

NON-PROFESSIONAL SERVICES AGREEMENT BETWEEN
THE CITY OF SAN LEANDRO AND
MV TRANSPORTATION
FOR
MEASURE B/BB PARATRANSIT SERVICES: FLEX SHUTTLE SERVICE

THIS AGREEMENT for paratransit transportation services is made by and between the City of San Leandro ("City") and MV Transportation, Inc. ("Contractor") (together sometimes referred to as the "Parties") as of January 1, 2019 (the "Effective Date").

Section 1. SERVICES. Subject to the terms and conditions set forth in this Agreement, Contractor shall provide to City the services described in the Scope of Work attached as Exhibit A at the time and place and in the manner specified therein. In the event of a conflict in or inconsistency between the terms of this Agreement and Exhibit A, the Agreement shall prevail.

- 1.1 **Term of Services.** The term of this Agreement shall begin on the Effective Date and shall end on June 30, 2019, the date of completion specified in Exhibit A, and Contractor shall complete the work described in Exhibit A on or before that date, unless the term of the Agreement is otherwise terminated or extended, as provided for in Section 8. The time provided to Contractor to complete the services required by this Agreement shall not affect the City's right to terminate the Agreement, as referenced in Section 8.
- 1.2 **Standard of Performance.** Contractor shall perform all services required pursuant to this Agreement in the manner and according to the standards observed by a competent practitioner of the profession in which Contractor is engaged.
- 1.3 **Assignment of Personnel.** Contractor shall assign only competent personnel to perform services pursuant to this Agreement. In the event that City, in its sole discretion, at any time during the term of this Agreement, desires the reassignment of any such persons, Contractor shall, immediately upon receiving notice from City of such desire of City, reassign such person or persons.
- 1.4 **Time.** Contractor shall devote such time to the performance of services pursuant to this Agreement as may be reasonably necessary to meet the standard of performance provided in Subsection 1.2 above and to satisfy Contractor's obligations hereunder.
- 1.5 **City of San Leandro Living Wage Rates.** This contract may be covered by the City of San Leandro Living Wage Ordinance (LWO). Bidder's attention is directed to the San Leandro Municipal Code, Title 1, Chapter 6, Article 6. Successful Bidder must submit completed self-certification form and comply with the LWO if covered.

Section 2. COMPENSATION. City hereby agrees to pay Contractor a sum not to exceed \$450,445 notwithstanding any contrary indications that may be contained in Contractor's proposal, for services to be performed and reimbursable costs incurred under this Agreement. In the event of a conflict between this Agreement and Contractor's proposal, attached as Exhibit B, regarding the amount of compensation, the

Agreement shall prevail. City shall pay Contractor for services rendered pursuant to this Agreement at the time and in the manner set forth herein. The payments specified below shall be the only payments from City to Contractor for services rendered pursuant to this Agreement. Contractor shall submit all invoices to City in the manner specified herein. Except as specifically authorized by City in writing, Contractor shall not bill City for duplicate services performed by more than one person.

Contractor and City acknowledge and agree that compensation paid by City to Contractor under this Agreement is based upon Contractor's estimated costs of providing the services required hereunder, including salaries and benefits of employees and subcontractors of Contractor. Consequently, the Parties further agree that compensation hereunder is intended to include the costs of contributions to any pensions and/or annuities to which Contractor and its employees, agents, and subcontractors may be eligible. City therefore has no responsibility for such contributions beyond compensation required under this Agreement.

2.1 **Invoices.** Contractor shall submit invoices, not more often than once a month during the term of this Agreement, based on the cost for services performed and reimbursable costs incurred prior to the invoice date. Invoices shall contain the following information:

- Serial identifications of progress bills; i.e., Progress Bill No. 1 for the first invoice, etc.;
- The beginning and ending dates of the billing period;
- A Task Summary containing the original contract amount, the amount of prior billings, the total due this period, the balance available under the Agreement, and the percentage of completion;
- At City's option, for each work item in each task, a copy of the applicable time entries or time sheets shall be submitted showing the name of the person doing the work, the hours spent by each person, a brief description of the work, and each reimbursable expense;
- The total number of hours of work performed under the Agreement by Contractor and each employee, agent, and subcontractor of Contractor performing services hereunder;
- The Contractor's signature;
- Contractor shall give separate notice to the City when the total number of hours worked by Contractor and any individual employee, agent, or subcontractor of Contractor reaches or exceeds 800 hours within a 12-month period under this Agreement and any other agreement between Contractor and City. Such notice shall include an estimate of the time necessary to complete work described in Exhibit A and the estimate of time necessary to complete work under any other agreement between Contractor and City, if applicable.

- 2.2 **Monthly Payment.** City shall make monthly payments, based on invoices received, for services satisfactorily performed, and for authorized reimbursable costs incurred. City shall have 30 days from the receipt of an invoice that complies with all of the requirements above to pay Contractor.
- 2.3 **Total Payment.** City shall pay for the services to be rendered by Contractor pursuant to this Agreement. City shall not pay any additional sum for any expense or cost whatsoever incurred by Contractor in rendering services pursuant to this Agreement. City shall make no payment for any extra, further, or additional service pursuant to this Agreement.
- In no event shall Contractor submit any invoice for an amount in excess of the maximum amount of compensation provided above either for a task or for the entire Agreement, unless the Agreement is modified prior to the submission of such an invoice by a properly executed change order or amendment.
- 2.4 **Hourly Fees.** Fees for work performed by Contractor on an hourly basis shall not exceed the amounts shown on the compensation schedule attached hereto as Exhibit B.
- 2.5 **Reimbursable Expenses.** Not Applicable.
- 2.6 **Payment of Taxes.** Contractor is solely responsible for the payment of employment taxes incurred under this Agreement and any similar federal or state taxes.
- 2.7 **Payment upon Termination.** In the event that the City or Contractor terminates this Agreement pursuant to Section 8, the City shall compensate the Contractor for all outstanding costs and reimbursable expenses incurred for work satisfactorily completed as of the date of written notice of termination. Contractor shall maintain adequate logs and timesheets to verify costs incurred to that date.
- 2.8 **Authorization to Perform Services.** The Contractor is not authorized to perform any services or incur any costs whatsoever under the terms of this Agreement until receipt of authorization from the Contract Administrator.
- 2.9 **Liquidated Damages.** Failure of Contractor to respond to problems referred to it by City within the time limits established in Subsection 1.2 of this Agreement shall result in liquidated damages as set forth in Exhibit A.

Section 3. FACILITIES AND EQUIPMENT. Except as set forth herein, Contractor shall, at its sole cost and expense, provide all facilities and equipment that may be necessary to perform the services required by this Agreement. City shall make available to Contractor only the facilities and equipment listed in this section, and only under the terms and conditions set forth herein. Contractor shall make a written request to City to use facilities or equipment not otherwise listed herein.

- 3.1 **Safety Requirements.** In accordance with generally accepted construction practices and state law, Contractor shall be solely and completely responsible for conditions on the

jobsite, including safety of all persons and property during performance of the work. This requirement shall apply continuously and not be limited to normal working hours.

Contractor shall take all necessary precautions and provide all necessary safeguards to prevent personal injury and property damage. Contractor shall provide protection for all persons including, but not limited to, its employees and employees of its subcontractors; members of the public; and employees, agents, and representatives of the City and regulatory agencies that may be on or about the work.

The services of the City in conducting review and inspection of Contractor's performance is not intended to include review of the adequacy of Contractor's work methods, equipment, bracing or scaffolding, or safety measures, in, on, or near any Contractor jobsite.

All work and materials shall be in strict accordance with all applicable state, city, county, and federal rules, regulations and codes, with specific attention to the United States Department of Labor Occupational Health and Safety Administration (OSHA) requirements. Contractor shall be solely responsible for compliance with all city, county, and state explosive transport, storage, and blasting requirements and for any damages caused by such operations.

Contractor is hereby informed that work on City property could be hazardous. Contractor shall carefully instruct all personnel working on City property that all conditions of the property are potentially hazardous work areas as to potential dangers and shall provide such necessary safety equipment and instructions as are necessary to prevent injury to personnel and damage to property. Special care shall be exercised relative to work underground.

In addition to complying with all other safety regulations, Contractor shall abide by any and all other City requirements contained in any specifications, special conditions or manuals, which shall be made available by City upon request.

Contractor shall provide and maintain all necessary safety equipment such as fences, barriers, signs, lights, walkways, guards, and fire prevention and fire-fighting equipment and shall take such other action as is required to fulfill its obligations under this section. It is the intent of the City to provide a safe working environment under normal conditions. CONTRACTOR IS ADVISED THAT CITY'S OPERATIONS AND PROPERTY ARE INHERENTLY HAZARDOUS BECAUSE OF CONDITIONS SUCH AS CONFINED SPACES, POTENTIALLY EXPLOSIVE ATMOSPHERES, AND POSSIBLE EXPOSURE TO PATHOGENS.

Contractor shall maintain all portions of the jobsite in a neat, clean, and sanitary condition at all times. If required by the City, toilets shall be furnished by Contractor where needed for use of its employees and their use shall be strictly enforced. Contractor shall not use the City's existing sanitary facilities, unless previously authorized by the City.

Contractor shall keep adequate first aid facilities and supplies available and instruction in first aid for its employees shall be given.

City reserves the right to require that Contractor bring onto the project or engage the services of a licensed safety engineer at any time during the term of this Agreement. If Contractor does not have a licensed safety engineer on staff, then City may require that Contractor engage a subcontractor or subconsultant as the project's safety engineer. Contractor shall bear all costs in connection with meeting the requirements of this section.

Section 4. INSURANCE REQUIREMENTS. Before fully executing this Agreement, Contractor, at its own cost and expense, unless otherwise specified below, shall procure the types and amounts of insurance listed below against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work hereunder by the Contractor and its agents, representatives, employees, and subcontractors. Consistent with the following provisions, Contractor shall provide proof satisfactory to City of such insurance that meets the requirements of this section and under forms of insurance satisfactory in all respects, and that such insurance is in effect prior to beginning work. Contractor shall maintain the insurance policies required by this section throughout the term of this Agreement. The cost of such insurance shall be included in the Contractor's bid. Contractor shall not allow any subcontractor to commence work on any subcontract until Contractor has obtained all insurance required herein for the subcontractor(s) and provided evidence to City that such insurance is in effect. VERIFICATION OF THE REQUIRED INSURANCE SHALL BE SUBMITTED AND MADE PART OF THIS AGREEMENT PRIOR TO EXECUTION. Contractor shall maintain all required insurance listed herein for the duration of this Agreement.

4.1 Workers' Compensation.

4.1.1 General Requirements. Contractor shall, at its sole cost and expense, maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Contractor. The Statutory Workers' Compensation Insurance and Employer's Liability Insurance shall be provided with limits of not less than **\$1,000,000** per accident. In the alternative, Contractor may rely on a self-insurance program to meet these requirements, but only if the program of self-insurance complies fully with the provisions of the California Labor Code. Determination of whether a self-insurance program meets the standards of the California Labor Code shall be solely in the discretion of the Contract Administrator.

The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the City for all work performed by the Contractor, its employees, agents, and subcontractors.

4.1.2 Submittal Requirements. To comply with Subsection 4.1, Contractor shall submit the following:

- a. Certificate of Workers' Compensation Insurance in the amounts specified in the section; and

- b. Waiver of Subrogation Endorsement as required by the section.

4.2 Commercial General and Automobile Liability Insurance.

- 4.2.1 **General Requirements.** Contractor, at its own cost and expense, shall maintain commercial general liability insurance for the term of this Agreement in an amount not less than **\$5,000,000** and automobile liability insurance for the term of this Agreement in an amount not less than **\$5,000,000** per occurrence, combined single limit coverage for risks associated with the work contemplated by this Agreement. If a Commercial General Liability Insurance or an Automobile Liability form or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under this Agreement or the general aggregate limit shall be at least twice the required occurrence limit. Such coverage shall include but shall not be limited to, protection against claims arising from bodily and personal injury, including death resulting therefrom, and damage to property resulting from activities contemplated under this Agreement, including the use of owned and non-owned automobiles.
- 4.2.2 **Minimum Scope of Coverage.** Commercial general coverage shall be at least as broad as Insurance Services Office Commercial General Liability occurrence form CG 0001 (most recent edition) covering comprehensive General Liability on an "occurrence" basis. Automobile coverage shall be at least as broad as Insurance Services Office Automobile Liability form CA 0001, Code 1 (any auto). No endorsement shall be attached limiting the coverage.
- 4.2.3 **Additional Requirements.** Each of the following shall be included in the insurance coverage or added as a certified endorsement to the policy:
 - a. The Insurance shall cover on an occurrence or an accident basis, and not on a claims-made basis.
 - b. City, its officers, officials, employees, and volunteers are to be covered as additional insureds as respects: liability arising out of work or operations performed by or on behalf of the Contractor; or automobiles owned, leased, hired, or borrowed by the Contractor.
 - c. Contractor hereby agrees to waive subrogation which any insurer or contractor may require from vendor by virtue of the payment of any loss. Contractor agrees to obtain any endorsements that may be necessary to affect this waiver of subrogation.
 - d. For any claims related to this Agreement or the work hereunder, the Contractor's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees,

or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.

4.2.4 **Submittal Requirements.** To comply with Subsection 4.2, Contractor shall submit the following:

- a. Certificate of Liability Insurance in the amounts specified in the section;
- b. Additional Insured Endorsement as required by the section;
- c. Waiver of Subrogation Endorsement as required by the section; and
- d. Primary Insurance Endorsement as required by the section.

4.3 **All Policies Requirements.**

4.3.1 **Acceptability of Insurers.** All insurance required by this section is to be placed with insurers with a Bests' rating of no less than A:VII.

4.3.2 **Verification of Coverage.** Prior to beginning any work under this Agreement, Contractor shall furnish City with complete copies of all Certificates of Liability Insurance delivered to Contractor by the insurer, including complete copies of all endorsements attached to the policies. All copies of Certificates of Liability Insurance and certified endorsements shall show the signature of a person authorized by that insurer to bind coverage on its behalf. If the City does not receive the required insurance documents prior to the Contractor beginning work, it shall not waive the Contractor's obligation to provide them. The City reserves the right to require complete copies of all required insurance policies at any time.

4.3.3 **Deductibles and Self-Insured Retentions.** Contractor shall disclose to and obtain the written approval of City for the self-insured retentions and deductibles before beginning any of the services or work called for by any term of this Agreement. At the option of the City, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, employees, and volunteers; or the Contractor shall provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration and defense expenses.

4.3.4 **Wasting Policies.** No policy required by this Section 4 shall include a "wasting" policy limit (i.e. limit that is eroded by the cost of defense).

4.3.5 **Endorsement Requirements.** Should any of the insurance required by Section 4 be canceled or materially changed, the Contractor shall provide the City at least thirty (30) days' written notice.

4.3.6 Subcontractors. Contractor shall include all subcontractors as insureds under its policies or shall furnish separate certificates and certified endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

4.4 Submittal of Proof of Insurance Coverage. All certificates of insurance and original endorsements effecting coverage required in this Section 4 must be electronically submitted through the City's online insurance document management program, PINS Advantage. Contractor shall comply with all requirements provided by City related to the PINS Advantage program.

4.5 Remedies. In addition to any other remedies City may have if Contractor fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, City may, at its sole option exercise any of the following remedies, which are alternatives to other remedies City may have and are not the exclusive remedy for Contractor's breach:

- Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Agreement;
- Order Contractor to stop work under this Agreement or withhold any payment that becomes due to Contractor hereunder, or both stop work and withhold any payment, until Contractor demonstrates compliance with the requirements hereof; and/or
- Terminate this Agreement.

Section 5. INDEMNIFICATION AND CONTRACTOR'S RESPONSIBILITIES. Contractor shall indemnify, defend with counsel acceptable to City, and hold harmless City and its officers, officials, employees, agents and volunteers from and against any and all liability, loss, damage, claims, expenses, and costs (including without limitation, attorney's fees and costs and fees of litigation) (collectively, "Liability") of every nature arising out of or in connection with Contractor's performance of the Services or its failure to comply with any of its obligations contained in this Agreement, except such Liability caused by the sole negligence or willful misconduct of City.

The Contractor's obligation to defend and indemnify shall not be excused because of the Contractor's inability to evaluate Liability or because the Contractor evaluates Liability and determines that the Contractor is not liable to the claimant. The Contractor must respond within 30 days, to the tender of any claim for defense and indemnity by the City, unless this time has been extended by the City. If the Contractor fails to accept or reject a tender of defense and indemnity within 30 days, in addition to any other remedy authorized by law, so much of the money due the Contractor under and by virtue of this Agreement as shall reasonably be considered necessary by the City, may be retained by the City until disposition has been made of the claim or suit for damages, or until the Contractor accepts or rejects the tender of defense, whichever occurs first.

Notwithstanding the forgoing, to the extent this Agreement is a "construction contract" as defined by California Civil Code Section 2782, as may be amended from time to time, such duties of Contractor to indemnify shall not apply when to do so would be prohibited by California Civil Code Section 2782.

In the event that Contractor or any employee, agent, or subcontractor of Contractor providing services under this Agreement is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of City, Contractor shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Contractor or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

Section 6. STATUS OF CONTRACTOR.

- 6.1 **Independent Contractor.** At all times during the term of this Agreement, Contractor shall be an independent contractor and shall not be an employee of City. City shall have the right to control Contractor only insofar as the results of Contractor's services rendered pursuant to this Agreement and assignment of personnel pursuant to Subsection 1.3; however, otherwise City shall not have the right to control the means by which Contractor accomplishes services rendered pursuant to this Agreement. Notwithstanding any other City, state, or federal policy, rule, regulation, law, or ordinance to the contrary, Contractor and any of its employees, agents, and subcontractors providing services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any and all claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in the California Public Employees Retirement System (PERS) as an employee of City and entitlement to any contribution to be paid by City for employer contributions and/or employee contributions for PERS benefits.
- 6.2 **Contractor Not an Agent.** Except as City may specify in writing, Contractor shall have no authority, express or implied, to act on behalf of City in any capacity whatsoever as an agent. Contractor shall have no authority, express or implied, pursuant to this Agreement to bind City to any obligation whatsoever.

Section 7. LEGAL REQUIREMENTS.

- 7.1 **Governing Law.** The laws of the State of California shall govern this Agreement.
- 7.2 **Compliance with Applicable Laws.** Contractor and any subcontractors shall comply with all laws applicable to the performance of the work hereunder.
- 7.3 **Other Governmental Regulations.** To the extent that this Agreement may be funded by fiscal assistance from another governmental entity, Contractor and any subcontractors shall comply with all applicable rules and regulations to which City is bound by the terms of such fiscal assistance program.

- 7.4 **Licenses and Permits.** Contractor represents and warrants to City that Contractor and its employees, agents, and any subcontractors have all licenses, permits, qualifications, and approvals of whatsoever nature that are legally required to practice their respective professions. Contractor represents and warrants to City that Contractor and its employees, agents, any subcontractors shall, at their sole cost and expense, keep in effect at all times during the term of this Agreement any licenses, permits, and approvals that are legally required to practice their respective professions. In addition to the foregoing, Contractor and any subcontractors shall obtain and maintain during the term of this Agreement valid Business Licenses from City.
- 7.5 **Nondiscrimination and Equal Opportunity.** Contractor shall not discriminate, on the basis of a person's race, religion, color, national origin, age, physical or mental handicap or disability, medical condition, marital status, sex, or sexual orientation, against any employee, applicant for employment, subcontractor, bidder for a subcontract, or participant in, recipient of, or applicant for any services or programs provided by Contractor under this Agreement. Contractor shall comply with all applicable federal, state, and local laws, policies, rules, and requirements related to equal opportunity and nondiscrimination in employment, contracting, and the provision of any services that are the subject of this Agreement, including but not limited to the satisfaction of any positive obligations required of Contractor thereby.

Contractor shall include the provisions of this Subsection in any subcontract approved by the Contract Administrator or this Agreement.

Section 8. TERMINATION AND MODIFICATION.

- 8.1 **Termination.** City and Contractor may terminate for convenience this Agreement upon 60 days' written notice.

In the event of termination, Contractor shall be entitled to compensation for services performed to the effective date of termination; City, however, may condition payment of such compensation upon Contractor delivering to City any or all documents, photographs, computer software, video and audio tapes, and other materials provided to Contractor or prepared by or for Contractor or the City in connection with this Agreement.

- 8.2 **Extension.** City and Contractor must mutually agree to extend the end date of this Agreement beyond that provided for in Subsection 1.1. Any such extension shall require a written amendment to this Agreement, as provided for herein. Contractor understands and agrees that, if City grants such an extension, City shall have no obligation to provide Contractor with compensation beyond the maximum amount provided for in this Agreement. Similarly, unless authorized by the Contract Administrator, City shall have no obligation to reimburse Contractor for any otherwise reimbursable expenses incurred during the extension period.

- 8.3 **Amendments.** The Parties may amend this Agreement only by a writing signed by all the Parties.

- 8.4 **Assignment and Subcontracting.** City and Contractor recognize and agree that this Agreement contemplates personal performance by Contractor and is based upon a determination of Contractor's unique personal competence, experience, and specialized personal knowledge. Moreover, a substantial inducement to City for entering into this Agreement was and is the professional reputation and competence of Contractor. Contractor may not assign this Agreement or any interest therein without the prior written approval of the Contract Administrator. Contractor shall not subcontract any portion of the performance contemplated and provided for herein, other than to the subcontractors noted in the proposal, without prior written approval of the Contract Administrator.
- 8.5 **Survival.** All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between City and Contractor shall survive the termination of this Agreement.
- 8.6 **Options upon Breach by Contractor.** If Contractor materially breaches any of the terms of this Agreement, City's remedies shall include, but not be limited to, the following:
- 8.6.1 Immediately terminate the Agreement;
 - 8.6.2 Retain the plans, specifications, drawings, reports, design documents, and any other work product prepared by Contractor pursuant to this Agreement;
 - 8.6.3 Retain a different contractor to complete the work described in Exhibit A not finished by Contractor; or
 - 8.6.4 Charge Contractor the difference between the cost to complete the work described in Exhibit A that is unfinished at the time of breach and the amount that City would have paid Contractor pursuant to Section 2 if Contractor had completed the work.

Section 9. KEEPING AND STATUS OF RECORDS.

- 9.1 **Records Created as Part of Contractor's Performance.** All reports, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications, records, files, or any other documents or materials, in electronic or any other form, that Contractor prepares or obtains pursuant to this Agreement and that relate to the matters covered hereunder shall be the property of the City. Contractor hereby agrees to deliver those documents to the City upon termination of the Agreement. It is understood and agreed that the documents and other materials, including but not limited to those described above, prepared pursuant to this Agreement are prepared specifically for the City and are not necessarily suitable for any future or other use. City and Contractor agree that, until final approval by City, all data, plans, specifications, reports and other documents are confidential and will not be released to third parties without prior written consent of both Parties.

- 9.2 **Contractor's Books and Records.** Contractor shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services or expenditures and disbursements charged to the City under this Agreement for a minimum of 3 years, or for any longer period required by law, from the date of final payment to the Contractor to this Agreement.
- 9.3 **Inspection and Audit of Records.** Any records or documents that Subsection 9.2 of this Agreement requires Contractor to maintain shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of the City. Under California Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds \$10,000.00, the Agreement shall be subject to the examination and audit of the State Auditor, at the request of City or as part of any audit of the City, for a period of 3 years after final payment under the Agreement.

Section 10. MISCELLANEOUS PROVISIONS.

- 10.1 **Attorneys' Fees.** If a party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.
- 10.2 **Venue.** In the event that either party brings any action against the other under this Agreement, the Parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of Alameda or in the United States District Court for the Northern District of California.
- 10.3 **Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.
- 10.4 **No Implied Waiver of Breach.** The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.
- 10.5 **Successors and Assigns.** The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the Parties.
- 10.6 **Conflict of Interest.** Contractor may serve other clients, but none whose activities within the corporate limits of City or whose business, regardless of location, would place Contractor in a "conflict of interest," as that term is defined in the Political Reform Act, codified at California Government Code Section 81000 *et seq.*

Contractor shall not employ any City official in the work performed pursuant to this Agreement. No officer or employee of City shall have any financial interest in this Agreement that would violate California Government Code Section 1090 *et seq.*

Contractor hereby warrants that it is not now, nor has it been in the previous 12 months, an employee, agent, appointee, or official of the City. If Contractor was an employee, agent, appointee, or official of the City in the previous 12 months, Contractor warrants that it did not participate in any manner in the forming of this Agreement. Contractor understands that, if this Agreement is made in violation of California Government Code Section 1090 *et seq.*, the entire Agreement is void and Contractor will not be entitled to any compensation for services performed pursuant to this Agreement, including reimbursement of expenses, and Contractor will be required to reimburse the City for any sums paid to the Contractor. Contractor understands that, in addition to the foregoing, it may be subject to criminal prosecution for a violation of California Government Code Section 1090 *et seq.*, and, if applicable, will be disqualified from holding public office in the State of California.

- 10.7 **Solicitation.** Contractor agrees not to solicit business at any meeting, focus group, or interview related to this Agreement, either orally or through any written materials.
- 10.8 **Contract Administration.** This Agreement shall be administered by Jeanette Dong ("Contract Administrator"). All correspondence shall be directed to or through the Contract Administrator or his or her designee.
- 10.9 **Notices.** Any written notice to Contractor shall be sent to:
Cristina Russell, VP Business Development
2711 N Haskell Avenue Suite 1500, LB-2, Dallas, TX 75204
Cristina.russell@mvtransit.com
707-330-0755

Any written notice to City shall be sent to:
Jeanette Dong, Recreation and Human Services Director
835 E. 14th Street Suite 107, San Leandro, CA 94577
510-577-3466

With a copy to:
City of San Leandro
Department of Finance
c/o Purchasing Agent
835 East 14th Street
San Leandro, CA 94577

- 10.10 **Integration.** This Agreement, including the scope of work attached hereto and incorporated herein as Exhibits A, and B represents the entire and integrated agreement between City and Contractor and supersedes all prior negotiations, representations, or agreements, either written or oral.

<u>Exhibit A</u>	Scope of Services
<u>Exhibit B</u>	Compensation Schedule

- 10.11 **Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.
- 10.12 **Certification per Iran Contracting Act of 2010.** In the event that this contract is for one million dollars (\$1,000,000.00) or more, by Contractor's signature below Contractor certifies that Contractor, and any parent entities, subsidiaries, successors or subunits of Contractor are not identified on a list created pursuant to subdivision (b) of Section 2203 of the California Public Contract Code as a person engaging in investment activities in Iran as described in subdivision (a) of Section 2202.5, or as a person described in subdivision (b) of Section 2202.5 of the California Public Contract Code, as applicable.

SIGNATURES ON FOLLOWING PAGE

The Parties have executed this Agreement as of the Effective Date. The persons whose signatures appear below certify that they are authorized to sign on behalf of the respective Party.

CITY OF SAN LEANDRO

CONTRACTOR

Jeff Kay, City Manager

MV Transportation, Inc.

Attest:

Leticia Miguel, City Clerk

Approved as to Fiscal Authority:

David Baum, Finance Director

150-36-001-5640/150-36-002-5640
Account Number

Approved as to Form:

Richard D. Pio Roda, City Attorney

Jeanette Dong, Recreation and Human Services Director

EXHIBIT A

SCOPE OF SERVICES

The information below describes the most current status of the paratransit program. Depending on the funds available, and the cost of service, these parameters may be expanded or reduced. It is the desire of the City of San Leandro to maximize the level of service that can be provided for the fixed funds available.

The Flex Shuttle service includes the Shuttle Bus.

A. FLEX SHUTTLE BUS

The Flex Shuttle service consists of (2) shuttle routes (North and South) within the CITY limits at key locations such as residential facilities, shopping, transit and community centers. The scheduled time points form two “one-way loops”. Eligible walk-on passengers can access the shuttle at any shuttle stop. Deviated stops that are on the shuttle route can be accommodated for pick-up and drop-off. Passengers can also flag the vehicle to stop at any safe location along the route. (See attached Flex Shuttle Schedule and Flex Shuttle Route Map.)

Shuttle stops and route may change within the contract period to meet demand. Changes will be made in consultation with the CONTRACTOR. The CITY shall be solely responsible for the identification, design, placement and maintenance of any fixed-stop locations.

Service Area:	City of San Leandro (incorporated City limits)
Days of Operation:	Monday - Friday
Hours of Operation:	9:00 a.m. – 5:00 p.m. (no stop in service for lunch/breaks)
Holidays:	Service does not operate on approximately 13 City holidays/year
Eligibility:	Disabled Adults (18+) and Seniors 60+
Reservations:	None required, walk-on passengers
Fare:	Free
Accessibility:	Lift Equipped Wheelchair Accessible
Number of Vehicles:	(2) Buses
Capacity:	(Each) 22 Ambulatory, 7 Wheelchair
North Route:	10 Stops, 45 Minute Loop (can change)
South Route:	10 Stops, 50 Minute Loop (can change)
Available Funding:	Measure B/BB Base Grant (TBA)

Deviated stops that are close to the shuttle route can be accommodated for pick-up and drop-off. The service began as a deviated-route service, allowing the shuttle to deviate off the route for scheduled pick-up and drop-offs and then return to the scheduled time points. Although the service has since been modified to a more traditional fixed-route shuttle, we have found that we have some capacity to deviate off the fixed route. It is the City’s desire to maintain this capability.

B. ELIGIBILITY REQUIREMENTS

The Flex Shuttle is intended for seniors and persons with disabilities. The CITY will determine eligibility criteria and assess applications. All registrants will be issued a membership card for presentation to shuttle bus drivers upon boarding. The CONTRACTOR will be responsible for the verification of all riders to ensure membership.

Flex Shuttle Eligibility:

- San Leandro Resident – Must live within the incorporated City limits. (CITY will determine eligibility)
- 60 years old or older, or 18 years or older and East Bay Paratransit Certified

Non-registrant Companion:

- Eligible passengers will be able to travel with a non-registrant companion to assist with parcels and act as a Personal Care Attendants (PCA) if the registrant feels one is required. All companions must be identified at the time of ridership.

C. CURRENT OPERATIONAL STATISTICS

Number of Registered Program Participants

- Approximately 250 Registered Riders

Service Area

- Flex Shuttle: City of San Leandro (Incorporated City Limits)

Service Days

- 5 days per week, Monday through Friday
- Approximately 13 holiday (non-service) days per year
- Service on holidays is coordinated with CONTRACTOR in advance
- Actual days of operation could change based on demand

Hours of Operation

- Shuttle Bus: 9:00 a.m. to 5:00 p.m.
 - Service will be provided during the hours listed above without a break in service for lunch or employee breaks

Approximate Billable Hours (Based on Grant & 2017-18 Service)

- Flex Shuttle Bus 4000

Productivity – Average Number of Rides/Hour

It is the goal of the program to maintain or increase the current high level of productivity for the Flex Shuttle Service.

- Flex Shuttle Service: Current = 2 rides/hour, Goal = 5+ rides/hour

Number and Type of Vehicles

- Shuttle Buses: (2) lift-equipped, 22 ambulatory passengers, 7 wheelchairs
- Approximately 4% of the trips are for non-ambulatory passengers where a lift-equipped vehicle is needed.

FY 2017-18 Estimates:

- Shuttle Bus Passenger Total: 1,260/month (turnstile)

Note: The City’s paratransit service was modified in FY 2013-14. Shuttle operating hours were extended by two hours per day. The continuation of these extended hours are contingent upon funding received.

D. ADJUSTMENTS TO SERVICE

The CITY and the CONTRACTOR may develop other service components or make adjustments to the service as needs are identified and as resources allow. The CITY expects to work closely with the CONTRACTOR on such modifications in order to provide efficient and responsive service. No operational changes that affect trip-scheduling, hours of operation, response time or any other characteristic of the service can be made by the CONTRACTOR without the prior written approval of the CITY.

IMPORTANT: Flex is an evolving service and the CONTRACTOR must be flexible and willing to problem solve to modify the service to meet demand and maximize ridership.

E. SERVICE STANDARDS

Service Productivity

The CONTRACTOR is responsible for the quality and efficiency of the Flex Shuttle. The CONTRACTOR must provide services in a manner that will maximize productivity and customer service while minimizing expense to the CITY. Service productivity will be measured as the number of passenger boardings per revenue hour.

Service	Productivity – Passenger Trips Per Hour
Flex Shuttle Service	5

On Time Performance

Flex Shuttle Bus

On time performance for the Flex Shuttle Bus is determined by the departure and arrival time of each bus at the start/finish point. To be on-time, each bus must depart the start point no later than five (5) minutes after the scheduled depart time for each run, or arrive back at the finish point no later than five minutes after the scheduled arrival time for each run. The minimum on-time performance measure requires that ninety-seven (97) percent of all scheduled runs depart and arrive at the start/finish point within five (5) minutes of the published schedule time. No bus will depart a designated bus stop before the scheduled depart time.

Service	On-time Performance
Shuttle Bus	Achieve 97% on-time performance: “On-time” = all scheduled runs depart and arrive at the start/finish point within 5 minutes of the published schedule time.

Bus Dwell Time

Flex Shuttle: The Shuttle may not leave the shuttle stop prior to the scheduled depart time.

In-Service Vehicle Replacement

The CONTRACTOR will be expected to provide an appropriate replacement vehicle as soon as possible, but no more than sixty (60) minutes, of a service disruption resulting from a vehicle breakdown or accident.

F. OVERVIEW OF RESPONSIBILITIES

Responsibilities of the CITY

The CITY’s responsibilities include, but are not limited to:

- Oversight of the operating contract.
- Service marketing, including the design, printing and distribution of service brochures and marketing materials.
- Establishment of service goals, objectives, policies and standards.
- Establishment of fare policy.
- Eligibility certification.
- Completing grant documentation, funding applications and Measure B/BB Paratransit reports.
- Establishing bus stop locations and negotiating approval for bus stops located on private property.
- Establishment, approval and revision of schedules and scheduling parameters.

Responsibilities of the CONTRACTOR

The CONTRACTOR's responsibilities include, but are not limited to:

- Hiring, training, testing and supervision of all operating and administrative staff including bus operators, dispatch and office staff, mechanics and vehicle service staff.
- Assist with the distribution and collection of survey forms and other associated materials.
- Display signage on all vehicles used to provide service under this contract as specified by the CITY.
- Operation of in-service vehicles according to the schedules and scheduling parameters approved by the CITY.
- Supply, maintenance and fueling of all vehicles in accordance with specified CITY requirements.
- Service monitoring, complaint investigation and road supervision.
- Maintain daily dispatch records of all completed trips and maintain total daily boardings by scheduled trip, including a breakdown of boardings by persons using a wheelchair. (See Data Collection and Reporting for details.)
- Preparation of monthly management reports according to CITY requirements.
- Provide CITY with input on scheduling, service planning and policy issues. Provide feedback on bus stop and route changes.

G. FACILITY LOCATION

The CONTRACTOR will be responsible for providing and maintaining a facility to adequately accommodate all operational requirements for the CITY service. The facility could be an integrated facility within San Leandro or the communities immediately bordering San Leandro. The facility location is subject to CITY approval based on easy access to the Flex Shuttle service area.

H. CUSTOMER SERVICE

The CONTRACTOR will provide staff coverage between 8:00 a.m. and 5:00 p.m. Monday through Friday to provide reservation services, dispatch, record customer comments and complaints and provide general information to the public. These can be shared staff positions with responsibilities for other regional services operated by the CONTRACTOR.

I. COMPUTER, TELEPHONE SYSTEM AND DISPATCH CENTER

The CONTRACTOR will maintain a telephone system, Internet access with an e-mail address, and a FAX capability to facilitate communication between the CONTRACTOR and the CITY, and the CONTRACTOR and the public. The CONTRACTOR'S computer system must be capable of communicating with the CITY'S computers to receive timely and accurate billing and program data.

The CONTRACTOR must dedicate enough staff and rotation telephone lines to ensure that calls are answered promptly. The telephone system must have the capability to queue calls in the order received and a TDD capability for general administrative communication and public information. The telephone system utilized must include the ability to inform callers, who have to wait to be served, that their call has been received and that they will be served in turn, and/or provide a means for the caller to leave a message. If a message is left, a return call must be made within 30 minutes of the initial call.

A separate telephone line or other means of communication must also be available for communication between the Project Manager and CITY staff in order to respond to emergency situations during service hours.

If the communication center is located outside the local San Leandro exchange, the CONTRACTOR will be responsible for a local phone number for the San Leandro Paratransit Service.

The CONTRACTOR will be responsible to provide a central dispatch communication system capable of high quality voice communication with all Flex Shuttle service vehicles.

Given the scale of the Flex Shuttle service and the anticipated volume of ridership, the Telephone and Communication Center and its functions could be shared with other regional services, operated by the CONTRACTOR with CITY approval.

J. DISPATCH

The CONTRACTOR is responsible for all dispatching and transportation functions. CONTRACTOR staff will be available between 8:00 a.m. and 5:00 p.m., Monday through Friday, and dispatchers will be available to maintain radio communication with service vehicles during all Flex service hours. Dispatch center staff may double as customer service representatives and have shared responsibilities with other regional services, operated by the CONTRACTOR.

K. VEHICLE DEPLOYMENT

The CONTRACTOR will schedule driver shifts and vehicles to ensure that the optimum number of vehicles is used to both maximize productivity and minimize service costs. This must be done in such a manner that meets the productivity standards listed in this document. The CONTRACTOR must accommodate both ambulatory and non-ambulatory participants.

L. STAFFING

The CONTRACTOR will be solely responsible for the hiring, firing and supervision of all employees utilized to carry out the services provided under this AGREEMENT. CONTRACTOR is solely responsible for the satisfactory work performance of all its employees and for payment of all its employees. CONTRACTOR shall hold harmless the

CITY of San Leandro from any liability, damages, claims, costs and expenses of any nature arising from all violations of its personnel practices. The CONTRACTOR must comply with applicable local, state and federal employment laws. The CONTRACTOR must maintain an up-to-date personnel roster that will be made available to the CITY upon request. The CONTRACTOR must remove any personnel assigned to the project, for cause, if requested by the CITY.

The CONTRACTOR will submit a staffing plan and the resume of the proposed project manager to the CITY for prior approval. For shared staff time, sufficient time must be allocated to the Flex Shuttle service to meet specified coverage requirements and to ensure the management and operation of a cost effective service.

Project Manager

The Project Manager should have a minimum of three years of experience in paratransit management. The CONTRACTOR must notify the CITY immediately if the Project Manager is replaced. Should a replacement be necessary, the CONTRACTOR must identify a qualified interim Project Manager who will serve until such time that the Project Manager is permanently replaced. The CONTRACTOR must replace the Project Manager, at the CITY's request when there is cause, upon 30 day's notice.

The CITY expects that the project manager will have sufficient time dedicated to the Flex Shuttle service to ensure quality control, the resolution of service problems and incidents, and be available to CITY staff to review performance and resolve issues.

Road Supervision

The CITY expects that road supervision staff will have sufficient time available to respond to on-road incidents and accidents, monitor driver performance, investigate complaints, provide ongoing driver training and monitor schedule adherence.

Customer Service/Dispatch

The CONTRACTOR must provide sufficient dispatchers and receptionists to handle the volume of calls. They must be adequately trained for their tasks; must be sensitive to the special needs of older adults and persons with disabilities; and must exhibit patience and compassion even in the face of occasional abusive or unreasonable behavior exhibited by program participants.

IMPORTANT: The CITY views the scheduling, dispatch and customer service functions as critical to the success of the service.

Vehicle Operators

CONTRACTOR will provide two dedicated drivers to the Flex Shuttle Service (2 Shuttle Buses.) Regularly assigned drivers or trained back-up drivers must be available daily to ensure consistent and reliable service.

Before hiring or assigning a driver, the CONTRACTOR will have completed a criminal background check on the individual. This check will be conducted through a commercially available service for Alameda County. No person who has been convicted of any felony or a misdemeanor for a crime against a person (including but not limited to murder, attempted murder, assault, sexual assault, or battery) shall be assigned to service or deliver service under this contract. As used in this paragraph, "convicted" includes a jury verdict, a determination of guilt after a trial by judge, a guilty plea or a plea of nolo contendere or no contest. The CONTRACTOR, to the best of their knowledge, will notify the CITY of any such charges brought after a driver is employed. If the CITY desires a national or FBI background check, CONTRACTOR will submit fingerprint cards to CITY police department, who will conduct the background check.

Vehicle operators must have a valid California driver's license of the appropriate classification for the vehicle type to be driven, as well as any other licenses or certifications required by applicable federal, state or local regulations. The CONTRACTOR must also comply with the requirements of the Drug Free Work Place Act of 1988 and U.S. Department of Transportation drug testing regulations to the extent they are legally enforceable. Drivers are expected to observe all federal, state and local regulations and ordinances governing the safe operation of a commercial, public transit vehicle.

No driver shall be employed or assigned to the CITY service who has had a conviction for Driving While Intoxicated (DWI) or Driving Under the Influence (DUI). No driver shall be employed or assigned to the CITY service who has more than five (5) points against their driver's license within the past three (3) years or has received six (6) or more substantiated service complaints.

Drivers must be licensed for a minimum of three (3) years; be able to read, write, speak, and understand English.

Prior to final assignment, all drivers must participate in and successfully complete the standardized driver orientation and training course administered by the CONTRACTOR.

Drivers shall be required by the CONTRACTOR to wear uniforms and identification badges that are approved by the CITY. Drivers will at all times maintain proper grooming and personal hygiene. All drivers must have accurate timepieces available at all times during vehicle operation.

If required by the passenger, drivers will provide assistance between the bus and the first set of exterior doors at the trip origin or destination. This could include help carrying up to two (2) grocery bags or small packages.

Drivers will collect all data required by the CITY to be used in preparing reports and passenger surveys. Drivers will update all hardcopy manifests as directed by the dispatcher, and record walk-on boardings by designated bus stop. Separate manifests will be maintained for each individual scheduled run.

Drivers will maintain constant radio communication with service dispatchers. Drivers will follow directions on their manifests and directions from the service dispatchers regarding changes to driver manifests. Drivers will report all accidents and incidents to the service dispatchers via two-way radio as well as passenger overloads and pass ups, schedule adherence problems, and any discrepancies with trip information provided on the driver manifests.

M. STAFF TRAINING

The CITY believes that well trained, friendly, problem solving, customer service oriented staff are key to the success of the San Leandro Paratransit Program.

The CONTRACTOR will be responsible for the development and delivery of a thorough training and upgrading program for all CONTRACTOR staff. Training curriculum and protocols, including all updates will be subject to final approval and amendment by the CITY.

The scope of training for CONTRACTOR staff assigned to the San Leandro Paratransit Program will include, but not be limited to, good customer relations and basic customer service philosophy, an understanding of Flex Shuttle operating procedures and service policies, other services offered through the CITY paratransit program, data recording, and management reporting requirements as well as specific job responsibilities and procedures.

Drivers must be fully trained in defensive driving and vehicle handling and in the special skills required to provide transportation to older adults and persons with disabilities. Drivers will require eight (8) hours minimum National Safety Council Defensive Driving Course or equivalent.

Drivers will need to know how to properly assist passengers in wheelchairs going up and down curbs and/or stairs, and with boarding and alighting from vehicles as well as with the tie-downs. All vehicle operators must be trained and proven to be proficient in CPR and First Aid, and all other elements of the Safety Program (See Section 2.15).

Drivers are required to have a minimum of twenty-four (24) hours of in-service driving instruction with a qualified driver trainer. This training will be designed to familiarize the driver with: the service area road network; how to read and understand the schedule and manifest in the field; the location and approach to the designated bus stops; the organization of pick ups and drop offs; key trip origins and destinations; and, safe operating procedures.

The CONTRACTOR must verify to the CITY, upon request, that all drivers have received and passed the training required in this Agreement. The CONTRACTOR must also participate in the California Department of Motor Vehicles' Pull Notice Program (Sect. 1808.1 CVC) so as to be notified of any changes in the driving record of any of its vehicle operators. The CONTRACTOR shall notify the CITY of any action taken against a driver based on his/her record.

N. DRUG TESTING

The CONTRACTOR will be responsible to comply with all requirements of the Federal Transit Administration (FTA) regarding the testing of safety sensitive employees for drug and alcohol use. Complete compliance includes, but is not limited to, the adoption of required policies, implementation of a random testing program, employee training, record keeping and reporting. The CONTRACTOR will maintain a file documenting full compliance and the CITY shall reserve the right to access this file and audit CONTRACTOR compliance. The cost of compliance is the responsibility of the CONTRACTOR.

O. SAFETY PROGRAM

The CONTRACTOR will have full responsibility for assuring the safety of all passengers and operations personnel. The CONTRACTOR must comply with all applicable local, state, and federal regulations. The CONTRACTOR must implement and maintain a formal safety program and must provide an outline of this program to the CITY upon request. In addition, evidence that all vehicle operators, and other pertinent personnel, have shown that they are competent in all components of the safety program must be provided to the CITY upon request. The safety program must include the following components at a minimum: defensive driving techniques, proper use of seat belts, wheelchair tie-downs, First Aid, CPR and disability awareness and sensitivity training.

P. EMERGENCY, ACCIDENT, INCIDENT AND COMPLAINT REPORTING

The CONTRACTOR is required to have an accident and emergency notification program that keeps the CITY notified of accidents or emergencies and the progress of claims that will assure the CITY that claims are promptly and fairly handled. At minimum, all emergencies and accidents, both vehicular and non-vehicular, and any injury of any degree to program participants must be reported orally to the CITY as soon as the situation is stabilized, but no later than 24 hours after the occurrence of the incident. All oral reports must be followed by a written report within 48 hours of the initial report. The CONTRACTOR assumes all liability for accidents, worker compensation claims, etc., including defined costs, and damages arising from the performance of this AGREEMENT.

The CONTRACTOR shall report all in-service incidents involving property damage or personal injury accidents, illegal or threatening actions, and unacceptable passenger and/or staff behavior to the CITY immediately upon knowledge of the situation.

The CONTRACTOR will be responsible for the investigation of all complaints received directly from the public or referred by the CITY. All complaint investigations will begin within one (1) weekday of receipt. The customer must be contacted within 48 hours and final resolution reported to the City within 7 days of the initial complaint. Complaints involving alleged abuse, theft, and similar activities will be investigated immediately upon knowledge of the allegation. In these situations, the CITY will be notified immediately of the issues and investigative action.

The CONTRACTOR will be responsible for the design and production of complaint investigation report forms (final design is subject to CITY approval), for the maintenance of a complaint log and the submission of a monthly complaint status summary report.

Q. DATA COLLECTION AND REPORTING

The CONTRACTOR will collect and maintain all operating and performance data required by the CITY. All reports and/or background data will be certified by the CONTRACTOR to be accurate.

The CONTRACTOR shall collect and maintain completed daily driver manifests and dispatch logs. These will provide the base data for the monthly and annual performance and operating reports, fare box reconciliation, and monthly CONTRACTOR billings.

The CONTRACTOR will maintain a set of completed, readable driver manifests and dispatch logs for a period of three (3) years, and upon request be made available to the CITY for planning and auditing purposes.

CONTRACTOR shall submit monthly reports to the CITY. CONTRACTOR shall have the ability to transmit statistical reports via e-mail in a format that allows CITY to manipulate data as needed for reporting and operational purposes. CONTRACTOR will be asked to collect and report data in format as required by ACTC and may be asked to collect further data as required by ACTC. Such reporting may include financial records related to the delivery of services, and operating service statistics. The CONTRACTOR must be prepared to provide operating statistics that include, but are not limited to, the following applicable data sought by ACTC:

1. Individual trips provided to ambulatory passengers
2. Individual trips provided to non-ambulatory passengers
3. Other specified trips provided.
4. Attendants riding along on trips provided.
5. Companions riding along on trips provided.
6. Trips provided on behalf of other paratransit programs by the CITY.
7. Vehicle revenue hours for trips provided under this AGREEMENT.
8. Vehicle miles for trips provided under this AGREEMENT.
9. Number and percent of contractor No-Shows.
10. Percent of early, late and on-time scheduled stops.
11. Percent trips over the "ride-time" standard
12. Average ride-time
13. Number of vehicle/property damage occurrences only
14. Number of personal injury occurrences only
15. Number of vehicle/property damage and personal injury occurrences.
16. Total accidents and incidents.
17. Vehicle miles per accident/incident
18. Passenger trips per accident/incident

The CONTRACTOR will maintain information and report to the CITY on a monthly basis, any unacceptable trends that affect service productivity or on-time performance.

R. CASH HANDLING AND REPORTING

The CITY maintains the right to audit the CONTRACTOR’S financial records.

S. FLEET REQUIREMENTS

The CONTRACTOR will supply, fuel and maintain two (2) buses as dedicated in-service Flex Shuttle buses and provide sufficient spare capacity to ensure there are no service disruptions due to vehicle breakdown or accidents. CONTRACTOR will provide appropriate replacement vehicles as soon as possible but no more than sixty (60) minutes of a service disruption resulting from a vehicle breakdown or accident.

The Flex Shuttle Service currently operates with the following vehicles. Alternative configurations meeting all program needs would be considered:

- Lift equipped vehicles, including proper wheelchair tie-down equipment.
- The capability to operate on residential streets as well as retail and facility parking lots.
- Mobile radios linked to a base station.
- On-board cameras.

Make	Type of Vehicle(s)	Fuel Type	Lift/Ramp Equipment	Capacity		Number of Vehicles
				Ambulatory	Wheelchair	
2008 Chevrolet HD Senator Cutaway Bus	Bus	Gas	Lift	22	7	2
2008 Ford Sentinel Bus	Bus	Gas	Lift	8	2	1

The CONTRACTOR must provide to the CITY a detailed description of the vehicles that are used to provide service under this AGREEMENT including: current condition, year, make, model, mileage, number of seats (ambulatory, wheelchair), and number of wheelchair tie-downs. CONTRACTOR will make no substitution of equipment without the prior written approval of the CITY.

No primary in-service buses can be older than ten years old. This restriction does not apply to designated back up buses. Newer vehicles are preferable.

In order to meet emissions standards, it is anticipated that the vehicles will be gasoline powered. (See Section 2.20 regarding Air Quality Standards)

CONTRACTOR shall not use vehicles that are used to provide general public taxi service to provide CITY paratransit services under this AGREEMENT, unless otherwise authorized in writing by the CITY.

T. AIR QUALITY STANDARDS

The CITY is required by California Air Resource Board to comply with emission standards established in the Transit Fleet Vehicle Requirements. CONTRACTOR will provide vehicles for the CITY service that allow the CITY to comply with all applicable air quality standards. It is anticipated that the CONTRACTOR will operate the CITY service using gasoline vehicles. Diesel vehicles will be considered if retrofitted at no cost to the CITY with the required particulate trap.

U. MAINTENANCE

The CONTRACTOR is responsible for the provision, operation, maintenance, and repair of all of the vehicles used to provide services under this AGREEMENT. The CONTRACTOR'S preventive maintenance program must at least be in accordance with the manufacturer's maintenance guidelines and schedules. In addition, the CITY has established certain minimum requirements that must also be adhered to. In summary this includes, but is not limited to:

The CONTRACTOR'S preventive maintenance program shall be approved by the CITY, and occur every 3,000 miles or ninety (90) days, whichever occurs first. The CONTRACTOR shall provide a signed work order for each service performed. Completed work orders should be retained by the CONTRACTOR for two years after the disposal of the vehicles, and made available to the CITY upon request.

Every vehicle operated by the CONTRACTOR for this AGREEMENT that is subject to Section 34500 of the California Vehicle Code must comply with said Code. This requires the operator to enroll in the California Highway Patrol Biennial Inspection of Terminal (B.I.T.) Program. The Contractor shall supply proof of compliance with the B.I.T. Program for all applicable vehicles and copies of inspections shall be submitted to the CITY upon completion. Complete information on the B.I.T. program can be obtained by contacting: California Highway Patrol, Golden Gate Division, Motor Carrier Safety Unit, 1(707) 648-4180.

The CONTRACTOR shall retain daily vehicle condition inspection reports (13CCR, 1215C or approved equivalent) for up to two years and make them available to the CITY upon request. The CONTRACTOR will be required to use a written safety checklist on a daily basis for each vehicle prior to using that vehicle for service. These shall be made available to the CITY upon request. In addition, the CONTRACTOR will thoroughly clean the exterior and interior of each vehicle at least every 7 days, and more frequently when needed,

to maintain a clean appearance while in service.

If the CONTRACTOR receives an unsatisfactory rating/report from the California Highway Patrol (CHP), the CONTRACTOR must immediately inform the CITY and indicate the steps to be taken by the CONTRACTOR to remedy the situation. Should such a rating result in a vehicle being unavailable for service, and no satisfactory replacement vehicle is made available, liquidated damages may be assessed by the CITY.

The CONTRACTOR is also responsible for the maintenance of all communication systems and all other equipment required in the operation of this service. Maintenance policies and programs for all vehicles must be acceptable and reasonable to the CITY.

V. VEHICLE BRANDING

The CITY will provide the CONTRACTOR with a sign for the exterior of each in-service bus. CITY will pay for sign. CONTRACTOR will install and remove from vehicle at no cost to CITY.

EXHIBIT B

**COMPENSATION SCHEDULE
FY 2018-2019**

Funding for the City of San Leandro Paratransit Program is entirely contingent upon successfully receiving Measure B and BB funding from the Alameda County Transportation Commission.

Compensation for services rendered is based on an hourly fee, total hours and annual cost are approximated for planning purposes.

Hourly Fee Per Vehicle	Annual Hours	FY 2018-19 Cost (6 Months)	Total Contract Not to Exceed Cost
\$72.10	4,165	\$150,148	\$450,445