Apple Country Public Transit – owned equipment, tools, supplies, and contents.
- f. Automobile Physical Damage coverage, including Collision coverage and Comprehensive coverage, each equal to full replacement value of all vehicles, including the fixed route buses, paratransit vans, and nonrevenue vehicles operated by SERVICE PROVIDER's employees. Deductible levels shall be determined by the SERVICE PROVIDER based upon SERVICE PROVIDER'S ability to cover deductible payments in the event of a claim. The SERVICE PROVIDER shall be responsible for all damages falling below the deductible. No blanket or per location limit should apply to this coverage under \$10,000,000. The COUNTY will be included as a Loss Payee in this coverage.

- g. Employment Practice Liability: \$1,000,000 each occurrence and aggregate.

### 3.26.2 Deductibles and Self-Insured Retention

Any deductibles or self-insured retentions must be declared to and approved by the COUNTY. At the option of the COUNTY, either, the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the deductibles or self-insured retentions as respects the COUNTY, the Board of Directors, their officials, agents, employees, and volunteers; or the SERVICE PROVIDER shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

### 3.26.3 Other Insurance Provisions

The policies are to contain, or be endorsed to contain, the following provisions:

1. General Liability, Automobile Liability, and Umbrella Liability Coverage

- a. the COUNTY, its officials, agents, employees, and volunteers shall be covered as insureds with respect to liability arising out of activities performed by or on behalf of the SERVICE PROVIDER; products and completed operations of the SERVICE PROVIDER; premises owned, occupied or used by the SERVICE PROVIDER; or vehicles owned, leased, hired or borrowed by the SERVICE PROVIDER. The coverage shall contain no special limitations on the scope of protection afforded to the COUNTY, its officials, agents, employees, and volunteers.
- b. The SERVICE PROVIDER's insurance coverage shall be primary insurance with respect to the COUNTY, its officials, agents, employees, and volunteers. Any insurance or self-insurance maintained by the COUNTY, its officials, agents, employees, and volunteers shall be in excess of the SERVICE PROVIDER's insurance and shall not contribute with it.
- c. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the COUNTY, its officers, officials, employees and volunteers.
- d. The SERVICE PROVIDER's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

2. Workers' Compensation and Employers Liability Coverage

The insurer shall agree to waive all rights of subrogation against the COUNTY, its officers, officials, employees and volunteers for losses arising from work performed by the SERVICE PROVIDER for the COUNTY.

3. All Coverage

Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, cancelled by either party, reduced in coverage or in limits except after sixty (60) days prior written notice by certified mail, return receipt requested, has been given to the COUNTY.

#### 3.26.4 Acceptability of Insurers

Insurance is to be placed with insurers with a Best's rating of no less than A VII or acceptable to the COUNTY.

#### 3.26.5 Verification of Coverage

The SERVICE PROVIDER shall furnish the COUNTY with certificates of insurance and with original endorsements effecting coverage required by this clause. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. The policies, certificates and endorsements are to be in a form acceptable to the COUNTY and are to be received and approved by the COUNTY 30 days after award or commencement of any mobilization activity, whichever is earlier. The SERVICE PROVIDER is to commence no activity with regard to performance of the CONTRACT until the required insurance has been obtained. The COUNTY reserves the right to require complete, certified copies of all required insurance policies, at any time.

#### 3.26.6 Subcontractors

The SERVICE PROVIDER shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverage for subcontractors shall be subject to all of the requirements stated herein.

#### 3.26.7 Rights Reserved

The COUNTY reserves the right to reject any and all insurance proposals, to waive any informality in PROPOSALS and, unless otherwise specified by the PROPOSER, to accept any item in the PROPOSAL. The COUNTY, solely at its option, may purchase any or all of the insurance coverage required in these specifications directly to cover its own and the SERVICE PROVIDER's interests, in lieu of the SERVICE PROVIDER providing such coverage. In such cases, the COUNTY would delete applicable insurance coverage and cost(s) from its evaluation of PROPOSALS.

#### 3.26.8 Claims Information and Loss Runs

The SERVICE PROVIDER shall make available to the COUNTY, through its records or the records of their insurer, information regarding a specific claim. Any loss run information available from the SERVICE PROVIDER or their insurer will be made available to the COUNTY upon their request.

### 3.27 LABOR DISPUTES

If the SERVICE PROVIDER has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of this CONTRACT, the SERVICE PROVIDER immediately shall give notice, including all relevant information, to the COUNTY Project Coordinator.

### 3.28 MINIMUM BUS AVAILABILITY

The SERVICE PROVIDER shall provide a number of vehicles that equal that of the peak service requirement for both the fixed route and paratransit service in operable condition for revenue service in peak periods unless otherwise directed by the COUNTY. No vehicle shall be inoperable for a period longer than 5 business days unless by express written permission by the COUNTY.

### 3.29 CONFIDENTIALITY

Any and all reports, information or data of whatever nature provided to, or prepared, generated or assembled by the SERVICE PROVIDER in connection with the performance of the CONTRACT shall not be made available to any individual or organization outside the SERVICE PROVIDER without the prior written approval of the COUNTY, unless such is required by a court process. SERVICE PROVIDER shall promptly notify the COUNTY of any request for such information in a court proceeding.

### 3.30 EXAMINATION AND RETENTION OF RECORDS

SERVICE PROVIDER shall maintain all books, records, documents, accounting ledgers, data bases, and similar materials relating to work performed for the COUNTY under this CONTRACT on file for at least three (3) years following the date of final payment to the SERVICE PROVIDER by the COUNTY. All records stored on a computer database must be of an updated format compatible with the COUNTY's software systems. Any duly authorized representative(s) of the COUNTY shall have access to such records for the purpose of inspection, audit, and copying at reasonable times, during SERVICE PROVIDER's usual and customary business hours. SERVICE PROVIDER shall provide proper facilities to the COUNTY representative(s) for such access and inspection. Further, any duly authorized representative(s) of the COUNTY shall be permitted to observe and inspect any or all of SERVICE PROVIDER's facilities and activities during SERVICE PROVIDER's usual and customary business hours for the purposes of evaluating and judging the nature and extent of SERVICE PROVIDER's compliance with the provision of this CONTRACT. In such instances, the COUNTY representative(s) shall not interfere with or disrupt such activities.

Section 4.3.8.19 outlines the reports that must be submitted to the COUNTY and their timing.

The SERVICE PROVIDER shall maintain, and the COUNTY and its representatives shall have the right to examine, all books, records, documents, accounting procedures and practices and other evidence sufficient to reflect properly all direct and indirect costs of whatever nature claimed to have been incurred and anticipated to be incurred for the performance of the CONTRACT. The materials described above as well as any relevant

database and computer tapes or disks containing such information shall be made available at the COUNTY office of the SERVICE PROVIDER at all reasonable times for inspection, audit, and reproduction during the term of the CONTRACT, and for three years from the final date of settlement or payment under the CONTRACT.

### **3.31 THE COUNTY AND SERVICE PROVIDER SUPPLIED PROPERTY**

The title to capital items provided by the COUNTY shall remain with the COUNTY. The title to capital items provided by the COUNTY shall remain with the COUNTY. The SERVICE PROVIDER shall be required to maintain such items utilizing manufacturers' recommended maintenance standards, at a minimum, or those standards provided by the COUNTY, at the COUNTY's sole discretion. Furthermore, the SERVICE PROVIDER shall maintain adequate property control records of all the COUNTY-furnished property in accordance with sound industry practice and as approved by the COUNTY.

The COUNTY shall have the option, upon the expiration or termination of the CONTRACT, to purchase all or any part of non-revenue equipment not already purchased by the COUNTY and used by the SERVICE PROVIDER in the performance of the work specified in the CONTRACT at a price equal to that portion of the original cost of the equipment which has not yet been amortized as of the date the CONTRACT expires or is terminated. Amortization shall be deemed to be made in accordance with generally accepted accounting principles.

### **3.32 SEVERABILITY OF PROVISIONS**

Any provision of the CONTRACT which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective only to the extent of such prohibition or unenforceability without invalidating the remainder of such provision or the remaining provisions of the CONTRACT, or affecting the validity or enforceability of such provisions in any other jurisdiction.

### **3.33 TURNOVER PROCEDURE**

The COUNTY has established a Turnover Procedure for return of Apple Country Public Transit vehicles and equipment at end of CONTRACT. This Turnover procedure shall be implemented toward the end of the current CONTRACT term and prior to the commencement of the new CONTRACT. At the COUNTY's option, a Turnover Inspection may be implemented with or without a change in SERVICE PROVIDER. Section 4.4 outlines the procedures that are to be followed during the turnover period.

### **3.34 PERFORMANCE STANDARDS**

The SERVICE PROVIDER will perform all transit services required by the CONTRACT according to the performance standards set forth below. The SERVICE PROVIDER's plans and procedures, submitted with the PROPOSAL, shall incorporate actions necessary to provide service according to these standards. The performance standards shall apply to the Fixed Route and Paratransit services.

The COUNTY has developed these standards with which the SERVICE PROVIDER is expected to comply to ensure that Apple Country Public Transit services, employee performance and vehicles meet the COUNTY standards. The COUNTY has established specific performance standards related to the following:

- Vehicle Maintenance
- Operating requirements
- Vehicle cleanliness
- ADA compliance
- Safety Reporting requirements

### 3.34.1 Vehicle Maintenance Standards

Proper maintenance directly affects operating costs and is closely related to the COUNTY's operating performance standards. The COUNTY maintenance requirements do not refer solely to the task of performing normal preventive maintenance tasks on a specified schedule, but rather that the task is done well and that the operation of the bus and all equipment on board the bus is in fact operable and reliable when in-service. The SERVICE PROVIDER is responsible for performing the following maintenance on a bus by bus basis (fixed route and paratransit buses):

- a. Completing all preventive maintenance inspections within the scheduled interval.
- b. Maintaining the heating systems: The heating systems must be fully operable from November 1 to March 1.
- c. Maintaining the air conditioning systems: The air conditioning system must be fully operable from March 1 to November 1.
- d. Repairing major vehicle body damage (interior or exterior) within twenty-one (21) days of occurrence.
- e. Repairing minor vehicle body damage (interior or exterior) such as scratches or damaged decals within thirty (30) days of occurrence;
- f. Repairing Automatic Passenger Counter (APC) system within forty-eight (48) hours of occurrence,
- g. Replacing or repairing seat damage within forty-eight (48) hours of occurrence; and,
- h. Repairing ADA required equipment within forty-eight (48) hours of occurrence. This equipment includes:
  - Public address (PA) system
  - Destination sign
  - Stop Request signs
  - Passenger signal tape or buttons
  - Wheelchair lift equipment
  - Wheelchair tie-down and securement equipment; and
  - Required ADA signage and decals
- i. Ensuring that all buses placed in revenue service meet safety standards. This includes the following systems:

- brakes
- steering components
- air conditioning in the period March 1 through November 1
- heating in the period November 1 through March 1
- emergency exits/doors/windows
- two-way radios
- other conditions required by Federal or State regulations

The specific requirements are detailed in Section 4.3.3.

### 3.34.2 Operating Standards

The SERVICE PROVIDER shall make every effort to cover scheduled service. The SERVICE PROVIDER is responsible for complying with the following requirements:

The following performance requirements apply to the Fixed Route Bus Operations:

- a. Maintaining on-time performance within zero (0) minutes early and five (5) minutes late of scheduled times.
- b. Completing scheduled trips in their entirety.
- c. Operating routes in accordance with the established routes (operating according to the correct route, serving all designated stops).

The following performance requirements are used in defining operating requirements for Paratransit bus services:

- a. Achieving a level of on-time performance equaling or exceeding ninety five percent (95%) of pick-ups within thirty (30) minutes of the scheduled pick-up time.
- b. Notifying applicants about their eligibility for paratransit service within twenty-one (21) days of receipt of their application.
- c. Maintaining written daily logs, reported by month, which detail telephone communications from registered and potential new clients as per ADA requirements.

### 3.34.3 Vehicle Cleanliness

SERVICE PROVIDER shall maintain Apple Country Public Transit vehicles in a clean and neat condition at all times. The SERVICE PROVIDER is responsible for the following:

- a. Daily cleaning of the interior of the vehicles
- b. Regular cleaning of the exterior of the vehicles (washing and or spraying dirt off of vehicles at least every two days)
- c. Major detailed interior cleaning every fourteen (14) days
- d. Quarterly upholstery cleaning

### 3.34.4 ADA Compliance

SERVICE PROVIDER shall meet the ADA requirements. The SERVICE PROVIDER is responsible for the following:

- a. The use of mobility devices to board passengers;
- b. Properly boarding passengers who are required to stand on the wheelchair lift platform to be lifted into the bus;
- c. Properly securing wheelchair passengers in the wheelchair tie-down positions;
- d. Making the required announcements of stops on the bus PA system;
- e. Daily Testing light,
- f. No bus may depart from maintenance facility without operational lights

#### 3.34.5 Safety Requirements

The SERVICE PROVIDER is responsible for complying with all of the following:

Reporting all passenger or vehicle accidents to the COUNTY promptly within 30 minutes of occurrence and following up with required detailed written accident report within three (3) to five (5) days.

#### 3.34.6 Reporting

Submitting required reports and documentation as outlined in Section 4.3.12 according to the following timeframe:

- For weekly reports, by close of business on the first working day of the following week
- For monthly reports, within ten (10) working days after the end of the month
- For quarterly reports, within ten (10) working days after the end of the quarter
- For annual reports, within twenty (20) working days after the end of the year

#### 3.34.7 Customer Service

Completing investigation and follow-up response on customer complaints within seven (7) working days of complaint receipt.

### 3.35 FEDERAL REGULATIONS AND REQUIREMENTS

The SERVICE PROVIDER will comply or implement programs meeting regulations and requirements of the Federal Government as provided in Appendix A, which are incorporated into this CONTRACT with the same force and effect as if they were included in the main text of the CONTRACT.

It is understood and agreed that the SERVICE PROVIDER may be obligated by and to the COUNTY for any specifications or documentation required of the COUNTY under these clauses.



## 4 OPERATIONS AND MAINTENANCE OF APPLE COUNTRY PUBLIC TRANSIT SCOPE OF WORK

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The following provides the Scope of Work for the Apple Country Public Transit Service Provider Contract.

### 4.1 APPLE COUNTRY PUBLIC TRANSIT SERVICE PLAN

#### 4.1.1 Background

Henderson County has operated the Apple Country Public Transit system since 2006. The service has been contracted with a local non-profit operator for approximately fifteen years. The three fixed-routes operate on an hourly headway mostly throughout the municipal areas of Hendersonville. The Blue route operates out of Hendersonville to Highway 25/25 Business to the Town of Fletcher with service to the Asheville Airport and Asheville Transit. The bus system serves approximately 70,000 one-way trips per year, and includes paratransit service (about 3,000 one-way trips per year). Henderson County is seeking a provider to operate the three fixed route buses and complementary paratransit service on weekdays. The County has also built a CNG fueling facility for the buses and can sell fuel back to the provider at market rate.

Current operating statistics are included in this section. A route map can be viewed on the County's website through the Henderson County Planning Department website at:

[www.AppleCountryTransit.com](http://www.AppleCountryTransit.com)

#### Operating Hours

Times vary on individual routes. In general, buses operate from Monday through Friday from 6:30 a.m. through 6:30 p.m.

Holidays with no service or a modified service schedule are as follows:

- New Year's Day – No service
- Martin Luther King Jr. Day – No service
- Good Friday – No service
- Memorial Day – No Service
- Independence Day – No Service
- Labor Day – No Service
- Thanksgiving Day – No Service
- Christmas Eve Day – Service ends at 5:30 PM
- Christmas Day – No service

#### 4.1.2 Fixed Route Service

The Apple Country Public Transit system operates three fixed bus routes.

**White Route (Route 1)** – Operates mainly in Hendersonville commercial and residential areas east of I-26 and connects with the downtown transfer point.

**Red Route (Route 2)** – Operates in downtown Hendersonville and surrounding neighborhoods west of Interstate 26, and includes service to Blue Ridge Community College and East Flat Rock.

**Blue Route (Route 3)** – Operates in a north/south alignment along Highway 25/Highway 25 Business between downtown Fletcher and Hendersonville and includes service to the Asheville Airport and a connection with Asheville Transit.

#### 4.1.3 Complementary Paratransit Service

Currently one paratransit vehicle operates between 6:30 am to 6:30 pm. The vehicle averages about one person per hour and operates within three quarters of a mile of the fixed route.

### FY 19 First and Second Quarterly Transit Report

July 2018 – June 2019

FY19	Fixed Route Ridership	Paratransit Ridership	Fixed Route Riders Per Hour	Paratransit Riders Per Hour
	71,770	3,125	8.0	4.9

FY19	Fixed Route Cost Per Rider	Paratransit Cost Per Rider	Fixed Route Cost Per Mile	Paratransit Cost Per Mile
	\$9.97	\$19.82	\$4.25	\$7.08

FY19	Fixed Route Farebox	Fixed Route Farebox Recovery %	Paratransit Farebox	Paratransit Farebox Recovery %
	\$25,433	3.55%	\$4,317	6.97%

#### 4.1.4 Fare Structure

The following table summarizes the current Apple Country Public Transit fare structure.

Transit Fare Structure

FARE	NOTES	RATE
Cash Fare	Exact change required	75 cents
Discount Cash Fare	Available to: (1) seniors 65 years of age and older (photo I.D. required) and (2) Medicare recipients (Medicare Card required).	35 cents
Children under 12	With an accompanying paying adult	Free
Paratransit service	ADA allowable escort/child free w/ same O, D	\$1.50
Ticket Booklet (20 rides)	20 tickets	\$10.00
Monthly Pass	First to last day of specific month	\$15.00
Transfer to Apple Country Public Transit Route***	Ask the operator for a transfer when boarding. You must take the next available bus traveling the route to which you are transferring for the transfer to be valid. Transfers may not be sold or given away. When approaching the transfer point, your operator will notify the other operator, so you are assured of making your connection. When you board the second bus, give your transfer to the operator. Do not put the transfer in the fare box.	\$0.00
Transfer to ART	None	\$1.00

Apple Country Public Transit issues Half-Fare passes for senior citizens and disabled riders. The Half-Fare pass allows persons to travel at half the regular fare at all times, but the fare must be paid in cash. In addition to the Half-Fare pass, Medicare cards and other forms of picture identification are accepted.

#### 4.1.5 Transfer Policies

Free transfers are available between Apple Country Public Transit routes. Drivers issue paper transfers that are valid for one hour.

#### 4.1.6 Ridership and Revenue

Apple Country Public Transit ridership had grown steadily since service was implemented in 2006 until the COVID-19 pandemic started in March 2020. The ridership has decreased significantly due to the pandemic.

#### 4.1.7 Operating Requirements

The existing Apple Country Public Transit schedules require a peak pullout of three (3) buses on weekdays which operate hourly service throughout downtown Hendersonville and outlying areas of the City. The following tables present the span of service (begin first revenue trip, end last revenue trip), service headways, peak buses, revenue bus-miles, and revenue bus-hours for weekday service.

##### Fixed Route Weekday Operating Requirements

Category	Statistic FY 2019
Span of Service (begin first trip, end last trip)	6:30 am-6:30 pm
Peak/Base/Eve Headway	One Hour
Peak Buses	3
Average Weekday Revenue Miles (all three buses combined- total daily revenue mileage)	675
Weekday Revenue Bus Hours (all three buses combined)	36

##### Fixed Route Annual Operating Requirements

Category	Statistic FY 2019
Peak Buses	3
Annual Rev. Bus-Miles	168,301
Annual Rev. Bus-Hours	8,976

#### 4.1.8 Bus Stops & Transit Centers

Apple Country Public Transit has more than 100 bus stops. A list of relevant time points can be found on the County's website at [www.AppleCountryTransit.com](http://www.AppleCountryTransit.com).

#### 4.1.9 Revenue Vehicles

##### Apple Country Public Transit Current Fixed Route Fleet Characteristics

Fleet ID	Manufacturer	Make	Model	Fuel	Tank Capacity	Seat Capacity	Mileage (10/11/21)
T700	Ford	StarTrans	Transit	CNG	49 GGE	15+3	102,255
T701	Ford	StarTrans	Transit	CNG	49 GGE	15+3	21,253
T702	Ford	StarTrans	Transit	CNG	49 GGE	15+3	21,762
T703	Ford	StarTrans	Transit	CNG	49 GGE	15+3	21,606
T704	Ford	StarTrans	Transit	CNG	49 GGE	15+3	19,102
T705	Ford	StarTrans	Transit	CNG	49 GGE	15+3	17,417

All buses are equipped with automatic passenger counters.

##### Apple Country Public Transit Current Paratransit Fleet Characteristics

Fleet ID	Manufacturer	Year	Model	Fuel	Engine	Seat Capacity	Mileage (11/15/21)
1	Ford	2016	Transit	Gasoline	6.8 V10	9+2	58,444

#### 4.1.10 Future Service Plans

The COUNTY may modify service schedule or change service level during the contract period. The COUNTY may also procure and deploy new technology during the contract period. The SERVICE PROVIDER shall coordinate with the COUNTY to implement such changes. Adjustment to SERVICE PROVIDER's compensation will be made according to the relevant terms of the Contract.

## 4.2 THE COUNTY AND COUNTY DUTIES AND RESPONSIBILITIES

The COUNTY has the following responsibilities and performs the following duties with respect to Apple Country Public Transit. To the extent reasonable and feasible, SERVICE PROVIDER shall assist the COUNTY in this regard.

#### 4.2.1 System Planning and Administration

The COUNTY is responsible for all planning activities relative to Apple Country Public Transit bus routes, schedules, days and hours of operations, bus stop locations, location of bus stop improvements, preparation of planning documents, budgets, grant applications and related documentation, and other such activities relative to overall system administration.

#### 4.2.2 Advertising, Media Inquiries, and Promotion

The COUNTY prepares, distributes, schedules, and pays for all advertising and promotional materials designed to inform Apple Country Public Transit bus service patrons of the COUNTY operations and to promote ridership. The COUNTY will respond to all media inquiries.

#### 4.2.3 Revenue Vehicles

The COUNTY provides to SERVICE PROVIDER the revenue vehicles set forth in Section 4.1.9. These vehicles shall be used only for activity directly related to the transit system covered by this CONTRACT, unless otherwise authorized, in writing, by the COUNTY.

#### 4.2.4 Schedules

The COUNTY prepares, prints, and provides to SERVICE PROVIDER all schedules and like materials required for Apple Country Public Transit operations. SERVICE PROVIDER shall distribute and disseminate such materials in accordance with the provisions of this CONTRACT and any directions supplemental thereto provided by the COUNTY.

#### 4.2.5 Fareboxes

All buses are equipped with a Diamond farebox system. The fareboxes are Model NV.

#### 4.2.6 Electronic Destination Signs

The COUNTY provides the electronic destination signs for the Apple Country Public Transit buses. The signs are LED.

#### 4.2.7 Bus Stop Improvements

The COUNTY purchases all signs, posts, benches, shelters and trash receptacles for Apple Country Public Transit bus stops. In addition, a bus shelter Contractor will be responsible for installing and maintaining bus shelters, benches and trash receptacles at selected COUNTY stops. This activity is and will continue to be managed by the COUNTY.

#### 4.2.8 Bus Stop Installation and Shelter Repair Work Order Program

The COUNTY is responsible for managing the Apple Country Public Transit bus stop and shelter program and undertaking designated installations and repairs. This includes the following responsibilities:

##### **1. Bus Stop Installation/Shelter Repair Work Order Program**

Performing the ongoing maintenance of existing signposts, trash receptacles, shelters and benches at stops, including repair, installation, removal, and relocation of bus stop materials.

##### **2. Signage Parts Inventory**

The COUNTY will store and maintain the inventory of all sign faces and posts by type. The COUNTY is responsible for providing and installing all sign faces and posts.

### **Notification – Potential Interference with Apple Country Public Transit Operations**

The COUNTY shall make a reasonable effort to notify SERVICE PROVIDER in advance of any road closures, detours, parades, or other such events which may interfere with Apple Country Public Transit operations or require deviations from established routes or schedules.

## **4.3 SERVICE PROVIDER DUTIES AND RESPONSIBILITIES**

SERVICE PROVIDER shall perform the duties and accept the responsibilities set forth below in connection with the operation, maintenance and administration of the Apple Country Public Transit system.

### **4.3.1 Facilities and Equipment**

SERVICE PROVIDER shall provide all facilities and equipment necessary to administer, operate and maintain the Apple Country Public Transit system, except for those facilities and equipment provided by the COUNTY as described in Section 4.2.

#### **4.3.1.1 Operations and Maintenance Facility**

SERVICE PROVIDER shall locate and provide an Operations and Maintenance (O&M) facilities to support all administrative, operations and maintenance functions, including but not limited to:

1. Administrative offices
2. Dispatch office
3. Driver and mechanic break room
4. Safety/training room
2. Secure daily and overnight storage for all Apple Country Public Transit revenue vehicles
5. Bays for preventive and corrective maintenance
6. Operator and mechanic lockers and restrooms
7. Off-site access to County or other CNG fueling station
8. Off or on-site access to bus wash facility
9. Revenue collection probes, vault, and count room
10. Records storage
11. Spare parts inventory
12. Battery room
13. CNG detection system
14. Employee parking
15. Oil, lubricants, fluids storage and dispensing
16. Vehicle servicing supplies
17. Waste disposal system

The SERVICE PROVIDER's O&M facility shall be in service for all hours during which the Apple Country Public Transit system operates.

SERVICE PROVIDER shall allow the COUNTY and its agent's access to its O&M facility during all operating hours.

#### 4.3.1.2 *Radio Communications System*

SERVICE PROVIDER shall provide a communications system for the Apple Country Public Transit system. Revenue vehicles and support vehicles will be equipped with communication equipment that enables them to maintain voice communications with the dispatch office. SERVICE PROVIDER is responsible for obtaining all licenses, equipment and installation.

#### 4.3.1.3 *Non-Revenue Vehicles*

SERVICE PROVIDER shall be responsible for providing all non-revenue vehicles including, but not limited to, administrative staff cars, supervisor cars, and maintenance road call trucks.

#### 4.3.1.4 *Computers and Software*

SERVICE PROVIDER shall be responsible for providing all computer hardware, software and ancillary equipment necessary to support the Apple Country Public Transit system. Computer software should be compatible with the COUNTY's software system (Microsoft Office).

#### 4.3.1.5 *Major Maintenance Equipment*

SERVICE PROVIDER shall be responsible for providing all major maintenance equipment including, but not limited to, hoists, jacks, compressors, drill presses, and other major mechanical and electrical equipment.

#### 4.3.1.6 *Tools and Minor Maintenance Equipment*

SERVICE PROVIDER, and/or its employees, shall be responsible for providing all tools and minor maintenance equipment necessary to administer, operate and maintain the Apple Country Public Transit system.

### 4.3.2 *Operations*

SERVICE PROVIDER shall provide the necessary management, technical and operating services for the operation of fixed route bus service and complementary paratransit service as specified by the COUNTY.

SERVICE PROVIDER shall assist and cooperate with the COUNTY in meeting the objectives of providing quality transportation services. SERVICE PROVIDER shall perform close liaison activities, coordination, and cooperation with the COUNTY on matters related to operations, monitoring, reporting and service performance measurements.

All facilities, equipment and services required in the operation and management of the Apple Country Public Transit services shall be furnished by SERVICE



PROVIDER, unless specifically identified to be contributed by the COUNTY. While the COUNTY provides the revenue vehicles specified in Section 4.1.9, when not enough of those vehicles are available for operating requirements during operating hours, SERVICE PROVIDER shall be responsible for providing alternative vehicles to continue operating the service in strict accordance with the operating hours.

#### 4.3.2.1 *Fixed Route Service*

SERVICE PROVIDER will operate fixed route service as specified by the COUNTY. Fixed route bus service shall be operated in strict accordance with the operating days and hours, routes and schedules set forth in the Master Schedule, and shall provide such service in a safe, professional, and courteous manner. Fixed route bus service hours and the peak period bus requirement may vary over the term of the CONTRACT depending upon funding considerations.

SERVICE PROVIDER is authorized to deviate from established routes when necessary to avoid construction detours, and vehicles or other obstructions within the public right-of-way. All deviations are to be reported to the COUNTY within two (2) hours of the occurrence.

In the event that a fixed route bus service operates more than ten minutes behind schedule, SERVICE PROVIDER shall take all available steps to restore on-time performance. SERVICE PROVIDER shall establish procedures, subject to the COUNTY review and approval, to restore on-time performance. SERVICE PROVIDER is responsible for developing and distributing all schedule blocks and run cuts in conformity with the COUNTY's prior approval and specifications.

A dispatcher is required to be on duty in the fixed route bus service dispatch office at all times while buses are in service. The dispatcher will be required to monitor and respond to radio communications throughout operating hours and communicate with drivers, supervisors and maintenance personnel regarding operations, service, safety, and customer service issues. Detailed logs must be kept on all communications through an automated system to be provided by SERVICE PROVIDER.

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

Drivers will be required to assure that each patron pays the appropriate fare prior to being provided transportation service. Drivers will be required to honor special passes; collect, cancel and/or validate passes and tickets; and issue, collect, and validate transfers, as determined by the COUNTY. Drivers will verify cash fares deposited in the farebox, but will not handle money.

Drivers shall have available at all times during operation of any bus an accurate time piece set each day to conform to the National Bureau of Standards Time. Drivers will be required to operate the wheelchair lift

(and kneeling features of new vehicles) and assist in securing wheelchairs and scooters. Drivers will be required to secure bicycles on bicycle racks.

Drivers will be required to announce all ADA required stops through the p.a. system, as outlined by the COUNTY. Drivers must fill out a pre-trip and post-trip vehicle inspection as outlined in SERVICE PROVIDER's Operating Rules and Procedures, and State of North Carolina DOT requirements.

The SERVICE PROVIDER must provide a reliable monitoring program to ensure a high-performance capability in achieving consistent on-time performance. The SERVICE PROVIDER will be responsible, through routine daily monitoring of transit services, for accumulating data and assembling reports that assist in identifying equipment, schedule, or service level improvements.

The monitoring may from time to time include ridership statistics, passenger counts by trip or block, on-time performance and run-time data, on-board ride-checks and analysis of schedule, route or service problems. The SERVICE PROVIDER is responsible for adjusting transit monitoring personnel levels and utilizing existing personnel with other permanent duties as needed to assist in ensuring a consistent high quality of service. The monitoring plan and procedures are subject to the COUNTY approval.

The COUNTY requires strong supervision which will ensure that buses are operating on schedule at all times with a high level of customer service. The SERVICE PROVIDER must implement a program that provides adequate geographic coverage throughout the transit system's service area with assurances that there will be a prompt response to accident investigation or service incidents. The COUNTY requires a quick response time to service incidents. Revenue hours will not be paid for any bus that is driven by a supervisor, manager and/or safety personnel unless SERVICE PROVIDER has obtained prior authorization by the COUNTY.

#### 4.3.2.2 *Paratransit Service*

Using revenue vehicles provided by the COUNTY, the SERVICE PROVIDER will operate complementary paratransit service as specified by the COUNTY and in accordance with the guidelines of the Americans with Disabilities Act (1990). Complementary paratransit service will be provided to eligible riders whose travel begins and ends within  $\frac{3}{4}$  mile of an Apple Country Public Transit fixed route and whose trip occurs during normal fixed route service hours. A map of this area can be found at [www.hendersoncountync.gov](http://www.hendersoncountync.gov) under the GoMaps application. Complementary paratransit bus hours and the peak vehicle requirement may vary over the term of the CONTRACT depending on ridership demand and availability of vehicles.

The SERVICE PROVIDER will accept reservations Monday through Friday between 8:30 a.m. and 5:00 p.m. and during evenings and

weekends through answering machine. Reservations may be made up to seven (7) days in advance of a desired trip and until 5:00 p.m. on the day preceding the day of travel. Same day reservations and service will be provided on an as needed basis. All reservations must be recorded on a "Service Request Form". The Service Request Form must be date/time stamped.

SERVICE PROVIDERS should provide an operating plan which details how complementary paratransit service will be operated. Proposals must indicate how the following information will be captured and reported:

- Revenue hours
- Revenue miles
- Passenger trips
- Passenger trip information (e.g., passenger name and identification number, origin and destination address, pick-up and drop-off time, and mileage)
- No shows
- Missed trips (defined as any trip delivered after 60 minutes of the requested time)
- Trip denials
- Tracking of telephone requests (logs of call ins, complaints, and requests must be kept in accordance with ADA guidelines)

If the SERVICE PROVIDER is physically unable to meet all requests, it should provide equivalent services using contract taxi operations.

Paratransit training will include all requirements identified for fixed route operators. Paratransit operators must be CDL licensed. In addition to the training requirements identified for fixed route operators, the paratransit operators will be required to obtain sensitivity training related to transporting persons with disabilities. Training for paratransit drivers will emphasize ADA requirements, sensitivity, boarding and wheelchair tie-down skills, and will provide a higher awareness of the various disabilities eligible for complementary paratransit services.

Eligibility certification for complementary paratransit services will be the responsibility of the SERVICE PROVIDER. The COUNTY will furnish the successful SERVICE PROVIDER with a current list of eligible users on or before the start of revenue service. The SERVICE PROVIDER is responsible for verifying that users of the system are eligible for complementary paratransit service. Verification should include, but is not limited to, obtaining client identification number at the time of the request for service and checking the passenger's photo identification upon picking up the passenger. The COUNTY reserves the right to expand or reduce the number of certified riders and to modify the method(s) and standard(s) used for the certification of riders.

Subscription service will be offered to Apple Country Public Transit customers having travel patterns to and/or from the same destinations, at the same hours, on the same days each week, at least three days per week, for at least six months consecutively. Subscription service is restricted to trips to and from work, medical or educational institutions

only. Temporary and same day changes cannot be made to subscription trips. Availability is on a first-come, first-serve basis.

The SERVICE PROVIDER must provide a Paratransit Plan to the COUNTY for its review and approval no less than 30 days prior to the start of revenue service. The Paratransit Plan will describe, in detail, how the SERVICE PROVIDER will receive and process reservations, process eligibility applications, and provide service to eligible Apple Country Public Transit patrons.

#### **4.3.2.3 Fuel**

SERVICE PROVIDER will provide fuel for fixed route vehicles and paratransit vehicles. SERVICE PROVIDER will comply with all operating, administrative, and accounting procedures established by the COUNTY with regard to fueling operations. The County has a CNG fueling facility open to the public. SERVICE PROVIDER is encouraged to use the County's CNG fueling facility but is not required to. CNG fuel is also available at stations in Mills River, Arden, and in Asheville.

#### **4.3.3 Safety**

SERVICE PROVIDER shall assume full responsibility for assuring that the safety of passengers, personnel, members of the public and the COUNTY's vehicles and equipment are maintained at the highest possible level throughout the term of this CONTRACT. In this regard, the SERVICE PROVIDER will develop and implement an ongoing comprehensive safety program covering all aspects of the system.

The Safety Program must meet, at a minimum, all applicable Federal, State, and local regulations. The Safety Program must be submitted and approved to the COUNTY one month prior to service startup.

The SERVICE PROVIDER will require all drivers, supervisors, dispatchers, mechanics, and managers to participate in the Safety Program. The following are to be included in the Safety Program.

##### **4.3.3.1 Safety Reviews and Accident Prevention**

The program will include provisions to regularly review all aspects of the operation to ensure that the service being provided meets the highest level of safety standards. This will include audits of vehicles and equipment, delivery of accident prevention programs, holding monthly safety meetings, and ensuring follow-up of findings.

##### **4.3.3.2 Emergency Preparation**

SERVICE PROVIDER will develop procedures and provide training programs to address all types of emergency situations, including accidents, crime/security incidents, and inclement weather.

#### **4.3.3.3 Accident/Incident Response and Reporting**

SERVICE PROVIDER shall develop and implement procedures, subject to the COUNTY review and approval, to respond to and report all accidents and incidents. Such occurrences are to include vehicle accidents, passenger injuries or disturbances, employee injuries, and lift failures on in-service buses.

All traffic accidents involving Apple Country Public Transit fixed route and paratransit bus service system vehicles are to be reported promptly to the appropriate police unit, as well as the COUNTY. The specific accident reporting requirements are detailed in Section 4.3.12.1.

SERVICE PROVIDER shall be responsible for developing the Public Transportation Agency Safety Plan for Apple Country Public Transit in compliance with applicable federal requirements.

#### **4.3.3.4 Accident Investigation, Rating and Follow-up**

SERVICE PROVIDER will develop procedures to investigate, review and rate each accident to determine if the accident could have been prevented utilizing National Safety Council definition of preventability. In addition, this review will establish the need (and schedule, as necessary) for any corrective training, operating guideline revision, or equipment maintenance or technical correction required, together with a follow-up to assure that action has been completed.

All staff involved in accident investigation must be properly trained in accident investigation as required by the US Department of Transportation.

#### **4.3.4 ADA Requirements**

Program will encompass provisions for meeting ADA public transit requirements, including the policies, regulations and training of all bus operators in the safe use of all ADA bus equipment. Requirements include operation of the wheelchair lift equipment, wheelchair tie-down procedures, wheelchair lift standee policies, operation of bus kneeling feature, public address system, boarding and securing of the mobility devices, service animal regulations, first aid, CPR and an awareness of a variety of disabilities and the medical symptoms or risks associated with them.

#### **4.3.5 Drug and Alcohol Testing Program**

The SERVICE PROVIDER will be responsible for developing and implementing a Drug and Alcohol Testing Program that complies with 49 CFR Parts 653 and 654. Monthly reports must be submitted to the COUNTY documenting the details of the tests that have been administered. The annual Federal Management Information System (MIS) reports with specific COUNTY information are to be submitted to the COUNTY no later than February 15 of each year. The SERVICE PROVIDER must permit the COUNTY and any authorized representative

of US DOT to inspect facilities, and records associated with the program. The Drug and Alcohol Testing Program requirements will be reflected in the Accident Response procedures.

The SERVICE PROVIDER agrees further to certify to the COUNTY annually its compliance with Parts 653 and 654 before December 31<sup>st</sup> each year. To certify compliance, the SERVICE PROVIDER shall use the "Substance Abuse Certifications" in the "Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements," which is published annually in the Federal Register.

#### 4.3.6 Bus Rodeo

The SERVICE PROVIDER will be responsible for the planning, organization, cost and carrying out of the Apple Country Public Transit bus system's participation in state and national bus rodeo competitions. This involvement includes training, course knowledge, competition regulations and the actual event coordination.

The COUNTY has strongly supported bus rodeo competitions and views the program as an important safety and training opportunity. The COUNTY will encourage the SERVICE PROVIDER's continued active involvement in this vital safety/training function for all bus drivers.

SERVICE PROVIDER will be responsible for any professional association memberships to enable local bus rodeo winners to participate in the rodeos.

#### 4.3.7 Customer Service

##### 4.3.7.1 *Investigation and Response to Customer Complaints*

The COUNTY shall receive all customer complaints, concerns and commendations and forward them to SERVICE PROVIDER within 24 hours for investigation and follow-up action.

SERVICE PROVIDER shall provide to the COUNTY written procedures for investigating and responding to complaints within thirty (30) days prior to the start of revenue service.

SERVICE PROVIDER will provide a response to the COUNTY for all customer complaints within three (3) days of the COUNTY's notice.

SERVICE PROVIDER shall provide to the COUNTY a monthly report that summarizes the responses and investigation status of each customer complaint reported by the COUNTY. All complaints more than seven (7) working days old which have not resulted in a completed investigation and follow-up response (telephone or written) to the COUNTY must be listed separately.

#### 4.3.7.2 *Other Customer Feedback*

Bus and paratransit operators will interact with customers on a daily basis, and therefore, may hear feedback from customers directly or observe opportunities to improve service. SERVICE PROVIDER shall propose a procedure to collect and report customers feedback to the COUNTY periodically, e.g., through regular communications with COUNTY staff as contemplated in Section 4.3.14 and/or in the Customer Service Monthly reports specified in Section 4.3.12.

#### 4.3.7.3 *Ticket/Pass Sales Program*

SERVICE PROVIDER shall sell tickets and monthly passes on buses and also at the administration facility during the hours of 8am to 5pm on weekdays. SERVICE PROVIDER shall accept payment by cash, check, money order, and electronic payment format.

SERVICE PROVIDER shall be responsible for producing all tickets and passes.

All revenues from the sales program are to be included in the passenger fare deposits. The SERVICE PROVIDER must provide complete accountability to the COUNTY for this program. A periodic inventory of tickets and passes will be conducted at the COUNTY's request.

#### 4.3.7.4 *Operating a Lost and Found Program*

SERVICE PROVIDER will be responsible for managing all goods lost and found on the buses or at Apple Country Public Transit facilities. This may include fielding inquiries on the phone or in person at the SERVICE PROVIDER's Administration Office. Lost and found items will be held for sixty (60) days (unless the item is of great value).

#### 4.3.7.5 *Photo Identification Cards*

SERVICE PROVIDER to prepare and issue photo identification cards to the elderly and disabled for federal discount fare benefits. Customer Information will be recorded r photo I.D.s will be prepared at the SERVICE PROVIDER's Administrative Offices for all eligible passengers requiring the discounted fare. Information on the recipients will be entered and maintained on a database.

#### 4.3.7.6 *Schedules, Passes, Tickets*

SERVICE PROVIDER will distribute and disseminate such materials in accordance with the provisions of the CONTRACT and any directions supplemental thereto provided by the COUNTY.

#### 4.3.8 *Maintenance*

SERVICE PROVIDER shall perform the duties and accept the responsibilities set forth below in connection with the maintenance of Apple Country Public Transit vehicles and equipment.

#### 4.3.8.1 General Terms

SERVICE PROVIDER shall be responsible for the maintenance of all vehicles and all other equipment, furnishings and accessories required in connection with the operation of the system. Such items shall be in a clean, safe, sound, and operable condition at all times and in full accordance with any manufacturer recommended maintenance procedures and specifications. In addition, items shall be maintained in compliance with all applicable requirements of Federal, State, and County statutes or regulations.

In this regard, SERVICE PROVIDER shall provide all labor, repairs, parts, supplies, lubricants, solvents, and all other components, services, tools and equipment not provided by the COUNTY which may be required to fulfill its maintenance responsibilities at SERVICE PROVIDER's cost and expense.

In the event that the COUNTY provides SERVICE PROVIDER with additional buses and/or equipment at future times, SERVICE PROVIDER shall acknowledge receipt of such additional items upon their delivery to and acceptance by SERVICE PROVIDER.

Upon termination of CONTRACT, SERVICE PROVIDER shall return all the COUNTY equipment to the COUNTY ready for use, with no deferred maintenance or damage. The specific procedures to be followed for this turnover are outlined in Section 4.4.

#### 4.3.8.2 Management

SERVICE PROVIDER shall designate and provide the services of a qualified Maintenance Manager, subject to the approval of the COUNTY. This individual shall be physically assigned to the COUNTY maintenance operations on a full-time basis.

The Maintenance Manager shall provide pro-active resource management, including but not limited to: preventive maintenance scheduling and supervision, repair supervision, technical training, and such other activities as may be necessary to ensure the performance of SERVICE PROVIDER maintenance duties and responsibilities.

The Maintenance Manager shall have the following qualifications:

- A minimum of five (5) years of experience managing the maintenance functions of a bus shop similar in size and complexity to the services herein described;
- A minimum of five years journeyman level experience with large and small and bus engines, air conditioning systems, wheelchair lifts, and mechanical and electronic farebox systems. This experience shall include work on full sized (i.e., 30' or longer) **CNG transit coaches** for at least one year or equivalent training as approved by the COUNTY; and



- Experience supervising the work of other Maintenance Personnel.

Should the services of the Maintenance Manager become unavailable to the SERVICE PROVIDER, the resume and qualifications of the proposed replacement shall be submitted to the COUNTY for approval as soon as possible, but in no event later than five (5) working days prior to the departure of the incumbent Maintenance Manager, unless SERVICE PROVIDER is not provided with such notice by the departing employee. The COUNTY shall respond to SERVICE PROVIDER within three (3) working days following receipt of these qualifications concerning acceptance of the candidate for replacement Maintenance Manager.

#### 4.3.8.3 Maintenance Personnel – General

Maintenance personnel assigned to work on Apple Country Public Transit vehicles and equipment shall have thorough knowledge of:

1. Engines, transmissions, air conditioning systems, and related mechanical equipment;
2. Methods and procedures used in servicing mechanical equipment;
3. Vehicle chassis and bodies;
4. Tools, precision instruments, equipment, and procedures used in the general repair and maintenance of vehicle equipment;
5. Decimals, fractions, and specifications related to vehicle maintenance; and
6. Specialized areas such as painting, upholstering, brake relining, air conditioning, wheelchair lifts, mechanical and electronic fareboxes, and electronic destination signs.

In addition, personnel need to be skilled in the following duties:

1. Conduct preventive maintenance inspections and complete associated paperwork;
2. Inspect vehicle engines, transmissions, and other mechanical, electrical components; air and hydraulic;
3. Diagnose vehicle engine, transmission, electrical and electronic component system problems; and
4. Repair vehicle engines, transmissions, and other mechanical, electrical, air and hydraulic components.

#### 4.3.8.4 Technical Training

SERVICE PROVIDER shall provide technical training for all maintenance personnel necessary to ensure a consistent level of current, thorough knowledge in the maintenance and repair of several types of vehicles and

equipment used in fixed route and paratransit bus service, including air conditioning systems, wheelchair lifts, and other ancillary equipment.

#### 4.3.8.5 *Preventive Maintenance Program*

SERVICE PROVIDER shall develop and submit a pro-active preventive maintenance program for review and approval by the COUNTY within thirty (30) days of the effective date of this AGREEMENT. As a minimum, SERVICE PROVIDER's preventive maintenance program shall adhere to the preventive maintenance schedules and standards of the industry, and shall be sufficient so as not to invalidate or lessen warranty coverage of the COUNTY vehicle or associated equipment. Adherence to preventive maintenance inspection (PMI) schedules shall not be regarded as reasonable cause for deferred maintenance in specific instances where SERVICE PROVIDER's employees observe that maintenance is needed in advance of said PMI schedule.

SERVICE PROVIDER shall strictly adhere to the approved preventive maintenance program. SERVICE PROVIDER shall not defer maintenance for reasons of shortage of maintenance staff or operable buses, nor shall service be curtailed for the purpose of performing maintenance without prior written consent of the COUNTY. PMIs and running repairs shall receive first priority in the use of SERVICE PROVIDER's maintenance resources. SERVICE PROVIDER shall adjust the work schedules of its employees as necessary to meet all scheduled services and complete preventive maintenance activities according to the schedule approved by the COUNTY. SERVICE PROVIDER shall retain additional personnel or the services of outside firms, if necessary, to meet the COUNTY's maintenance requirements.

#### 4.3.8.6 *Late or Missed Preventive Maintenance Inspections (PMI)*

SERVICE PROVIDER shall maintain stated intervals between inspections.

- Any PMI inspection completed more than ten percent (10%) past its PMI mileage interval is considered "LATE".
- Any PMI inspection completed more than fifteen percent (15%) past its PMI mileage interval is considered "MISSED".

#### 4.3.8.7 *Mechanical Maintenance Program*

SERVICE PROVIDER shall be responsible for the safe and efficient maintenance of all:

- a. Vehicles and equipment,
- b. Vehicle ADA equipment,
- c. Farebox systems,
- d. Automated Passenger Counter (APC),
- e. Video surveillance equipment and components, and
- f. All other the COUNTY-provided equipment, furnishings, and accessories;

SERVICE PROVIDER's duty and responsibility to maintain all vehicles and equipment shall not be delegated to any other person, firm or corporation.

All parts, materials, tires, lubricants, fluids, oils and procedures used by SERVICE PROVIDER on all the COUNTY vehicles and equipment shall meet or exceed Original Equipment Manufacturer (OEM) Specifications and requirements. All parts installed by the SERVICE PROVIDER on Apple Country Public Transit vehicles and equipment shall become property of the COUNTY or the COUNTY.

The Maintenance Manager shall implement a pro-active Quality Assurance Plan, subject to approval by the COUNTY, to verify the quality of work performed.

SERVICE PROVIDER, at its sole cost and expense, shall provide all:

- a. Labor
- b. Repairs
- c. Parts and Supplies
- d. Maintenance tools and equipment Lubricants
- e. Maintenance
- f. Cleaning
- g. Major components
- h. Component rebuilding and replacement
- i. Such other components, facilities, and services which may be required to fulfill its maintenance responsibilities pursuant to this CONTRACT
- j. Computer Software for tracking maintenance activities
- k. Tires

Generally, the Maintenance Program shall provide that:

- a. All wheelchair lift-related equipment shall be inspected, serviced and lubricated at intervals necessary to ensure that the wheelchair lifts are fully operational.
- b. Brake inspections and adjustment shall be performed at intervals which ensure the safe and efficient operation of the braking system, per manufacturer's specifications.
- c. All components of the vehicle bodies, appurtenances, and frames shall be maintained in a safe, sound, and undamaged condition at all times. Damage (including body, glass, and all vehicle appurtenances) shall be repaired in a professional manner within three weeks (21 calendar days) of occurrences. SERVICE PROVIDER may have difficulty securing adequate parts for the Flexible fleet. SERVICE PROVIDER must be able to prove sufficient efforts to secure parts in order to receive a waiver on the 21-day requirement.
- d. All mechanical, electrical, fluid, air, and/or hydraulic systems shall be maintained in a safe and fully functional, as designed, condition at all times.

- e. The interior passenger compartment shall be free of exhaust fumes from the engine, engine compartment, and exhaust system of the vehicle.
- f. Heating, ventilation and air conditioning (HVAC) systems shall be maintained and used to ensure that the passenger compartment temperature is comfortably maintained under all climatic conditions at all times. SERVICE PROVIDER shall maintain the A/C systems in an operable condition from March 1 through November 1, and the heating system in an operable condition from November 1 through March 1.
- g. Henderson County vehicles shall be maintained in proper operating condition at all times. All rips, tears, cuts, gum, graffiti and other damage shall be cleaned or repaired in a professional manner immediately upon their discovery. SERVICE PROVIDER shall replace seat covers which are worn or cannot be professionally repaired, using materials which are identical in design and color as those materials being replaced.
- h. Farebox system shall be maintained in proper operating condition at all times.
- i. Vehicle Brake Replacement
  - Drums shall be turned with hubs attached.
  - Brake blocks shall be matched to drums by size; i.e., 1X, 2X, etc.
  - Both brakes on an axle shall be replaced at the same time.
  - Premium brake blocks shall be used.
  - Wheel seals shall be replaced with every brake job and bearings shall be checked.
- j. General Maintenance
  - Tires shall always be matched (by size, and tread pattern) on each axle. Tires shall not vary more than 3/32" between inner and outer tires and not more than 4/32" between curbside and roadside.
  - Cradle motor mounts shall be replaced in pairs.
  - Radiators shall be re-cored at the time of engine replacement, and the entire cooling system shall be thoroughly inspected with all defects repaired as needed.

#### **4.3.8.8 Vehicle Repairs**

All repairs to Apple Country Public Transit vehicles shall be performed by SERVICE PROVIDER or vendors with the capability to conduct vehicle repairs in accordance with the standards specified in this Contract. If the SERVICE PROVIDER chooses to contract out vehicle repairs to a third-party vendor, the COUNTY may request the SERVICE PROVIDER to provide qualifications of the vendor. The COUNTY has the discretion to require the SERVICE PROVIDER to change vendor if the COUNTY is not satisfied with its performance.

Repairs shall include, but not be limited to, work to correct loss or damage; adjustments due to normal wear and tear; and overhaul, rebuilding or replacement of components. Repair work shall be conducted as soon as practicable upon learning that such work is required. SERVICE PROVIDER shall perform repair work expeditiously in response to identification of problems by drivers or other staff members. SERVICE PROVIDER shall assure the COUNTY that required repairs shall not be deferred beyond a reasonable time.

#### **4.3.8.9 Warranties**

SERVICE PROVIDER shall be familiar with vehicle and equipment warranties and shall comply with all warranty provisions and all manufacturer recommended maintenance activities in the conduct of its maintenance functions. SERVICE PROVIDER shall interact directly with manufacturers to seek warranty service.

#### **4.3.8.10 Parts Inventory**

SERVICE PROVIDER shall establish and maintain an ongoing spare parts inventory sufficient to minimize vehicle downtime and ensure that peak vehicle requirements are met.

#### **4.3.8.11 Tools and Equipment**

All tools and equipment used for Apple Country Public Transit maintenance, except for small hand tools provided by SERVICE PROVIDER's employees, shall be provided and maintained by SERVICE PROVIDER.

#### **4.3.8.12 Vehicle Towing**

In the event that towing of any the COUNTY vehicles is required due to mechanical failure or damage, SERVICE PROVIDER shall be responsible to provide such towing at SERVICE PROVIDER's sole expense.

#### **4.3.8.13 Emissions Control Programs**

SERVICE PROVIDER shall perform and certify such tests of equipment required to meet the COUNTY, other local, State, and Federal requirements related to exhaust smoke and engine emissions.

#### 4.3.8.14 Oil Analysis

SERVICE PROVIDER must develop and implement a laboratory engine oil analysis program and submit it for the COUNTY approval. Results of the analysis shall be reported to the COUNTY.

SERVICE PROVIDER must develop and implement a laboratory transmission fluid analysis program and submit it for the COUNTY approval. Oil and fluid analysis should be entered into a computer software tracking program for tracking analysis purposes.

#### 4.3.8.15 Daily Vehicle Condition Reports (DVCRs)

SERVICE PROVIDER shall require drivers to submit a daily vehicle condition report (DVCR). Reports shall be carefully examined, and defects corrected before the vehicle is driven in service. The DVCRs shall be retained for at least two years.

#### 4.3.8.16 Maintenance Evaluations

SERVICE PROVIDER shall allow the COUNTY access to SERVICE PROVIDER's facilities and records to monitor SERVICE PROVIDER's maintenance performance as the COUNTY deems necessary. The COUNTY may perform or use independent consultants to perform regular, unannounced maintenance inspections of vehicles and equipment maintained by SERVICE PROVIDER which are used in this project to determine SERVICE PROVIDER's maintenance performance. The COUNTY shall be permitted to view and copy any vehicle maintenance records, inspect vehicles and equipment, and request SERVICE PROVIDER personnel to drive vehicles as is necessary to evaluate the condition of vehicles and equipment used in the performance of this CONTRACT.

#### 4.3.8.17 Out of Service Designation

A bus or paratransit van shall be designated as unfit for revenue service (considered Out of Service) if, upon inspection, any of the following safety-related conditions are found:

- a. Brakes out of adjustment;
- b. Loose steering components;
- c. Air Conditioning unable to maintain a temperature 20°F lower than ambient or no lower than 72°F, from March 1 through November 1;
- d. Heating or Defroster inoperative, for the period November 1 through March 1;
- e. "Missed" Preventive Maintenance Inspection, as outlined in Section 4.3.8.6;
- f. Tires with tread depth of less than 2/32", on the rear and 4/32" on the front;
- g. Inoperative Emergency Exits/Doors/Windows;
- h. Inoperative two-way radio;

- i. Any condition not in compliance with applicable Federal or State Regulations.

Vehicle shall continue to have the Out of Service designation until it is brought into compliance.

#### 4.3.8.18 Maintenance Records

SERVICE PROVIDER shall prepare, maintain, make available to the COUNTY (or its Designee), and reduce to written form, records and data relative to the COUNTY vehicles and equipment maintenance. Maintenance records shall be maintained on all vehicles indicating all warranty work, preventive maintenance, and repairs performed on each vehicle. All such records shall be prepared and maintained in such a manner so as to fulfill any applicable state or federal requirements, as well as any needs of the COUNTY to enable it to accurately evaluate SERVICE PROVIDER's maintenance performance.

SERVICE PROVIDER shall prepare and maintain maintenance records in a form approved by the COUNTY. Such records shall include, but not be limited to, the following:

- a. Daily vehicle condition reports (DVCRs). Maintenance Department will review, coordinate follow-up action and sign-off completed repairs and file DVCRs which are filled out by drivers.
- b. Work orders for all preventative maintenance inspections, warranty repairs and other vehicle repairs including materials, parts and labor consumed.
- c. Major and minor failure reports which are numbered, identify date, time, vehicle number, route number if in service, problem and mileage on vehicle.
- d. Maintenance records for each bus which provides the following information at a minimum:
  1. make
  2. model
  3. serial number/Apple Country Public Transit fleet number
  4. the COUNTY Property ID number and serial number of installed the COUNTY or COUNTY owned equipment
  5. license number
  6. date received
  7. date placed in service
  8. life miles
  9. rebuilds and major component replacements, including date and life miles at time of replacement/rebuild
  10. vehicle repairs
  11. preventive maintenance inspection reports
  12. daily "vehicle condition" reports
  13. work orders
  14. tire data

- e. Oil and fluid analysis records for the designated intervals

The Preventive Maintenance Inspection reports, the Daily Vehicle Condition Reports (DVCRs) and the oil and fluid analysis records shall be kept for two years.

The entire computerized maintenance software files shall be accessible to the COUNTY or its designee at any time. Ability to change data will be password protected by SERVICE PROVIDER.

#### **4.3.8.19 Maintenance Reports**

SERVICE PROVIDER shall submit the maintenance reports specified in this section to the COUNTY at the required frequency. Within 15 days from the start date of the Contract, the SERVICE PROVIDER shall provide the COUNTY, for review and approval, a template for weekly and monthly maintenance reporting.

#### **Weekly Reports**

- a. Preventative Maintenance Inspection (PMI) Report by Vehicle Number:
  - 1. Vehicle Life Miles
  - 2. Scheduled PMI Mileage
  - 3. Date of PMI
  - 4. Next PMI Mileage
  - 5. Summary of PMI's Early, On-Time, Late, Missed
- b. Daily Units Out of Service – Reason and Location
- c. Major and Minor Vehicle Damage Report
- d. Buses with Inoperable Wheelchair Lifts and Reason
- e. Buses with inoperable P.A. Systems, and inoperable Destination Signs
- f. Vehicle CNG or gasoline Fuel, Fluids and Oil Consumption and Mileage by Vehicle Number

#### **Monthly Reports**

The following monthly reports are to be submitted to the COUNTY prior to the 10<sup>th</sup> day of the following calendar month:

- a. Preventive Maintenance Inspection (PMI) Summary by Vehicle Number
- b. Vehicle CNG or gasoline Fuel, Fluids and Oil Consumption and Mileage by Vehicle Type
- c. Overall Monthly Summary Report, listing each vehicle, vehicle life mileage, and vehicle miles since last preventive



maintenance inspection, vehicle fuel and lubricants consumption, vehicle in service failures, ADA accessory equipment failures, and maintenance/repair work performed as of the end of each month.

- d. Monthly Management Report of the MAJOR maintenance problems which will include all MAJOR maintenance work performed on vehicles and equipment during the month (i.e. engine replacement, transmission replacement).

#### **4.3.8.20 Farebox System**

SERVICE PROVIDER shall install, operate, and perform all required maintenance of (future and existing) farebox system to ensure no disruptions in fixed route service and to ensure that all necessary data is retrievable from the system. SERVICE PROVIDER shall maintain farebox system in accordance with manufacturer recommended maintenance procedures and specifications. SERVICE PROVIDER shall report any unusual maintenance problems to the COUNTY Project Coordinator within twenty-four (24) hours of occurrence.

#### **4.3.9 Vehicle Servicing and Cleaning**

##### **4.3.9.1 Daily Vehicle Servicing**

SERVICE PROVIDER shall perform daily vehicle servicing on all the COUNTY vehicles and equipment. For purposes of this CONTRACT, daily servicing shall include, but not be limited to:

- a. Fueling
- b. Engine oil, coolant, water and transmission fluid check/add
- c. Farebox probing, vault pulling and replacement
- d. Tire inspection (air pressure, tread depth, and wear)
- e. Brake check
- f. Lights and flashers check
- g. Interior sweeping and dusting
- h. Exterior and interior visual inspection

SERVICE PROVIDER shall develop, implement, and maintain a written checklist of items included in the daily servicing of each vehicle. The checklist shall be utilized and kept on file for the COUNTY review for two years.

##### **4.3.9.2 Vehicle Cleaning**

SERVICE PROVIDER shall maintain Apple Country Public Transit vehicles in a clean and neat condition at all times.

Vehicle exteriors should be washed daily and interiors cleaned daily; including floors mopped and trash removed after each day's use. Ceilings, windows, dashes, walls, stanchions and grabrails shall be thoroughly cleaned as necessary, but at least every fourteen (14) days. All foreign matter such as gum, grease, dirt and graffiti shall be removed from interior surfaces during the interior cleaning process. Upholstery shall be steam

cleaned at least quarterly. Upholstery damage shall be repaired immediately upon discovery.

Rubber or vinyl exterior components such as tires, bumper fascia, fender skirts and door edge guards shall be cleaned and treated with a preservative at least once every fourteen (14) days, or as necessary to maintain an attractive appearance.

Buses shall be kept free of vermin and insects at all times. SERVICE PROVIDER shall exterminate all vermin and insects from all vehicles immediately upon their discovery, utilizing safe, non-hazardous and EPA approved insecticides/materials and shall notify the county when it is using these materials to ensure compliance.

#### 4.3.10 Bus Stop Inventory and Evaluation

SERVICE PROVIDER shall report any damages to improvements at bus stops, immediately upon discovery, to the COUNTY to ensure timely repairs or replacement.

SERVICE PROVIDER shall evaluate requests for additional stops and make recommendations to the COUNTY on stop additions, removals and relocation. The recommendations need to be based on ADA, safety and community considerations.

This task will also be undertaken for new routes. The SERVICE PROVIDER shall make recommendations on all bus stops for new routes or realigned routes. The recommendations are to be accompanied by complete documentation for each of the proposed signs, including sketches of site with information on adjacent roads, land uses, and ADA requirements.

#### 4.3.11 Revenue Collection, Reconciliation and Deposit

SERVICE PROVIDER will develop a Plan to assure that revenue collection, reconciliation, reporting, and deposit procedures meet industry standards and conform to local and federal requirements. This Plan is to be submitted to the COUNTY and approved one month in advance of service start-up.

The following is to be incorporated into the plan:

- All revenue collected by SERVICE PROVIDER for all services – Fixed route bus service and paratransit service – is the property of the COUNTY.
- SERVICE PROVIDER shall reimburse the COUNTY for any revenue missing or stolen from vehicles or facilities.
- The COUNTY will establish the fare structure for the system. Any change in the fare structure authorized by the COUNTY will be implemented by the SERVICE PROVIDER in the manner and at the time prescribed by the COUNTY.
- Drivers shall be required to assure that each patron pays the appropriate fare prior to being provided transportation service.
- Drivers will not handle cash or make change for passengers.
- Drivers will record ridership counts by passenger category using the click devices and transfer that data to paper for future reporting. This method will

change when the County receives certification from the National Transit Database for the existing Automatic Passenger Counters (APC).

- SERVICE PROVIDER shall maintain the security of the fareboxes on the buses and the associated revenue collection system. Drivers will immediately report to dispatch all problems arising with the farebox including the coin mechanisms, dollar bill mechanisms, power supply boards, logic boards, and keypads. SERVICE PROVIDER is to immediately take actions to fix the problems, either by providing verbal directions to drivers or dispatching supervisor or maintenance personnel to the bus.
- Service personnel will probe the fareboxes at the probing station and will place the cash boxes in the vault. Accurate records will be kept of the cash boxes removed and replaced for each bus. Any problems with these procedures are immediately to be reported to dispatch. Dispatch will then secure the assistance of supervisory or service personnel to complete these tasks.
- Money is not to be left in fareboxes overnight or when the vehicle is transported to an off-property garage or site.
- Revenue is to be counted daily by staff independent from revenue service operations. There must be a minimum of two staff members in the room during the count. A surveillance system, manager, or both, is required to record activity in the room at all times.
- The revenue is to be totaled by fare category and separated for type of service. Revenue is to be reconciled daily with the farebox records.
- All discrepancies are to be investigated and accompanied with an explanation report to the COUNTY. This report must be received within two business days of the discrepancy.
- On a monthly basis, fare revenues will be subtracted from the total amount otherwise due to the SERVICE PROVIDER calculated based on Sections 3.8.1. and 3.8.2. . SERVICE PROVIDER will sell tickets and passes to public on buses and at its administration office, and will accept payment by cash, check, money order and electronic payment format. SERVICE PROVIDER will establish, implement and monitor procedures to ensure proper accounting of all tickets and passes and the collected revenue. The COUNTY will perform regular audits of these procedures to ensure compliance with the COUNTY and federal requirements.
- SERVICE PROVIDER is to regularly review procedures and their implementation to ensure that the process is being administered properly and that all revenue is reported and handled in a manner that reflects the COUNTY and federal requirements.

#### 4.3.12 Records and Reports

SERVICE PROVIDER must maintain detailed records in all areas of the operation. This information is vital to ensure compliance with county, federal and state requirements and to enable a thorough monitoring and evaluation of the system, including ridership, revenue, maintenance activities, safety measures, bus service efficiency and effectiveness and customer feedback.

The SERVICE PROVIDER must develop and implement a plan to ensure the development of a comprehensive and accurate record keeping and reporting program that encompasses all aspects of the operation. This record keeping/reporting plan is to be submitted to the COUNTY one month prior to service start-up, and is to be approved by the COUNTY prior to start-up.

The following are to be incorporated in the SERVICE PROVIDER's record keeping/reporting plan:

- The program must utilize automated data processing to facilitate the efficient compilation and comprehensive analysis of the required data and reports.
- All data and records collected pertinent to the CONTRACT must be accessible in the form of a hard copy and an electronic medium accessible by the COUNTY at any time. This information also needs to be accessible by the Federal Transit Administration (FTA) Administrator, the Comptroller General of the United States or any of their authorized representatives pursuant to 49 C.F.R. 18.36(1).
- Data processing records must have the ability to be downloaded onto a COUNTY medium and must be accessible to the COUNTY at any time.
- The SERVICE PROVIDER agrees to maintain all books, records, accounts and reports required under this CONTRACT for a period not less than three (3) years after the date of termination or expiration of this CONTRACT.
- SERVICE PROVIDER shall allow the COUNTY access and inspection of records and reports. Further, any duly authorized representative of the COUNTY shall be permitted to observe and inspect any or all of the SERVICE PROVIDER's subcontracted facilities and activities for the purposes of evaluating and judging the nature and extent of SERVICE PROVIDER's compliance with the provisions of this AGREEMENT. In such instances, the COUNTY's representative(s) shall not interfere with or disrupt such activities.
- SERVICE PROVIDER is responsible for compiling information regarding revenue service operations, including vehicle revenue hours; vehicle mileage, passenger trips and service failures for the preparation of the National Transit Database report. This report is critical to receipt of federal funding and the SERVICE PROVIDER must ensure that all deadlines established by FTA for receipt of report and any follow-up responses are adhered to. The SERVICE PROVIDER shall submit to the COUNTY information pertaining to the NTD requirements on a monthly basis. Should FTA request revisions or explanations for any portion of the annual NTD report, SERVICE PROVIDER will provide data for follow-up report in a timely manner – at least five (5) days prior to FTA deadline. If data is not provided in a timely manner or is inaccurate, SERVICE PROVIDER will reimburse the COUNTY for any costs associated with compiling the data.

#### **4.3.12.1 Required Reports**

The following reports are to be submitted to the COUNTY according to the specified frequency:

1) **Maintenance Reports**

Requirements are outlined in Section 4.3.8.19

2) **Operations Reports**

a) Fixed Route Services

- i. Daily Dispatch Log: The service provider will record on a daily dispatch log all radio communication received from operators, supervisors and safety and including time, vehicle number, route number and a brief summary of any incident.

## ii. Daily Operating Report

1. Total runs dispatched
2. Total revenue hours operated
3. Total dispatched runs and revenue hours that were missed
4. Total dispatched runs that were delayed
5. Total number of trips monitored by Service Provider
6. Total monitored trips recorded as late or early
7. Total number of authorized extra trips
8. Accidents involving any Apple Country Public Transit vehicle or passenger
9. Total number of bus failures (identified as major or minor) by bus and run number
10. Total number of buses (in service) with inoperable wheelchair lifts identified by bus number
11. Farebox problem, tampering, vandalism etc. by bus number
12. List of supervisors driving routes and run number
13. Number of dispatchers and supervisors on duty (not driving)
14. Number of open runs (DRIVER's) and run number

## iii. Monthly Apple Country Public Transit Service Reports

1. Total number of major and minor mechanical failures by bus number and run number
2. Total miles between failures
3. Mileage per month
4. Total missed trips and hours
5. Total supervisor hours driving routes
6. Completed NTD Report (National Transit Database - may include other specifics for Henderson County as needed)

## iv. Quarterly Route Evaluation Report

1. SERVICE PROVIDER shall develop, and submit to the COUNTY within 30 days of the Contract start date, a checklist for a quarterly Route Evaluation Report that summarizes the state of good repair for bus stops, shelters, and signage, as well as any observations of opportunities to improve service route and bus stop locations.
2. SERVICE PROVIDER shall submit the Route Evaluation Report on a quarterly basis to the COUNTY.
3. In addition to the quarterly Route Evaluation Report, SERVICE PROVIDER shall report any observations of opportunities to improve service route and bus

stop locations to the COUNTY through the regular communications contemplated in Section 4.3.14.

### 3) Safety Reports

#### a) Monthly Drug and Alcohol Testing Information

Number of tests administered by personnel category and all positive and negative results for the following categories:

- Pre-employment
- Post-Accident
- Random
- Reasonable Suspicion

#### b) Monthly Accident Statistics

- Preventable and Non preventable
- Passenger Injuries
- New Workers Comp Injuries, and Injuries per 100 employees
- Incidents

#### c) Accident Reporting

Dispatch Memorandum of Accident (including drug & alcohol testing requirements)

- a. Supervisors Accident Report
- b. Drivers Accident Report
- c. Police Report
- d. Safety Department Follow up Report
- e. Drivers MVR checks every six (6) months

#### d) Driver Motor Vehicle Records Reports

Comprehensive check of all driver MVR reports every six months.

### 4) Revenue Reports

#### a) Daily Reconciliation Report

- Ticket Sales
- Consignment Revenue
- Advertising
- Cash
- Total Revenue
- Total Deposit

#### b) Diamond Farebox Reports (when available on new buses)

- Daily Revenue and Ridership Report
- Daily Farebox Data Verification Report (discrepancies)
- Daily Exception Report
- Daily Security Report
- Monthly Revenue and Ridership Report

## 5) Customer Service Monthly Reports

### Complaints/Commendations/Observations

- Copy of each complaint and commendation
- Summary of investigations and follow-up actions
- Drivers' observations of opportunities for service improvement

## 6) Personnel Reports

Total Positions by Department and Classification – Required, Filled and Vacant

Number of Employees in Training (by Department)

## 7) COUNTY Notification – Within 30 Minutes of Occurrence

The SERVICE PROVIDER shall develop and submit to the COUNTY a communications protocol for notifying the COUNTY of the following events:

- a. Accidents (any the COUNTY vehicle or passenger)
- b. Incidents that delays route more than 10 minutes
- c. Missed trips
- d. Major bus failure (any disabled bus)
- e. Detour or deviation off normal routes, this includes deadhead routes
- f. Temporary interruption of service due to emergency; other weather-related emergencies require notification of County prior to suspension of service.

### 4.3.12.2 Reporting for Transit Asset Management Plan

The SERVICE PROVIDER shall collect and report data required to fulfill the COUNTY's obligations related to FTA's Transit Asset Management rule. Apple Country Public Transit is a Tier II agency, as defined by FTA for Transit Asset Management purpose, and participates in a group Transit Asset Management Plan sponsored by the State. The SERVICE PROVIDER shall work directly with the COUNTY and North Carolina Department of Transportation to provide the data required for complying with the Transit Asset Management rule, which include data in four general categories: (1) asset inventory, (2) asset condition assessment, (3) description of an asset management decision support tool, and (4) a prioritized list of projects or programs to manage or improve the state of good repair of capital assets. The Transit Asset Management Plan is required to be updated every four years, with the next updated plan due by October 2022.

### 4.3.13 Personnel

SERVICE PROVIDER is responsible for developing an organization and personnel plan for the operation and for all of the responsibilities relating to the employment, training and supervision of the employees.

#### 4.3.13.1 Organization and Personnel Plan

The SERVICE PROVIDER will provide an organization and personnel plan identifying staffing levels for each department. The plan needs to detail job descriptions, full time or part time designation, shifts, days of assignment and projected annual hours. The organization and staffing levels need to enable the delivery of a public transportation service that meets the COUNTY goals. As conditions change during the life of the CONTRACT, the SERVICE PROVIDER is required to develop revisions to this plan to ensure the delivery of quality transit service.

#### 4.3.13.2 Management

SERVICE PROVIDER shall provide management staffing at a level and capability sufficient to oversee its functions and employees.

SERVICE PROVIDER shall designate and provide the services of a full-time General Manager, subject to the approval of the COUNTY, who shall provide overall management and supervision of the COUNTY under the terms of this AGREEMENT. The General Manager must have a minimum of eight years in public transportation operations, including at least five years supervisory experience.

The General Manager and the Maintenance Manager shall work cooperatively with the COUNTY's Project Coordinator in matters relating to service quality, providing operational and other data as described in this Scope of Work, responding to comments from the COUNTY passengers and the general public, and responding to specific requests for other assistance as the need arises.

SERVICE PROVIDER shall assure the COUNTY that the General Manager and Maintenance Manager designated for this project will not be replaced without the written consent of the COUNTY. Should the services of the General Manager or Maintenance Manager become unavailable to SERVICE PROVIDER; the resume and qualifications of the proposed replacement shall be submitted to the COUNTY for approval as soon as possible, but in no event later than ten (10) working days prior to the departure of the incumbent General Manager or Maintenance Manager.

Any new General Manager will be adequately briefed of ongoing and upcoming issues by departing General Manager.

The office of the General Manager will be physically located at the SERVICE PROVIDER'S operations and maintenance facility. The General Manager will be expected to remain at the facility or otherwise within the Apple Country Public Transit service area as appropriate to the maximum extent possible. At all times, the General Manager, or an Operations Supervisor designated to act for the General Manager, shall be available either by phone or in person to make decisions regarding day-to-day Apple Country Public Transit operations or provide coordination as necessary, and shall be authorized to act on behalf of



SERVICE PROVIDER regarding all matters pertaining to this Scope of Work.

SERVICE PROVIDER will also provide key management positions for the Operations, Maintenance, and Safety functions.

#### *4.3.13.3 Employee Screening and Selection*

SERVICE PROVIDER shall use appropriate screening and selection criteria to employ all staff. A detailed method for the selection of all employees must be developed and approved by the COUNTY one month prior to service start-up. The selection method must identify a process for evaluating minimum requirements.

The following needs to be addressed in the screening and selection program:

- Proven ability in the area of customer service. This is vital to the delivery of quality transit services;
- Review of driving ability for all employees operating transit vehicles;
- References of past employment;
- Drug and alcohol testing for safety-sensitive employees; this includes a signed waiver at time of hiring for any drug/alcohol testing results to be given to the COUNTY;
- Job related requirements for each position.

#### *4.3.13.4 Training*

SERVICE PROVIDER shall develop, implement, and maintain a formal training and retraining program which shall be subject to review and approval by the COUNTY. All operators, dispatchers, customer service personnel, supervisors and managers shall participate in the program.

An important part of the program is a Customer Relations component. All employees having contact with the public must complete the Customer Relations course. The purpose of the course is to help provide employees with skills in providing quality customer service to passengers and the public.

Dispatchers, telephone operators, supervisors, and any other personnel who may from time-to-time be assigned to telephone information lines shall be regularly trained in customer relations skills (refresher training every twelve months), telephone manners, accident/incident procedures, and operating policies.

As part of the training program, SERVICE PROVIDER shall prepare and distribute to all operators, dispatchers, telephone operators, and supervisors a Driver's Manual. Contents of the Driver's Manual shall include the following subject areas: Driver's rules; accident/incident policies; radio policies and procedures; Diamond farebox policies and procedures; video surveillance policies and procedures, fog and inclement weather policy; vehicle inspection, care and maintenance

policy and procedures, reporting procedures and pertinent sample forms.

For operators, SERVICE PROVIDER must certify in writing, by name, each individual operator as having satisfactorily completed all requirements and training courses prior to allowing that individual operator to operate a bus in revenue service. This certification requires a minimum of eighty (80) hours of training for each operator, full and part-time. The exception shall be any person for whom the SERVICE PROVIDER can provide written documentation of both one year's experience as an operator for the SERVICE PROVIDER in a different operation operated by the SERVICE PROVIDER and at least forty (40) hours of formal training by the SERVICE PROVIDER at Apple Country Public Transit's operation. Experience and training with other transportation systems, including other public transit agencies or school systems is not acceptable.

The minimum eighty (80) hours shall include the eight (8) hour minimum National Safety Council Defensive Driving Course or equivalent, with satisfactory scores. It shall also include a minimum of thirty-two (32) hours of wheel time, including at least two round trips on each route. Each operator shall operate all types of buses during training. At least eight (8) hours of classroom instruction shall be performed for each of the following categories: 1) passenger relations, 2) accident reporting procedures, 3) radio communication procedures and codes, 4) schedules, routes, fares, and farebox procedures and, 5) ADA regulations for fixed route service operations.

To maintain each individual operator's certification, the SERVICE PROVIDER must provide and document annual refresher training of at least eight (8) hours for each operator covering passenger relations, operating procedures, ADA regulations and equipment updating. Additionally, the SERVICE PROVIDER's trainer shall conduct and document an on-board evaluation with each operator. Each ride check shall be a minimum of one hour and shall be conducted every three months on each operator.

The SERVICE PROVIDER is responsible for training all fixed route operators on the requirements for public transit as defined in the Americans with Disability Act of 1990 (ADA) requirements. A comprehensive, on-going training program shall be developed by the SERVICE PROVIDER addressing fixed route service ADA requirements. The COUNTY will strictly enforce compliance with the ADA law and has established performance standards to insure the SERVICE PROVIDER's employees are responsible in this area. ADA requirements for fixed route drivers are defined in the COUNTY's ADA Plan and Performance Standards.

#### *4.3.13.5 Supervision*

The SERVICE PROVIDER's supervision program must ensure that a high-quality level of service is being delivered to Apple Country Public Transit passengers. Supervisor staffing levels in all departments should

be evaluated carefully by the SERVICE PROVIDER to meet the above goal. Supervisors must have and maintain a valid Commercial Driver's License.

The SERVICE PROVIDER must document and report to the COUNTY all instances where supervisors and dispatchers are used as operators. The SERVICE PROVIDER must develop a plan for ensuring adequate supervision in these instances.

#### *4.3.13.6 Transit Operator Uniforms*

The SERVICE PROVIDER will provide uniforms for all bus operators. The COUNTY shall have approval over uniform design. Operators for both fixed route and paratransit will be required to wear the official Apple Country Public Transit uniform. The SERVICE PROVIDER may not alter or replace uniform parts without approval of the COUNTY. The operator uniform must include a name badge with Logo, an approved optional hat, slacks, shirt, jacket and or vest. Black or brown shoes will be required. Such uniforms will be approved by the COUNTY. Operators and street supervisors must be clean and presentable at all times. **The uniform may not be worn while off duty** such as while operating a charter service which is not part of the Apple Country Public Transit service.

#### *4.3.13.7 Equal Employment Opportunity (EEO)/Affirmative Action*

SERVICE PROVIDER must develop and implement an EEO and Affirmative Action program that meets or exceeds all federal, state, and the COUNTY policies.

SERVICE PROVIDER to prepare EEO program that complies with FTA Circular 4704.1 "Equal Employment Opportunity Program Guidelines for Grant Recipients" and submits to the COUNTY by June 30, 2000. SERVICE PROVIDER to update program and submit annually to the COUNTY.

#### *4.3.14 Communications with COUNTY Staff*

SERVICE PROVIDER shall coordinate with the COUNTY staff to conduct regular and as-needed communications among key SERVICE PROVIDER and COUNTY personnel through appropriate channels (e.g., in-person meetings, conference calls, written communications) to ensure timely reporting, discussion, and resolution of issues related to the management and operations of the Apple Country Public Transit services.

## **4.4 TURNOVER PROCEDURE**

Upon termination of this AGREEMENT, SERVICE PROVIDER shall return all the COUNTY and COUNTY owned vehicles and equipment to the COUNTY ready for use, with no deferred maintenance or damage. The Turnover Procedure outlined below will be followed during the turnover period.

In the event that SERVICE PROVIDER returns COUNTY vehicles and/or equipment to the COUNTY with deferred maintenance or damage (as identified in the Turnover Procedure), the COUNTY shall determine the cost to correct such deficiency(s) and the COUNTY shall withhold said amount from SERVICE PROVIDER's final payment(s). The COUNTY may, at its discretion, use withheld funds to correct and resolve deferred maintenance and/or damage as necessary to bring fleet into compliance with acceptable standards for turnover.

#### 4.4.1 Turnover Procedure

This procedure is designed to determine the condition of the COUNTY and COUNTY vehicles and equipment at the time of turnover between SERVICE PROVIDERS. This Turnover Procedure shall be implemented toward the end of the current CONTRACT term and prior to the commencement of the new CONTRACT. At the COUNTY's option, a Turnover Inspection may be implemented with or without a change in SERVICE PROVIDER.

#### 4.4.2 Pre-Audit Meeting

Successful PROPOSER and the COUNTY (or its designee) shall meet sixty to ninety (60-90) days prior to turnover. All parties shall be represented by authorized personnel at this Pre-Audit Meeting. The purpose of the Pre-Audit Meeting shall be to set guidelines for procedure during the Initial Audit. Procedures shall be agreed upon and confirmed in writing by all parties within five (5) working days of the Pre-Audit Meeting.

#### 4.4.3 Initial Audit

Successful PROPOSER, and the COUNTY (or its designee) shall meet thirty to sixty (30-60) days prior to turnover at the SERVICE PROVIDER's facility. All parties shall be represented by authorized personnel at this Initial Audit. SERVICE PROVIDER shall make available their current facility and such personnel as necessary to move coaches. SERVICE PROVIDER shall make available to the COUNTY (or its designee) all preventive maintenance inspection records, daily driver inspections, oil analyses test results and other records as appropriate. SERVICE PROVIDER, Successful PROPOSER, and the COUNTY (or its designee) shall cooperate fully during the Initial Audit as set forth in the guidelines determined at the Pre-Audit Meeting.

At this time the COUNTY (or its designee) shall examine every bus and determine its current condition. SERVICE PROVIDER shall make available adequate facilities and equipment dedicated to accommodate the Initial Audit. All parties shall be provided draft results of this inspection at the conclusion of the Initial Audit.

After the Initial Audit, SERVICE PROVIDER and the COUNTY (or its designee) shall meet to determine a plan and timeline for resolution of defects found during the Initial Audit. SERVICE PROVIDER shall furnish the COUNTY with timeline and specific plan for resolution of deferred maintenance prior to turnover. The "Resolution Plan" shall be submitted no less than thirty days (30) prior to expected Turnover date.

#### 4.4.4 Turnover Audit

Not less than ten (10) days prior to turnover, the COUNTY (or its designee), SERVICE PROVIDER, and Successful PROPOSER, shall meet to physically re-examine every bus. Records shall be kept and made available to the COUNTY (or its designee), documenting items which have been repaired since initial inspection. Current condition of every coach shall be determined. SERVICE PROVIDER shall make available adequate facilities and equipment dedicated to accommodating the Initial Audit. All parties shall be provided the draft results of this inspection at the conclusion of the Turnover Audit.

## **APPENDIX A - SUMMARY OF FEDERAL REQUIRED CLAUSES**

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With submission of a proposal, Proposers agree to all of the requirements in this Appendix. In this Appendix, "Contractor" shall have the same meaning as "SERVICE PROVIDER" elsewhere in this RFP.

## Federal Clauses

### ACCESS TO RECORDS AND REPORTS

- a. Record Retention. The Contractor will retain, and will require its subcontractors of all tiers to retain, complete and readily accessible records related in whole or in part to the contract, including, but not limited to, data, documents, reports, statistics, sub-Contracts, leases, subcontracts, arrangements, other third party Contracts of any type, and supporting materials related to those records.
- b. Retention Period. The Contractor agrees to comply with the record retention requirements in accordance with 2 C.F.R. § 200.333. The Contractor shall maintain all books, records, accounts and reports required under this Contract for a period of at not less than three (3) 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 records shall be maintained until the disposition of all such litigation, appeals, claims or exceptions related thereto.
- c. Access to Records. The Contractor agrees to provide sufficient access to FTA and its contractors to inspect and audit records and information related to performance of this contract as reasonably may be required.
- d. Access to the Sites of Performance. The Contractor agrees to permit FTA and its contractors access to the sites of performance under this contract as reasonably may be required.

### AMERICANS WITH DISABILITIES ACT(ADA)

The contractor agrees to comply with the requirements of 49 U.S.C. § 5301 (d), which states the Federal policy that the elderly and persons with disabilities have the same right as other persons to use mass transportation service and facilities, and that special efforts shall be made in planning and designing those services and facilities to implement that policy. The contractor also agrees to comply with all applicable requirements of section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of handicaps, with the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. §§ 12101 et seq., which requires that accessible facilities and services be made available to persons with disabilities, including any subsequent amendments to that Act, and with the Architectural Barriers act of 1968, as amended, 42 U.S.C. §§ 4151 et seq., which requires that buildings and public accommodations be accessible to persons with disabilities, including any subsequent amendments to that Act. In addition, the contractor agrees to comply with any and all applicable requirements issued by the FTA, DOT, DOJ, U.S. GSA, U.S. EEOC, U.S. FCC, any subsequent amendments thereto and any other nondiscrimination statute(s) that may apply to the Project.

### BYRD ANTI-LOBBYING AMENDMENT

Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the Agency."

### CHARTER SERVICE

The contractor agrees to comply with 49 U.S.C. 5323(d), 5323(r), and 49 C.F.R. 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 as permitted under: 1. Federal transit laws, specifically 49 U.S.C. § 5323(d); 2. FTA regulations, "Charter Service," 49 C.F.R. part 604; 3. Any other federal Charter Service regulations; or 4. Federal guidance, except as FTA determines otherwise in writing.

The contractor agrees that if it engages in a pattern of violations of FTA's Charter Service regulations, FTA may require corrective measures or impose remedies on it. These corrective measures and remedies may include: 1. Barring it or any subcontractor operating public transportation under its Award that has provided prohibited charter service from receiving federal assistance from FTA; 2. Withholding an amount of federal assistance as provided by Appendix D to part 604 of FTA's Charter Service regulations; or 3. Any other appropriate remedy that may apply. The contractor should also include the substance of this clause in each subcontract that may involve operating public transit services.

### CIVIL RIGHTS LAWS AND REGULATIONS

The following Federal Civil Rights laws and regulations apply to all contracts.

#### 1 Federal Equal Employment Opportunity (EEO) Requirements. These include, but are not limited to:

- a) Nondiscrimination in Federal Public Transportation Programs. 49 U.S.C. § 5332, covering projects, programs, and activities financed under 49 U.S.C. Chapter 53, prohibits discrimination on the basis of race, color, religion, national origin, sex (including sexual orientation and gender identity), disability, or age, and prohibits discrimination in employment or business opportunity.
- b) Prohibition against Employment Discrimination. Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, and Executive Order No. 11246, "Equal Employment Opportunity," September 24, 1965, as amended, prohibit discrimination in employment on the basis of race, color, religion, sex, or national origin.

**2 Nondiscrimination on the Basis of Sex.** Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. § 1681 et seq. and implementing Federal regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 49 C.F.R. part 25 prohibit discrimination on the basis of sex.

**3 Nondiscrimination on the Basis of Age.** The "Age Discrimination Act of 1975," as amended, 42 U.S.C. § 6101 et seq., and Department of Health and Human Services implementing regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, prohibit discrimination by participants in federally assisted programs against individuals on the basis of age. The Age Discrimination in Employment Act (ADEA), 29 U.S.C. § 621 et seq., and Equal Employment Opportunity Commission (EEOC) implementing regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, also prohibit employment discrimination against individuals age 40 and over on the basis of age.

**4 Federal Protections for Individuals with Disabilities.** The Americans with Disabilities Act of 1990, as amended (ADA), 42 U.S.C. § 12101 et seq.,

prohibits discrimination against qualified individuals with disabilities in programs, activities, and services, and imposes specific requirements on public and private entities. Third party contractors must comply with their responsibilities under Titles I, II, III, IV, and V of the ADA in employment, public services, public accommodations, telecommunications, and other provisions, many of which are subject to regulations issued by other Federal agencies.

### **Civil Rights and Equal Opportunity**

The Agency is an Equal Opportunity Employer. As such, the Agency agrees to comply with all applicable Federal civil rights laws and implementing regulations. Apart from inconsistent requirements imposed by Federal laws or regulations, the Agency agrees to comply with the requirements of 49 U.S.C. § 5323(h) (3) by not using any Federal assistance awarded by FTA to support procurements using exclusionary or discriminatory specifications. Under this Contract, the Contractor shall at all times comply with the following requirements and shall include these requirements in each subcontract entered into as part thereof.

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

**2. Race, Color, Religion, National Origin, Sex.** In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e et seq., and Federal transit laws at 49 U.S.C. § 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 C.F.R. chapter 60, and Executive Order No. 11246, "Equal Employment Opportunity in Federal Employment," September 24, 1965, 42 U.S.C. § 2000e note, as amended by any later Executive Order that amends or supersedes it, referenced in 42 U.S.C. § 2000e note. 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, religion, national origin, or sex (including sexual orientation and gender identity). Such action shall include, but not be limited to, the following: employment, promotion, 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.

**3. Age.** In accordance with the Age Discrimination in Employment Act, 29 U.S.C. §§ 621-634, U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 et seq., U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

**4. Disabilities.** In accordance with section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101 et seq., the Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 et seq., and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against individuals on the basis of disability. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

**5. Promoting Free Speech and Religious Liberty.** The Contractor shall ensure that Federal funding is expended in full accordance with the U.S. Constitution, Federal Law, and statutory and public policy requirements: including, but not limited to, those protecting free speech, religious liberty, public welfare, the environment, and prohibiting discrimination.

### **CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT**

The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. § 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. § 1251-1387). Violations must be reported to FTA and the Regional Office of the Environmental Protection Agency. The following applies for contracts of amounts in excess of \$150,000:

#### Clean Air Act

(1) The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.

(2) The contractor agrees to report each violation to the Agency and understands and agrees that the Agency will, in turn, report each violation as required to assure notification to the Agency, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

(3) The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FTA.

#### Federal Water Pollution Control Act

(1) The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.

(2) The contractor agrees to report each violation to the Agency and understands and agrees that the Agency will, in turn, report each violation as required to assure notification to the Agency, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

(3) The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FTA."



## CONFORMANCE WITH ITS NATIONAL ARCHITECTURE

Intelligent Transportation Systems (ITS) projects shall conform to the National ITS Architecture and standards. Conformance with the National ITS Architecture is interpreted to mean the use of the National ITS Architecture to develop a regional ITS architecture in support of integration and the subsequent adherence of all ITS projects to that regional ITS architecture. Development of the regional ITS architecture should be consistent with the transportation planning process for Statewide and Metropolitan Transportation Planning (49 CFR Part 613 and 621).

## CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

- a. Applicability: This requirement applies to all FTA grant and cooperative agreement programs.
- b. Where applicable (see 40 U.S.C. § 3701), all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. §§ 3702 and 3704, as supplemented by Department of Labor regulations at 29 C.F.R. Part 5. See 2 C.F.R. Part 200, Appendix II.
- c. Under 40 U.S.C. § 3702, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week.
- d. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
- e. The regulation at 29 C.F.R. § 5.5(b) provides the required contract clause concerning compliance with the Contract Work Hours and Safety Standards Act:

### Compliance with the Contract Work Hours and Safety Standards Act.

- (1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- (2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.
- (3) Withholding for unpaid wages and liquidated damages. The agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.
- (4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section."

## DEBARMENT AND SUSPENSION

- a. Applicability: This requirement applies to all FTA grant and cooperative agreement programs for a contract in the amount of at least \$25,000
- (1) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the contractor is required to verify that none of the contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
- (2) C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- (3) The accompanying certification is a material representation of fact relied upon by the subrecipient. If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the Agency and subrecipient, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions."

## DISADVANTAGED BUSINESS ENTERPRISE (DBE)

The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 C.F.R. part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the Agency deems appropriate, which may include, but is not limited to:

- (1) Withholding monthly progress payments; (2) Assessing sanctions; (3) Liquidated damages; and/or (4) Disqualifying the contractor from future bidding as non-responsible. 49 C.F.R. § 26.13(b).

Prime contractors are required to pay subcontractors for satisfactory performance of their contracts no later than 30 days from receipt of each payment the Agency makes to the prime contractor. 49 C.F.R. § 26.29(a).

Finally, for contracts with defined DBE contract goals, each FTA Recipient must include in each prime contract a provision stating that the contractor shall utilize the specific DBEs listed unless the contractor obtains the Agency's written consent; and that, unless the Agency's consent is provided, the contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE. 49 C.F.R. § 26.53(f) (1).

It is the policy of the Agency and the United States Department of Transportation ("DOT") that Disadvantaged Business Enterprises ("DBE's"), as defined herein and in the Federal regulations published at 49 C.F.R. part 26, shall have an equal opportunity to participate in DOT-assisted contracts.

## **DHS SEAL, LOGO, AND FLAGS**

The contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FTA pre-approval.

## **ENERGY CONSERVATION**

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

## **EQUAL EMPLOYMENT OPPORTUNITY**

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. 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. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

(4) The contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the contractor's non-compliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The contractor will include the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

## **FEDERAL CHANGES**

49 CFR Part 18 Federal Changes - Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between Purchaser and FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

## **FLY AMERICA**

a) Definitions. As used in this clause—

1) "International air transportation" means transportation by air between a place in the United States and a place outside the United States or between two places both of which are outside the United States. 2) "United States" means the 50 States, the District of Columbia, and outlying areas. 3) "U.S.-flag air carrier" means an air carrier holding a certificate under 49 U.S.C. Chapter 411.

b) When Federal funds are used to fund travel, Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 40118) (Fly America Act) requires contractors, Agencies, and others use U.S.-flag air carriers for U.S. Government-financed international air transportation of personnel (and their personal effects) or property, to the extent that service by those carriers is available. It requires the Comptroller General of the United States, in the absence of satisfactory proof of the necessity for foreign-flag air transportation, to disallow expenditures from funds, appropriated or otherwise established

for the account of the United States, for international air transportation secured aboard a foreign-flag air carrier if a U.S.-flag air carrier is available to provide such services.

c) If available, the Contractor, in performing work under this contract, shall use U.S.-flag carriers for international air transportation of personnel (and their personal effects) or property.

d) In the event that the Contractor selects a carrier other than a U.S.-flag air carrier for international air transportation, the Contractor shall include a statement on vouchers involving such transportation essentially as follows:

Statement of Unavailability of U.S.-Flag Air Carriers

International air transportation of persons (and their personal effects) or property by U.S.-flag air carrier was not available or it was necessary to use foreign-flag air carrier service for the following reasons. See FAR § 47.403. [State reasons]:

e) Contractor shall include the substance of this clause, including this paragraph (e), in each subcontract or purchase under this contract that may involve international air transportation.

## **INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS**

Incorporation of Federal Transit Administration (FTA) Terms - The provisions within include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in the current FTA Circular 4220 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 Contract. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any request which would cause a violation of the FTA terms and conditions.

## **NO GOVERNMENT OBLIGATION TO THIRD PARTIES**

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

## **NOTIFICATION TO FTA**

If a current or prospective legal matter that may affect the Federal Government emerges, the Recipient must promptly notify the FTA Chief Counsel and FTA Regional Counsel for the Region in which the Recipient is located. The Recipient must include a similar notification requirement in its Third Party Agreements and must require each Third Party Participant to include an equivalent provision in its sub agreements at every tier, for any agreement that is a "covered transaction" according to 2 C.F.R. §§ 180.220 and 1200.220.

(1) The types of legal matters that require notification include, but are not limited to, a major dispute, breach, default, litigation, or naming the Federal Government as a party to litigation or a legal disagreement in any forum for any reason.

(2) Matters that may affect the Federal Government include, but are not limited to, the Federal Government's interests in the Award, the accompanying Underlying Agreement, and any Amendments thereto, or the Federal Government's administration or enforcement of federal laws, regulations, and requirements.

(3) The Recipient must promptly notify the U.S. DOT Inspector General in addition to the FTA Chief Counsel or Regional Counsel for the Region in which the Recipient is located, if the Recipient has knowledge of potential fraud, waste, or abuse occurring on a Project receiving assistance from FTA. The notification provision applies if a person has or may have submitted a false claim under the False Claims Act, 31 U.S.C. § 3729 et seq., or has or may have committed a criminal or civil violation of law pertaining to such matters as fraud, conflict of interest, bribery, gratuity, or similar misconduct. This responsibility occurs whether the Project is subject to this Agreement or another agreement between the Recipient and FTA, or an agreement involving a principal, officer, employee, agent, or Third Party Participant of the Recipient. It also applies to subcontractors at any tier. Knowledge, as used in this paragraph, includes, but is not limited to, knowledge of a criminal or civil investigation by a Federal, state, or local law enforcement or other investigative agency, a criminal indictment or civil complaint, or probable cause that could support a criminal indictment, or any other credible information in the possession of the Recipient.

## **PROMPT PAYMENT**

The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that work. In addition, the contractor is required to return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to this contract is satisfactorily completed.

The contractor must promptly notify the Agency, whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of the Agency.

## **PROCUREMENT OF RECOVERED MATERIALS**

(1) In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA- designated items unless the product cannot be acquired—

- i. Competitively within a timeframe providing for compliance with the contract performance schedule;
- ii. Meeting contract performance requirements; or
- iii. At a reasonable price.

(2) Information about this requirement, along with the list of EPA-designate items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>."

## **PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS**

The contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the contractor's actions pertaining to this contract."

## **PUBLIC TRANSPORTATION EMPLOYEE PROTECTIVE ARRANGEMENTS**

The Contractor agrees to comply with the following employee protective arrangements of 49 U.S.C. § 5333(b):

1. U.S. DOL Certification. Under this Contract or any Amendments thereto that involve public transportation operations that are supported with federal assistance, a certification issued by U.S. DOL is a condition of the Contract.

2. Special Warranty. When the Contract involves public transportation operations and is supported with federal assistance appropriated or made available for 49 U.S.C. § 5311, U.S. DOL will provide a Special Warranty for its Award, including its Award of federal assistance under the Tribal Transit Program. The U.S. DOL Special Warranty is a condition of the Contract.

1. Special Arrangements. The conditions of 49 U.S.C. § 5333(b) do not apply to Contractors providing public transportation operations pursuant to 49 U.S.C. § 5310. FTA reserves the right to make case-by-case determinations of the applicability of 49 U.S.C. § 5333(b) for all transfers of funding authorized under title 23, United States Code (flex funds), and make other exceptions as it deems appropriate, and, in those instances, any special arrangements required by FTA will be incorporated herein as required.

## **SAFE OPERATION OF MOTOR VEHICLES**

### **Seat Belt Use**

The Contractor is encouraged to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned vehicles, company rented vehicles, or personally operated vehicles. The terms "company-owned" and "company-leased" refer to vehicles

owned or leased either by the Contractor or Agency.

### **Distracted Driving**

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

## **SCHOOL BUS OPERATIONS**

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

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

If Contractor violates this School Bus Agreement, FTA may:

1. Bar the Contractor from receiving Federal assistance for public transportation; or
2. Require the contractor to take such remedial measures as FTA considers appropriate.

When operating exclusive school bus service under an allowable exemption, the contractor may not use federally funded equipment, vehicles, or facilities.

The Contractor should include the substance of this clause in each subcontract or purchase under this contract that may operate public transportation services.

## **SPECIAL NOTIFICATION REQUIREMENTS FOR STATES**

Applies to States –

a. To the extent required under federal law, the State, as the Recipient, agrees to provide the following information about federal assistance awarded for its State Program, Project, or related activities:

- (1) The Identification of FTA as the federal agency providing the federal assistance for a State Program or Project;
- (2) The Catalog of Federal Domestic Assistance Number of the program from which the federal assistance for a State Program or Project is authorized; and
- (3) The amount of federal assistance FTA has provided for a State Program or Project.

b. Documents - The State agrees to provide the information required under this provision in the following documents: (1) applications for federal assistance, (2) requests for proposals or solicitations, (3) forms, (4) notifications, (5) press releases, and (6) other publications.

## **SUBSTANCE ABUSE REQUIREMENTS**

The Contractor agrees to establish and implement a drug and alcohol testing program that complies with 49 C.F.R. part 655, produce any documentation necessary to establish its compliance with part 655, and permit any authorized representative of the United States Department of Transportation or its operating administrations, the State Oversight Agency, or Agency, to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 C.F.R. part 655 and review the testing process. The Contractor agrees further to certify annually its compliance with part 655 and to submit the Management Information System (MIS) reports to the Agency.

## **SIMPLIFIED ACQUISITION THRESHOLD**

Contracts for more than the simplified acquisition threshold, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. § 1908, or otherwise set by law, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate. (Note that the simplified acquisition threshold determines the procurement procedures that must be employed pursuant to 2 C.F.R. §§ 200.317–200.327. The simplified acquisition threshold does not exempt a procurement from other eligibility or processes requirements that may apply. For example, Buy America's eligibility and process requirements apply to any procurement in excess of \$150,000. 49 U.S.C. § 5323(j)(13).

## **TERMINATION**

### Termination for Convenience (General Provision)

The Agency may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in the Agency's best interest. The Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The Contractor shall promptly submit its termination claim to Agency to be paid the Contractor. If the Contractor has any property in its possession belonging to Agency, the Contractor will account for the same, and dispose of it in the manner Agency directs.

### Termination for Default [Breach or Cause] (General Provision)

If the Contractor does not deliver supplies in accordance with the contract delivery schedule, or if the contract is for services, the Contractor fails to perform in the manner called for in the contract, or if the Contractor fails to comply with any other provisions of the contract, the Agency may terminate this contract for default. Termination shall be effected by serving a Notice of Termination on the Contractor setting forth the manner in which the Contractor is in default. The Contractor will be paid only the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract. If it is later determined by the Agency that the Contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of the Contractor, the Agency, after setting up a new delivery of performance schedule, may allow the Contractor to continue work, or treat the termination as a Termination for Convenience.

### Opportunity to Cure (General Provision)

The Agency, in its sole discretion may, in the case of a termination for breach or default, allow the Contractor [an appropriately short period of time] in which to cure the defect. In such case, the Notice of Termination will state the time period in which cure is permitted and other appropriate conditions

If Contractor fails to remedy to Agency's satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within [10 days] after

receipt by Contractor of written notice from Agency setting forth the nature of said breach or default, Agency shall have the right to terminate the contract without any further obligation to Contractor. Any such termination for default shall not in any way operate to preclude Agency from also pursuing all available remedies against Contractor and its sureties for said breach or default.

#### Waiver of Remedies for any Breach

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

#### Termination for Convenience (Professional or Transit Service Contracts)

The Agency, by written notice, may terminate this contract, in whole or in part, when it is in the Agency's interest. If this contract is terminated, the Agency shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.

#### Termination for Default (Supplies and Service)

If the Contractor fails to deliver supplies or to perform the services within the time specified in this contract or any extension, or if the Contractor fails to comply with any other provisions of this contract, the Agency may terminate this contract for default. The Agency shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. The Contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner or performance set forth in this contract. If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Agency.

#### Termination for Default (Transportation Services)

If the Contractor fails to pick up the commodities or to perform the services, including delivery services, within the time specified in this contract or any extension, or if the Contractor fails to comply with any other provisions of this contract, the Agency may terminate this contract for default. The Agency shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of default. The Contractor will only be paid the contract price for services performed in accordance with the manner of performance set forth in this contract.

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

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

#### Termination for Default (Construction)

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

The Contractor's right to proceed shall not be terminated nor shall the Contractor be charged with damages under this clause if: 1. The delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include: acts of God, acts of Agency, acts of another contractor in the performance of a contract with Agency, epidemics, quarantine restrictions, strikes, freight embargoes; and 2. The Contractor, within [10] days from the beginning of any delay, notifies Agency in writing of the causes of delay. If, in the judgment of Agency, the delay is excusable, the time for completing the work shall be extended. The judgment of Agency shall be final and conclusive for the parties, but subject to appeal under the Disputes clause(s) of this contract. 3. If, after termination of the Contractor's right to proceed, it is determined that the Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been issued for the convenience of Agency.

#### Termination for Convenience or Default (Architect and Engineering)

The Agency may terminate this contract in whole or in part, for the Agency's convenience or because of the failure of the Contractor to fulfill the contract obligations. The Agency shall terminate by delivering to the Contractor a Notice of Termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, the Contractor shall (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the Agency's Contracting Officer all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this contract, whether completed or in process. Agency has a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, all such data, drawings, specifications, reports, estimates, summaries, and other information and materials.

If the termination is for the convenience of the Agency, the Agency's Contracting Officer shall make an equitable adjustment in the contract price but shall allow no anticipated profit on unperformed services. If the termination is for failure of the Contractor to fulfill the contract obligations, the Agency may complete the work by contract or otherwise and the Contractor shall be liable for any additional cost incurred by the Agency. 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 Agency

#### Termination for Convenience or Default (Cost-Type Contracts)

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

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

If, after serving a Notice of Termination for Default, the Agency determines that the Contractor has an excusable reason for not performing, the Agency, after setting up a new work schedule, may allow the Contractor to continue work, or treat the termination as a Termination for Convenience.

## **VIOLATION AND BREACH OF CONTRACT**

#### Rights and Remedies of the Agency

The Agency shall have the following rights in the event that the Agency deems the Contractor guilty of a breach of any term under the Contract.

1. The right to take over and complete the work or any part thereof as agency for and at the expense of the Contractor, either directly or through other contractors; 2. The right to cancel this Contract as to any or all of the work yet to be performed; 3. The right to specific performance, an injunction or any other appropriate equitable remedy; and 4. The right to money damages.

For purposes of this Contract, breach shall include.

#### Rights and Remedies of Contractor

Inasmuch as the Contractor can be adequately compensated by money damages for any breach of this Contract, which may be committed by the Agency, the Contractor expressly agrees that no default, act or omission of the Agency shall constitute a material breach of this Contract, entitling Contractor to cancel or rescind the Contract (unless the Agency directs Contractor to do so) or to suspend or abandon performance.

#### Remedies

Substantial failure of the Contractor to complete the Project in accordance with the terms of this Contract will be a default of this Contract. In the event of a default, the Agency will have all remedies in law and equity, including the right to specific performance, without further assistance, and the rights to termination or suspension as provided herein. The Contractor recognizes that in the event of a breach of this Contract by the Contractor before the Agency takes action contemplated herein, the Agency will provide the Contractor with sixty (60) days written notice that the Agency considers that such a breach has occurred and will provide the Contractor a reasonable period of time to respond and to take necessary corrective action.

#### Disputes

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

In the event that a resolution of the dispute is not mutually agreed upon, the parties can agree to mediate the dispute or proceed with litigation. Notwithstanding any provision of this section, or any other provision of this Contract, it is expressly agreed and understood that any court proceeding arising out of a dispute under the Contract shall be heard by a Court de novo and the court shall not be limited in such proceeding to the issue of whether the Authority acted in an arbitrary, capricious or grossly erroneous manner.

Pending final settlement of any dispute, the parties shall proceed diligently with the performance of the Contract, and in accordance with the Agency's direction or decisions made thereof.

#### Performance during Dispute

Unless otherwise directed by Agency, Contractor shall continue performance under this Contract while matters in dispute are being resolved.

#### Claims for Damages

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

#### Remedies

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

#### Rights and Remedies

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

## **RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT**

If the Federal award meets the definition of "funding agreement" under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

## **PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT 2 CFR § 200.216**

When federal funds are expended by Henderson County for any contract resulting from this procurement process, the vendor certifies that it has not (1) procured or obtained any equipment, system, or services that uses covered telecommunications equipment or services as a substantial essential component of any system or as critical technology of any system; (2) entered into, extended, or renewed a contract to procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system; (3) entered into, extended, or renewed contracts with entities that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system; or (4) provided as part of its performance of this contract, subcontract, or other contractual instrument, any equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

## **DOMESTIC PREFERENCE 2 CFR § 200.322**

As permitted by federal and North Carolina law, Henderson County will, to the greatest extent practicable, provide a preference for the purchase acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products.)

## APPENDIX B - PROPOSAL PROTEST PROCEDURES

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### PROPOSAL PROTEST PROCEDURE

The “Proposal Protest Procedure” detailed below is provided to ensure fairness to all prospective vendors desiring to compete for business with HENDERSON COUNTY. It specifies the procedure by which a Proposer shall follow to file a protest with HENDERSON COUNTY regarding award of contract in connection with any solicitation issued by HENDERSON COUNTY that involves the use of Federal Transit Administration funds.

#### **GENERAL:**

Protest(s) will only be accepted by HENDERSON COUNTY from officers of a business whose direct economic interest would be affected by award of a contract or refusal to award a contract. The Planning Department Director will consider all such protests, whether submitted before or after the award of such a contract. If oral objections are raised and the matter cannot be resolved to the satisfaction of the objector, a written protest shall be required before any further consideration is given. Protest submissions should be concise, logically arranged, and should state clearly the grounds for protest.

All protests must include the following minimal information:

1. Business name, Protestor name, Business address, and Business phone number.
2. Identification of the solicitation in protest by title.
3. A detailed statement of the legal and/or functional ground under protest, including copies of the relevant documents.
4. A brief statement of the relief requested.

All protest documents that are received by HENDERSON COUNTY shall be stamped with the date and time received and logged into a “Protest File”.

#### **DEFINITIONS:**

For purposes of the Proposal Protest Procedure, the following definitions apply:

1. Days refer to working days of the Federal Government.
2. File or submit refers to the date of receipt by HENDERSON COUNTY or the FTA, (as the case may be).
3. Interested Party means an actual or prospective Proposer or offeror, whose direct economic interest would be affected by a reward of, or a refusal to award, a contract.
4. Proposal includes the term “offer” as used in the context of negotiated procurements as well as the terms “Proposal”, “Submission”, or other terms generally recognized to



apply to a formal submission to a request by a business for selection of goods or services.

### **Protest Before an Award**

Protest before an award must be submitted within the time frames specified for each of the two types of before award protest. The Transportation Planner shall notify and log as detailed above.

For those protests which are a protest against the allotted time for offer preparation, solicitation content, specification detail, or procedural protest, the time frame during which such protest shall be received shall be limited to three (3) days before the time/date given for the deadline or Request for Proposal due date (including the day of the proposal opening or receipt as day three (3)). If such protests are not logged within the specified time, the participants in the subject solicitation shall be deemed to have waived all rights to protest any procedural or specification item.

If after the submission of offers but *before* the formal award of a contract, any offeror or vendor feels the need to file a protest, such protest must be received within ten (10) days of the scheduled opening of the referenced response.

If “before award” protests are received within the specified time, the Transportation Planner shall request of each Proposer, a certification of timeframe extension to ensure prices to preclude any requirements to re-solicit.

Where a written protest is received against the making of an award, the award shall not be made until five (5) days after the resolution of the protest, unless the Transportation Planner determines that:

*The item(s) being procured is critical to business and in the best interest of the public; or*

*Deliverance or performance will be unduly delayed if there is a failure to award; or*

*Failure to make prompt award will otherwise cause undue harm to HENDERSON COUNTY or the State or Federal government.*

In the event that the award is to be made during the five-day period, or during the pendency of a protest, the Transportation Planner shall furnish written notification to FTA of the intent to award. FTA reserves the right to not participate in any such award.

If such an award is made, the files will contain full and adequate documentation as to the causes and points dictating such decision. All persons who are party to the solicitation shall be furnished duplicate copies of all pertinent information with confirmation of the award having been made.

## **Protest(s) After an Award**

Protest against award must be filed with the Transportation Planner of HENDERSON COUNTY within five (5) days immediately following the award. The protest will be accepted and logged and all parties shall be advised such a protest has been logged. If it appears likely that an award will need to be rescinded or invalidated and a delay in receipt of goods or services shall result that is not prejudicial to HENDERSON COUNTY's interest, a negotiated agreement to suspend performance shall be sought on a no cost basis.

HENDERSON COUNTY shall render, with approval of the County Manager and the Planning Department Director a decision on the protest within fourteen (14) days after the receipt thereof. Notice of that decision will be furnished to all interested parties. If the decision rendered by HENDERSON COUNTY is deemed to be adverse by the protestor, the protester may then file a protest with the Federal Transportation Administration (FTA).

FTA will review protests in the event of alleged failure of HENDERSON COUNTY to have a written protest procedure or the alleged failure to follow such procedures.

Alleged violations on other grounds are under the jurisdiction of appropriate State or Federal courts, or local or federal regulatory agencies. Any protest involving other matters should be filed in agreement with the directions given in particular regulations.

FTA's remedy for HENDERSON COUNTY's failure to have a written protest procedure or failure to follow such procedure is limited to requiring HENDERSON COUNTY to develop such procedures, if necessary, and to follow such procedures in reviewing the protest at issue, if HENDERSON COUNTY desires FTA financial participation in the contract in question. In instances where HENDERSON COUNTY has awarded to another vendor, or prior to FTA's decision on the protest, FTA may refuse to participate in funding the contract.

Protestors are required to file a protest with FTA not more than five (5) days after the rendering of a decision on the original protest by HENDERSON COUNTY. In instances where the protestor alleges HENDERSON COUNTY failed to make a final determination on the protest, protestors shall file a protest with the FTA not later than five (5) days after the protestor knew or should have known of HENDERSON COUNTY's failure to make a final decision. HENDERSON COUNTY shall not award a contract in the five (5) day period referenced except in accordance with the stipulations as detailed in paragraphs above. After five (5) days, HENDERSON COUNTY shall verify with FTA that no protest is on file for the particular contract in question.

Protests filed with the FTA should be filed with the FTA Regional Office, Region IV with a concurrent copy to HENDERSON COUNTY.

Protest filed with the FTA shall:

1. Include the name and address of the protestor.
2. Identify HENDERSON COUNTY, the project number (if applicable), or the title of the contractor solicitation.
3. Contain a statement of the grounds upon which the protest is filed. This should detail the alleged violation, failure, or oversight, and contain full supporting documentation.
4. Include copies of the local protests previously filed with HENDERSON COUNTY, if applicable and the copy of the decision regarding such protest rendered by HENDERSON COUNTY.

FTA shall notify HENDERSON COUNTY in a timely manner of the receipt of a protest. FTA shall instruct HENDERSON COUNTY to notify the contractor of the protest if an award has been made or, if no award has been made, to notify all interested parties. HENDERSON COUNTY shall instruct all who receive such notice that they may communicate further with FTA directly.

HENDERSON COUNTY shall submit the following information to FTA not later than ten (10) days after receipt of notification of FTA of the protest.

1. A copy of the HENDERSON COUNTY Protest Procedure
2. A description of the process followed concerning the protestor's protest; and
3. Any supporting documentation.

HENDERSON COUNTY shall then supply copies of the submissions to FTA to the protestor.

The protestor may submit to the FTA any comments on HENDERSON COUNTY's submission no later than ten (10) days after receipt of the HENDERSON COUNTY submission by the protestor.

When a protest has been timely filed with HENDERSON COUNTY before the award of a contract, HENDERSON COUNTY shall not make an award prior to five (5) days after the resolution of the protest, or if a protest has been filed with the FTA, during the pendency of that protest, unless HENDERSON COUNTY determines that:

1. The items procured are urgently needed; or
2. Delivery or performance will be unduly delayed by failure to make an award promptly; or
3. Failure to make an award will cause an undue hardship on HENDERSON COUNTY, the State, or the Federal Government.

In the event HENDERSON COUNTY determines that the award must be made in the five (5) day period, HENDERSON COUNTY will notify FTA of that decision prior to making the award. FTA reserves the right to not participate in the funding of any contract awarded under protest pendency or during the five (5) day waiting period.

Upon receipt of the submission, FTA will request further information or a conference among the parties. HENDERSON COUNTY will render a final decision on the protest.