

RESOLUTION NO. 15-1299

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF MIAMI LAKES, FLORIDA, AWARDED A CONTRACT FOR BUS DRIVER OPERATION SERVICES TO MV TRANSPORTATIONS; WAIVING THE PROCUREMENT COMPETITIVE BIDDING PROCESS; AUTHORIZING THE TOWN MANAGER AND TOWN ATTORNEY TO IMPLEMENT THE TERMS AND CONDITIONS OF THE CONTRACT; AUTHORIZING THE TOWN MANAGER TO EXPEND BUDGETED FUNDS; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE CONTRACT; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 5(d) of Town of Miami Lakes Ordinance 12-142 (“the Town’s Procurement Ordinance”) authorizes the Town Manager to request authorization from the Town Council to waive the requirements of Section 5 of the Town’s Procurement Ordinance where the Town Manager has made a written recommendation where, based on specific circumstances, it is not practical to comply with the requirements of Section 5 of the Town’s Procurement Ordinance for a specific solicitation; and

WHEREAS, the Town Manager has made a written recommendation that based on specific circumstances it is not practical to comply with the requirements of Section 5 of the Town’s Procurement Ordinance for Bus Operation Services; and

WHEREAS, the Town Manager has determined that MV Transportation (“MV Transportation”) can perform the work and recommend that they be awarded a contract; and

WHEREAS, MV Transportation will be responsible for furnishing all labor, materials, machinery, tools, means of transportation, supplies, equipment, and services necessary for Bus Operation Services; and

WHEREAS, the Town Council approves of the Town Manager’s recommendations, authorizes a waiver of the requirements of Section 5 of the Town’s Procurement Ordinance as it pertains to the award for Bus Operation Services, and authorizes the Town Manager to enter into a contract with MV Transportation.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL FOR THE TOWN OF MIAMI LAKES, FLORIDA, AS FOLLOWS:

Section 1. Recitals. The foregoing recitals are true and correct and are incorporated herein by reference.

Section 2. Approval of the Contract. The Council approves the award of a contract to MV Transportation for Bus Operation Services, in substantially the form attached hereto as Exhibit "A," together with such non-material changes as may be acceptable to the Town Manager and approved as to form and legality by the Town Attorney.

Section 3. Authorization of Town Officials. The Town Manager and/or his designee and the Town Attorney are authorized to take all steps necessary to implement the terms and conditions of the contract with MV Transportation.

Section 4. Execution of the Contract. The Town Manager is authorized to execute the contract with MV Transportation on behalf of the Town, and to execute any required agreements and/or documents to implement the terms and conditions of the contracts, subject to approval as to form and legality by the Town Attorney.

Section 5. Authorization of Fund Expenditure. The Town Manager by the Town's Procurement Ordinance, the Town Manager is authorized to expend budgeted funds to implement the terms and conditions of the contract with MV Transportation.

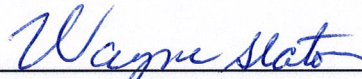
Section 6. Effective Date. This Resolution shall be effective immediately upon adoption.

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Passed and adopted this 14th day of April, 2015.

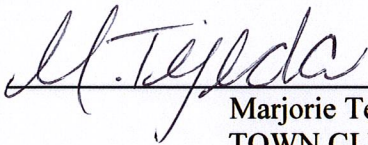
The foregoing resolution was offered by Vice Mayor Cid who moved its adoption. The motion was seconded by Councilman Rodriguez and upon being put to a vote, the vote was as follows:

Mayor Wayne Slaton	<u>yes</u>
Vice Mayor Manny Cid	<u>yes</u>
Councilmember Tim Daubert	<u>yes</u>
Councilmember Tony Lama	<u>yes</u>
Councilmember Ceasar Mestre	<u>yes</u>
Councilmember Frank Mingo	<u>yes</u>
Councilmember Nelson Rodriguez	<u>yes</u>



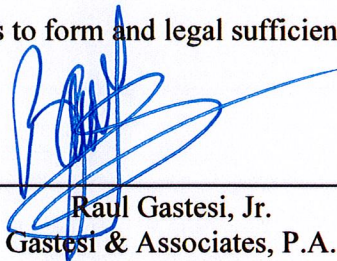
Wayne Slaton
MAYOR

Attest:



Marjorie Tejada
TOWN CLERK

Approved as to form and legal sufficiency:



Raul Gastesi, Jr.
Gastesi & Associates, P.A.
TOWN ATTORNEY

EXHIBIT “A”

**PROFESSIONAL SERVICES AGREEMENT BETWEEN MV CONTRACT
TRANSPORTATION, INC. AND THE CITY OF HIALEAH, FLORIDA FOR
MUNICIPAL BUS CIRCULATOR SERVICES FOR THE CITY OF HIALEAH**

This Agreement entered into this 1 day of November, 2010, by and between the City of Hialeah, Florida, a municipal corporation organized and existing under and by virtue of the laws of the State of Florida ("City"), 501 Palm Avenue, Hialeah, Florida 33010 and, MV Contract Transportation, Inc., a wholly owned subsidiary of the parent company, MV Transportation, Inc. ("MV Contract Transportation, Inc." or "Contractor"), a California corporation, having its principal place of business at 4620 Westamerica Drive, Fairfield, California 94534.

WHEREAS, the City of Hialeah, Florida advertised Request for Proposals for a contract for municipal circulator services, RFP No. 2009/10-3220-24-008; and

WHEREAS, on September 24, 2010, the Evaluation Committee convened and selected MV Transportation, Inc. as the most qualified proposer; and

WHEREAS, the City awarded the contract to MV Transportation, Inc. pursuant to Hialeah, Fla., Resolution 2010-114 (October 28, 2010); and

WHEREAS, the Contractor, familiar with the Scope of Work required hereunder that comprises the Request for Proposal and the Contract specifications and having expressed its desire and willingness to provide such professional services and having presented their qualifications to the City; and

WHEREAS, the City agrees to enter into this agreement with the Contractor and the Contractor agrees to accept employment under the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants and obligations herein contained, and subject to the terms and conditions hereinafter stated, the parties hereto understood and agree as follows:

I. INITIAL TERM AND RENEWAL OPTIONS

The term of this agreement shall be for a term of two years of operation of service commencing on November 1, 2010 and ending on October 31, 2012. This agreement will be in effect during the term indicated above. All activities as described in the Scope of Services shall be undertaken, performed and completed within the term provided herein.

II. SCOPE OF SERVICES

2.0 The professional services to be performed by the Contractor are contained in the Request for Proposal RFP No. 2009/10-3220-24-008, Addendum #1, Addendum

#2, and Set of Questions due by September 22, 2010 (See Composite Exhibit "1") and the Response to Request for Proposal RFP No. 2009/10-3220-24-008 and Response to the Set of Questions dated September 22, 2010 (See Composite Exhibit "2"). If there is a conflict with the Request for Proposal and/or the Response to Request for Proposal and this agreement, this agreement shall prevail. The City reserves the right to resolve any contradictions and to correct any errors contained in its proposal documents. Any conflicts between the Request for Proposal, Addenda, and Responses shall be resolved in favor of the provisions of this Agreement

2.1 The Contractor agrees to assist the City and the City transit manager in ensuring that the City comply with Paragraphs 2.1 through 2.10, 2.13, 2.14, 2.16, 2.21, 2.23, 2.24, 2.25, 2.26, 3.1 through 3.7, and 4.1 through 4.5 of the Interlocal Agreement between Miami-Dade Transit Agency and the Cities of Hialeah and Hialeah Gardens for Federal Funding Pass-Through Arrangements with the American Recovery and Reinvestment Act (ARRA) of 2009 Federal Transit Administration (FTA 5307) for the Cities to Operate Circulator Services (See Exhibit "3").

2.2 The Contractor agrees to provide professional services and personnel in connection with the operation of the Hialeah Transit System.

2.3 The City shall provide the following twelve buses to the Contractor for use solely in connection with the terms of this agreement:

<u>Vehicle Identification Number</u>	<u>Year</u>	<u>Make</u>
1BAGBCPA22F208836	2002	Bluebird
1BAGBCPA42F208837	2002	Bluebird
1BAGBCPA82F208839	2002	Bluebird
1BAGBCPA42F208840	2002	Bluebird
1BAGBCPA62F208841	2002	Bluebird
1BAGBCPA82F208842	2002	Bluebird
1BAGBCPA22F208843	2002	Bluebird
1BAGBCPA12F208844	2002	Bluebird
1BAGBCPA32F208845	2002	Bluebird
1BAGEBPA96W100463	2006	Bluebird Ultra LF
1N93495319A140154	2009	NABI Bluebird L4RE-30.01
1N934953X9A140153	2009	NABI Bluebird L4RE-30.01

*changed
6 to X
BT*

The twelve buses are owned by the City, and the Contractor shall not utilize the buses for any other use except as authorized by this agreement. The Contractor will enter into an agreement with the City to lease the twelve buses from the City for the rate of \$1.00 annually. These buses will be covered by the Contractor's insurance, and it will be the responsibility of the Contractor to get all necessary permits and tags for these buses. The City may provide replacement buses during the course of this agreement, and any replacement buses will be covered by the Contractor's insurance, and it will be the responsibility of the Contractor to get all necessary permits and tags for any replacement

buses. The Contractor agrees to have a ready-for-service spare bus, covered by the Contractor's insurance with all necessary permits and tags, within the vicinity of the City of Hialeah.

2.4 The Contractor shall provide bus services within the City according to the schedule as determined by the City. The City shall be responsible for designation of the pick-up and delivery points and the Contractor shall only use such stops for the authorized routes. The established service includes locations with the City of Hialeah and City of Hialeah Gardens. Two fixed routes are currently being operated. The Contractor shall provide the bus services on Monday through Friday from 6:00 a.m. to 7:30 p.m., and on Saturdays and holidays from 9:00 a.m. to 3:30 p.m. This schedule will be the basis for the regular hourly rate. The route and hours of operation may be amended from time to time at the discretion of the Mayor to respond to the needs of the community. From time to time, the City may request that the Contractor operate the transportation service beyond the fixed route schedule. This additional service may include, but will not be limited to, extended hours of service, and/or special routings to assist during the post-recovery period after a damaging storm or other natural disaster. The Contractor will provide the service as directed by the City and will be compensated at the hourly rate for additional service.

2.5 For the purposes of the ongoing operation of the transit system, the Contractor's point of contact will be the site manager, and the City's point of contact will be the City transit manager.

2.6 The City has developed the operating schedules and bus blocks and will be responsible for any adjustments or changes to the schedules. The Contractor may alter the proposed bus blocks, but must submit any changes to the City for approval prior to implementation. The Contractor will be responsible for all driver scheduling. Contractor input will be solicited for adjustments in running times and must report any ongoing schedule adherence problems.

2.7 A farebox with a vault shall be provided on each vehicle. The Contractor shall be required to install and maintain a locking vault-type farebox. A full vault shall be removed, replaced by a second empty vault, and the vaults delivered unopened to the City's designated location daily for deposit as herein provided. If necessary, the City will purchase additional farebox vaults to maintain the cash handling procedure. Security of fares and vaults are the responsibility of the Contractor until they are delivered to and received by the City. Accurate passenger counts by trip and fare category will be taken daily, and will be delivered to the City along with fare vaults. All fares will be consistent with Miami-Dade County Transits' fares.

2.8 The Contractor shall provide knowledgeable, effective supervisory staff to support the transit operation. The Contractor will recruit, hire, train and employ supervisory personnel, including a site manager, dispatchers and road supervisors for the purpose of overseeing the operation of service, and to ensure safe, reliable transit service.

All personnel assigned to this project shall be knowledgeable of the circulator service. All project personnel shall maintain a professional, courteous attitude, answering to the best of their ability any passenger questions regarding the provision of service. Discourtesy, rudeness or the use of profanity will not be tolerated and shall be grounds for immediate removal of the offending employee from performing work within the program. Drivers and dispatchers shall accurately complete and submit the required operating reports daily. All personnel shall be required to attend quality/safety workshops as required by the City up to a maximum of eight hours per year per employee. The Contractor shall provide manuals related to personnel policies and procedures, and maintain an employee acknowledgment file with employee signature indicating they have read and fully understand its contents.

2.9 The drivers employed by the Contractor for the purpose of providing the bus services shall be properly licensed operators. The drivers shall possess the qualifications as required by the State of Florida and Miami-Dade County, Florida, including a current commercial driver's license with a passenger endorsement. All drivers shall be employees of the Contractor. The Contractor shall ensure that all drivers are familiar with all policies and procedures, regardless of distribution of written materials to same. The City may send a representative to the any of the Contractor's driver training classes to present the City's vision of what is expected of the transit system. The drivers shall ensure that every passenger transported on the buses pays a fare, or surrenders or shows a valid type of fare media, or appropriate identification in exchange for boarding the vehicle. Drivers shall be fully trained in defensive and vehicle handling. Drivers shall be trained in the special skills required to provide transportation to elderly and disabled individuals. Drivers shall assist passengers confined to wheelchairs in boarding and shall perform the tie-downs. Drivers shall be trained to operate all types of buses (including reserve buses) in service, wheelchair lifts and securement systems, and other equipment that they may be expected to use during service hours. Regularly assigned drivers or trained back-up drivers shall be available and on time daily to ensure consistent and reliable service. No driver shall take lunch hour or breaks inside or close by his/her vehicle. Passengers must never be kept waiting, except where schedules are maintained. Drivers shall be dressed and groomed appropriately and they shall be in a uniform acceptable to the City. Drivers shall wear identification tags clearly displaying their first name only while performing their duties. Each driver and bus shall have an accurate timepiece available and in clear sight at all times during vehicle operation. Drivers are required to have a thorough knowledge of traffic regulations along the route and the schedule time points. Drivers need to be sensitive to ridership comforts, such as the interior temperature on their respective vehicle, cleanliness of vehicles, etc. Drivers need to be familiar with the City's transit system's policies and procedures including the System Safety Program Plan and Hazard and Security Plan.

2.10 It is highly desirable that any person hired by the Contractor for this agreement be bilingual in English and Spanish. The Contractor will establish and maintain an effective driver safety program, an occupational health and safety program, a

drug testing and awareness program and will maintain a drug-free workplace that meets FTA guidelines. In addition to operating and supervising the service, the Contractor's personnel will be responsible for distribution of passenger information materials on the buses and in the field, as necessary.

2.11 The Contractor shall comply with all laws, ordinances, and regulations applicable to the services contemplated herein. The Contractor is presumed to be familiar with all federal, state and local laws, ordinances, codes and regulations that may in any way affect the services offered, especially the requirements of the Miami-Dade County Passenger Transportation Regulatory Commission and Executive Order No. 11246 entitled "Equal Employment Opportunity" and as amended by Executive Order No. 11375, as supplemented by the Department of Labor Regulations (41 CFR, Part 60), and any and all other local, state and federal directives, ordinances, rules, orders and laws. Ignorance on the part of the Contractor will in no way relieve it from responsibility.

2.12 The Contractor shall comply with all applicable requirements of the Americans with Disabilities Act (ADA) at all times while the buses provided herein are being utilized for public transportation and while utilizing any and all routes approved herein. To the extent that any terms of this Agreement are inconsistent with the ADA, the requirements of the ADA shall control.

2.13 The Contractor shall at all time during this Agreement comply with all applicable requirements of the United States Department of Transportation and the Federal Transit Administration, which shall include, but not be limited to, regulations for drug and alcohol testing. To the extent that any terms of this Agreement are inconsistent with the United States Department of Transportation regulations, the requirements of the United States Department of Transportation shall control.

2.14 The Contractor shall develop, implement, and maintain a formal safety program including periodic safety meetings, participation in safety organizations, safety incentives offered by the Contractor to drivers and other employees, and participation in risk management activities under the auspices of the Contractor's insurance carrier or other organization. The Contractor shall provide an outline of said safety program, including periodic updates to the City. The Contractor will require all drivers, dispatch personnel, and supervisors to participate in the safety program.

2.15 The Contractor shall obtain all applicable local, county, state, and federal licenses necessary for the provision of the bus services in Miami-Dade County, Florida, and the Contractor shall have a Special Services license from the County Passenger Transportation Regulatory Division. The Contractor shall also assist the City in obtaining any further county, state or federal authorizations.

2.16 The Contractor shall at all times maintain buses in good mechanical condition and safe operating condition, and in conformity with all applicable local, state, and federal safety regulations. Standards of performance for cleanliness, mechanical

reliability, and interior and exterior cosmetic appearance will be developed by the City prior to the implementation of service. The Contractor will clean and fumigate the buses. The Contractor shall clean the exterior and interior of the buses twice a week, and the interior of the bus should be maintained in a clean manner by the drivers daily. The Contractor will be expected to adhere to these standards. The Contractor will ensure that vehicles are operated safely and in a manner that will prevent excessive wear and tear. Any indication of abuse of the buses noted by the City will be brought to the attention of the Contractor for corrective action. Repairs made necessary as a result of abusive operation of the equipment by the Contractor's personnel will be billed to the Contractor.

2.17 The Contractor shall provide road supervision as required to monitor drivers, buses, quality of service, and adherence to all established routes and time schedules, and to respond to emergency calls.

2.18 The Contractor shall notify the City of any service irregularity which will include, but not be limited to, accidents, incidents, complaints, service delays and schedule adherence problems, video camera operation, and farebox malfunctions. Notification should not be more than one hour after an incident involving personal injury and/or property damage and should occur by the end of the service day for other incidents. Verbal notification must be followed by written documentation from the Contractor to the City.

2.19 The Contractor shall implement and maintain formal and expedient procedures to respond to all circulator service accidents, disturbances, passenger injuries or fatalities, and any other service interruptions or failures. These shall be reported to the City in a timely manner. All traffic accidents involving circulator service vehicles, irrespective of injury or damage, shall be immediately reported to the City of Hialeah Police Department. The Contractor shall advise the City of Hialeah Police Department of the accident and request a police unit to investigate the accident and the City of Hialeah Police Department ID Unit to photograph the scene. The City's transit manager shall be immediately notified by telephone by the Contractor of any accident or incident, especially those resulting in injury, in loss or damage to the City and/or private property. Written notification shall follow within 24 hours. This written notification shall describe the sequence of events and include reports by driver, attendant, witness, etc. Further, fatalities are to be report verbally to FDOT within 24 hours of the incident, followed with a written report within the next 24 hours. Hialeah Transit System buses involved in accidents shall be repaired by a City approved repair shop and billed through Contractor's insurance or deducted from Contractor's invoice.

2.20 The Contractor shall implement a written dispute resolution process for the rapid resolution of passenger complaints regarding the bus services. The Contractor shall document passenger complaints and describe any actions taken to resolve such complaints and verbally report to the City transit manager the complaints and actions taken within the same business day of any complaint and in writing within 24 hours.

2.21 The City shall prepare, place, schedule and pay for all advertising and promotional materials designed to inform the general public of service operations and to promote ridership. Advertising on the exterior or interior of the buses used under this agreement will be coordinated and administered by the City. The City will retain any revenues.

III. COMPENSATION

3.0 The City agrees to pay the Contractor the rate of \$21.24 per vehicle service hour for the first year and \$21.02 per vehicle service hour for the second year based on 31,000 hours a year. For purposes of this agreement, a vehicle service hour shall be defined as all hours of operation from the time that the driver arrives at the yard to perform pre-trip inspection of the vehicle through the time that the driver returns the vehicle to yard and performs the post-trip inspection. The driver shall not delay upon arrival and return to perform pre-trip and post-trip inspections. The hourly rate for out-of-contract services performed outside normal operating hours will be billed at the same rate or a lower negotiated amount. Invoices are generally paid within 30 days of receipt for services rendered and verified as accurate by the City. If the City does not pay an accurate, verified invoice within 30 days, the Contractor shall provide written notice and an opportunity to cure within 15 days of receipt of such notice. The Contractor must obtain prior written approval of the City prior to performing services that are outside the Scope of Services in this agreement.

3.1 *Changes.* Changes to this Contract shall be effective only upon written agreement between the parties to this Contract. Each change to this Contract shall be sequentially numbered as a change order hereto and signed by authorized representatives of the City and Contractor. Change orders shall only amend the specific portions of this Contract as written in the change order and shall not change any other portion of this Contract.

a. The City may, at any time, request changes within the general scope of this Contract. If any such change will cause an anticipated increase in the cost of, or the time required for, the performance or any part of the work under this Contract, or would result in an anticipated decrease to Contractor's estimated annual vehicle service hours of 31,000 hours per year, or increases the amount of deadhead miles/ and or hours than originally contemplated in the RFP, the parties shall meet to negotiate an equitable adjustment to Contractor's rate and the Contract will be amended accordingly by written change order.

b. In the event any federal, state, or local law, rule, regulation or ordinance becomes operative during the term of this Contract that has the effect of increases Contractor's operating costs, to include, but not limited to, laws, rules, regulations, or ordinances pertaining to environmental protection or climate change, such as carbon credits, or new taxes imposed based on energy consumption; changes in the Americans with Disabilities Act; or government required increases to employee wages and/or

benefits, to include health care benefits, the City and Contractor shall meet to discuss the impact of these unanticipated additional costs and negotiate an equitable adjustment to Contractor's rates.

IV. COMPLIANCE WITH FEDERAL, STATE AND LOCAL LAWS

The parties shall comply with all applicable laws, ordinances, codes, rules and regulations of federal, state and local governments, including the City, relating to transportation systems. The Contractor will adhere to all United States Department of Transportation, Federal Transit Administration and Florida Department of Transportation regulations in order that the City will remain and/or retain its eligibility for any and all Operating and Capital assistance funding programs. The Contractor shall comply with the City of Hialeah's System Safety Program Plan and the Hazard and Security Plan.

V. LABOR STANDARDS

The Contractor shall assume any and all liability or responsibility under an agreement pursuant to the Federal Transit Administration Act, section 13(c), if such presently exists.

VI. GENERAL CONDITIONS

All notices or other communications which shall or may be given pursuant to this agreement shall be in writing and shall be delivered by personal service; or by registered mail addressed to the other party at the address indicated herein or as the same may be changed from time to time. Such notice shall be deemed given on the day on which personally served; or if by mail, on the fifth day after being posted or the date of actual receipt, whichever is earlier.

CITY
Jorge de la Nuez, Transit Manager
City of Hialeah
900 East 56 Street
Hialeah, Florida 33013
Telephone: (305) 681-5757

MV CONTRACT TRANSPORTATION, INC.
Brenda J. Fernandez
Regional Vice President of Operations
6020 Bent Pine Drive, Apt. 2717
Orlando, Florida 32822
Telephone: (361) 688-6016

VII. OWNERSHIP OF DOCUMENTS

All documents developed by the Contractor under this agreement shall be delivered to City by the Contractor upon completion of the services required pursuant to paragraph II hereof and shall become the property of City, without restriction or limitation of its use. The Contractor agrees that all documents maintained and generated hereto shall be subject to the applicable provisions of the Public Records Law, Chapter 119, Florida Statutes.

VIII. NONDELEGABLE

The duties and obligations undertaken by the Contractor pursuant to this agreement shall not be delegated or assigned to any person or firm unless the city shall first consent in writing to the performance or assignment of such service or any part thereof by another person or firm.

IX. AWARD OF AGREEMENT

The Contractor warrants that it has not employed or retained any person employed by the City to solicit or secure this agreement and that it has not offered to pay, paid, or agreed to pay any person employed by the City any fee, commission, percentage, brokerage fee, or gift of any kind contingent upon or resulting from the award of this agreement.

X. CONSTRUCTION OF AGREEMENT

This agreement shall be construed and enforced according to the laws of the State of Florida. Venue for any litigation, which may arise in connection with this Agreement, shall be in Miami-Dade County, Florida. The Consultant agrees to be subject to the jurisdiction (subject matter and in personam) of the courts in Miami-Dade County, Florida and amenable to process.

XI. SUCCESSORS AND ASSIGNS

This agreement shall be binding upon the parties herein, their heirs, executors, legal representatives, successors and assigns.

XII. INDEMNIFICATION

Contractor shall indemnify and save the City, its officials, employees, agents, representatives and attorneys, from and against any and all claims, liabilities, losses and causes of action which arise out of or in connection with Contractor's activities under this agreement, including all other acts or omissions to act on the part of the Contractor or any person acting for or on its behalf, and from and against any orders, judgments, or decrees which may be entered and from and against all costs, attorney's fees, expenses incurred at the trial, appellate or administrative level or proceedings and liabilities incurred in the defense of any such claims or in the investigation thereof.

XIII. CONFLICT OF INTEREST

A. Contractor covenants that no person under its employ who presently exercises any functions or responsibilities on behalf of the City in connection with this agreement has any personal financial interests, direct or indirect, with the Contractor. Contractor further covenants that, in the performance of the agreement, no person having such conflicting interest shall be employed. Any such interest on the part of the Contractor or its employees must be disclosed in writing to the City.

B. Contractor is aware of the conflict of interest laws of the City, Hialeah Code ch, 26, Art I and II; Miami-Dade County, Florida, Code of Miami-Dade County, Florida § 2-11.1; and the State of Florida, Chapter 112, Part III, Florida Statutes and agrees that it shall fully comply in all respects with the terms of said laws.

XIV. INDEPENDENT CONTRACTOR

Contractor, its employees, agents or representatives, shall be deemed to be independent contractors and not agents or employees of the City and shall not attain any rights or benefits under the civil service or pension ordinances of the City, or any rights generally afforded classified or unclassified employees. Contractor, its employees, agents or representatives, shall not be entitled to Florida Workers' Compensation benefits as an employee of the City.

XV. INSURANCE

A. Contractor shall provide, pay for and maintain in force at all times during the services to be performed, such insurance, including Workers' Compensation Insurance, Employer's Liability Insurance, Comprehensive General Liability Insurance, Business Automobile Liability Insurance and Excess Liability Insurance, in such amounts acceptable to the Risk Manager of the City.

B. Such policy or policies shall be issued by United States Treasury-approved companies authorized to do business in the State of Florida, and having agents upon whom service of process may be made in the State of Florida. Contractor shall specifically protect the City of Hialeah, City of Hialeah Gardens, Miami-Dade County, and Florida Department of Transportation by naming the City of Hialeah, City of Hialeah Gardens, Miami-Dade County, and Florida Department of Transportation as additional insureds under the Comprehensive General Liability Insurance Policy.

C. All policies shall provide a notice of cancellation or restriction: The policy or policies must be endorsed to provide City with 30 days notice of cancellation and/or restriction.

1. Worker's Compensation Insurance to apply for all employees in compliance with the state worker's compensation law and all applicable federal law.

2. Comprehensive General Liability Insurance with minimum limits of \$5,000,000.00 per occurrence combined single limit for Bodily Injury Liability and Property Damage Liability. Coverage must be afforded on a form no more restrictive than the latest edition of the Comprehensive General Liability Policy, without restrictive endorsements, as filed by the Insurance Services Office, and must include: (1) Premises and/or Operations; (2) Independent Contractors; and (3) Personal Injury Coverage with Employee and Contractual Exclusions removed with minimum limits of coverage equal to those required for Bodily Injury Liability and Property Damage Liability.

3. Business Automobile Liability Insurance with minimum liability limits of \$5,000,000.00 per occurrence combined single limit for Bodily Injury Liability and Property Damage Liability. Coverage must be afforded on a form no more restrictive than the latest edition of the Business Automobile Liability Policy, without restrictive endorsements, as filed by the Insurance Services Office and must include: (1) Owned vehicles; and (2) Hired and non-owned vehicles.

4. Excess Liability Insurance with minimum limits of \$1,000,000 in addition to the primary coverage identified in paragraph 3 above in this section.

5. Employee Dishonesty/ Crime insurance with limits of \$250,000.00 which protects the City from Contractor's employee theft in the amount of \$250,000.00.

6. Contractor shall provide City with a Certificate of Insurance or a copy of all insurance policies required in this article. City reserves the right to require a certified copy of such policies upon request. All endorsements and certificates shall state that City shall be given 30 days notice prior to expiration or cancellation of the policy.

XVI. TERMINATION

The City retains the right to terminate this Agreement upon 60 days written notice for cause or for a material breach of the Agreement prior to the completion of the service required pursuant to paragraph II hereof without penalty to the City. The City retains the right to terminate for convenience (without cause) as provided herein; however, in no event will the City terminate the Agreement for convenience to attempt to obtain a lower price or to avoid making what would be a valid change within the general scope of the Agreement. In the event, City exercises its right to terminate for convenience in accordance herein, Contractor shall be entitled to its reasonable terminate costs which shall be negotiated and calculated in accordance with Federal Acquisition Regulation (FAR) 31.205-42. In that event, notice of termination of this agreement shall be in writing to MV Contract Transportation, Inc. who shall be paid for those services performed prior to the date of its receipt of the notice of termination. In no case, however, will City pay the Contractor an amount in excess of the total sum provided by

this agreement. The right to terminate contained in this section may be exercised subsequent to a bankruptcy of MV Transportation, Inc. or MV Contract Transportation, Inc. and the parties expressly agree the same shall not be deemed a "De Facto clause" pursuant to Section 365(b)(2) of the Bankruptcy Code.

It is hereby understood that any payment made to the Contractor in accordance with this section shall be made only if the Contractor is not in default under the terms of this agreement. If Contractor is in default, then the City shall in no way be obligated to pay and shall not pay the Contractor any sum.

XVII. NONDISCRIMINATION

The Contractor agrees that it shall not discriminate as to race, color, creed, national origin, religion, age or disability in connection with its performance hereunder.

XVIII. DEFAULT

If the Contractor fails to comply with the terms and conditions of this agreement, or fails to perform hereunder, or files for bankruptcy or provides assignment or transfer to creditors, then the City, at its sole option upon written notice, may cancel and terminate this agreement, and all payments, advances, or other compensation paid to the Contractor. Payments made to the Consultant while the Contractor is in default of the provisions contained herein, shall be returned forthwith to the City.

XIX. FORCE MAJEURE

Neither party shall be liable for failure or delay in performing obligations set forth in this agreement, and neither party shall be deemed in breach of its obligations, if such failure to delay is due to national disasters, strike, lock-out, or other industrial or transportation disturbances, law, regulation or ordinance, or any causes reasonably beyond the control of such party.

XX. APPLICABLE LAW AND VENUE

This Agreement shall be interpreted and construed in accordance with and governed by the laws of the state of Florida. Venue for litigation concerning this Agreement shall be in Miami-Dade County, Florida.

XXI. AUDIT AND INSPECTIONS

The Contractor shall maintain all project records as requested by the City. All project records prepared by the Contractor shall be owned by the City and shall be made available to the City at no additional charge. The Contractor shall maintain all books, records, documents, accounting ledgers, and similar materials relating to work performed for the City under this Agreement on file for at least four years following the date of final

payment to the Contractor by the City. The above records retention requirement shall include daily driver logs, medical examinations, as well as all other books, records, and documents. Any duly authorized representative of the City shall have access to such records for the purpose of inspection, audit, and copying at reasonable times during the Contractor's usual and customary business hours. The Contractor shall report service hours to the City on a weekly basis.

The Contractor will develop periodic operational and financial reports for distribution to the City. These reports will be created containing information and data that will be required to be in compliance with FTA standards.

At any time during normal business hours and as often as the City may deem necessary, there shall be made available to the City and/or representatives of the City to audit, examine, and make audits of all contracts, invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all matters related to this agreement. It is further understood that all records and supporting documents pertaining to this Agreement shall be maintained for a minimum period of four years. The retention and access period starts from the date of the submission of the annual performance and evaluation report in which the specific activity is reported for the final time. The Contractor must request approval from the City before disposing of any records under this agreement.

If any litigation, claim, negotiation, audit or other action involving the records has been started before the expiration of the four year period, the records must be retained until completion of the action and resolution of all issues which arise from it or until the end of the four year period, whichever is later. During the course of an audit, if the City determines that any payment made to the Contractor does constitute an allowable expenditure, then the City will have the right to deduct or reduce those amounts from the related invoices. The Contractor must maintain records necessary to document compliance with the provisions of the agreement.

XXII. ENTIRE AGREEMENT

This agreement and its attachments and exhibits constitute the sole and only agreement of the parties and accurately set forth the rights, duties, and obligations of each to the other. Any prior agreements, promises, negotiations, or representations not expressly set forth in this agreement are of no force and effect.

XXIII. AMENDMENT

No amendments to this agreement shall be binding on either party unless in writing and signed by both parties.

XXIV. MISCELLANEOUS

A. Captions, title and paragraph headings are for convenient reference and are not a part of this agreement. Such captions, title or paragraph headings shall not be deemed in any manner to modify, explain, enlarge or restrict any of the provisions contained in this agreement.

B. In the event of conflict between the terms of this agreement and any terms or conditions in any attached document; the terms in this agreement shall prevail.

C. No waiver or breach of any provision of this agreement shall constitute a waiver of any subsequent breach of the same or any other provision hereof, and no waiver shall be effective unless made in writing.

D. Should any provisions, paragraph, sentence, word or phrase contained in this agreement be determined by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable under the laws of the State of Florida or the City of Hialeah, such provisions, paragraphs, sentences, words or phrases shall be deemed modified to the extent necessary in order to conform with such laws, or if not modifiable to conform with such laws, then same shall be deemed severable, and in either event, the remaining terms and provisions of this agreement shall remain unmodified and in full force and effect.

E. Further Assurances. All parties hereto upon the request of any other party shall execute such further instruments or documents as may be reasonably required by the requesting party to implement the terms, conditions and provisions of this agreement.

(THIS SPACE IS LEFT INTENTIONALLY BLANK.)

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed by the respective officials thereunto duly authorized, this the day and year first above written.

City of Hialeah, Florida
501 Palm Avenue
Hialeah, Florida 33010-0040

Attest:

Authorized signature on behalf of
City of Hialeah

David Concepcion
Acting City Clerk

Mayor Julio Robaina

Date

(SEAL)

Approved as to legal sufficiency and form:

William Grodnick
William M. Grodnick
City Attorney

MV Contract Transportation, Inc., a
wholly owned subsidiary of the
parent company, MV Transportation,
Inc.
4620 Westamerica Drive
Fairfield, CA 94534

Attest:

Authorized signature of the firm

Corporate Secretary
(SEAL)

Brad Cornelsen
CFO

Date

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed by the respective officials thereunto duly authorized, this the day and year first above written.

City of Hialeah, Florida
501 Palm Avenue
Hialeah, Florida 33010-0040

Attest:

Authorized signature on behalf of
City of Hialeah

David Concepcion
Acting City Clerk

Mayor Julio Robaina Date


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City Attorney

MV Contract Transportation, Inc., a
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parent company, MV Transportation,
Inc.
4620 Westamerica Drive
Fairfield, CA 94534

Attest:



Authorized signature of the firm

 _____ 10/29/10

Corporate Secretary *DIAGRAM CONTRACTS*
(SEAL)

Brad Cornelsen Date
CFO

**FOURTH AMENDMENT TO
PROFESSIONAL SERVICES AGREEMENT BETWEEN
THE CITY OF HIALEAH AND MV CONTRACT TRANSPORTATION, INC.,
DATED OCTOBER 29, 2010**

WHEREAS, pursuant to Hialeah, Fla. Resolution 10-144 (October 26, 2010), the City entered into a professional services agreement with MV Contract Transportation, Inc. (Contractor) for a two year term commencing on November 1, 2010 and ending on October 31, 2012; and

WHEREAS, the City and Contractor amended the professional services agreement increasing the fleet in inventory on November 2, 2011; and

WHEREAS, the City and Contractor amended the professional services agreement to extend the agreement for an additional two-year term beginning on October 1, 2012 and ending on September 30, 2014, changing some responsibilities between the parties, including the responsibility to maintain the buses clean, provide for internet service, fuel expenses for the road supervisor and adjusting the service hours rate paid Contractor on September 2, 2012; and

WHEREAS, the City and Contractor amended the professional services agreement on March 12, 2013 to adjust the service hours rate and increasing the fuel expense allowance for the road supervisor; and

WHEREAS, the City and Contractor desire to amend the professional services agreement to renew the term of the agreement for an additional two years beginning on October 1, 2014 and ending on September 30, 2014 and adjusting the service hours rate paid Contractor;

NOW THEREFORE, in consideration of the mutual promises, covenants, and agreements herein contained and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties, the Professional Services Agreement is hereby amended as follows:

1. The language of Section I. Initial Term and Renewal Options is amended to extend the term for an additional two years as follows:

The term of the Agreement is extended for a period of two additional years beginning on October 1, 2014 and ending on September 30, 2016.

2. The language of Section III. Compensation, paragraph 3.0 is amended as follows:

Beginning on October 1, 2014, the City agrees to pay the Contractor the rate of \$21.02 per vehicle service hour for the minimum monthly base vehicle service hours, identified as Tier 1 hours on Exhibit A, attached hereto and incorporated herein by reference, and the premium rate of \$42.47 per vehicle service hour for service hours in excess of the minimum monthly base service hours, identified as Tier 2 hours on Exhibit A. All hours exceeding Tier 2 hours, in any given month, will be paid at the

base rate of \$21.02. Beginning on October 1, 2015, the premium rate for Tier 2 hours shall increase to \$52.36 for the remainder of the term of the Agreement. Contractor's rates are based on the City's guarantee that Contractor shall receive, each month, the minimum number of monthly vehicle service hours (base hours plus additional hours) for two (2) consecutive months, the parties shall meet to negotiate in good faith an equitable adjustment to Contractor's vehicle service hour rates, which shall take effect within thirty (30) days of the last day of the month for which the Contractor did not receive the guaranteed amount of monthly vehicle service hours. Either party shall have the unilateral right to terminate the Agreement for matters of convenience by providing the other party ninety (90) days advance written notice in the event the parties are unable to agree on the amount of the equitable rate adjustments.

3. All other provisions the Professional Services Agreement between MV Contract Transportation, Inc. and the City of Hialeah, Florida for municipal bus circulator services for the City of Hialeah, as amended, remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed by the respective duly authorized officials or officers hereunder this ____ day of September, 2014.

Attest:


Marbelys Fatjo, Acting City Clerk

Approved as to legal sufficiency and form:


Lorena E. Brayo, Esq.
Acting City Attorney

City of Hialeah, Florida
501 Palm Avenue
Hialeah, FL 33010-0040
Authorized signature on behalf of
City of Hialeah


Mayor Carlos Hernandez

MV Contract Transportation, Inc., a
Wholly-owned subsidiary of the
parent company, MV Transportation,
Inc., 5910 N. Central Expy., Ste.
1145, Dallas, TX 75206

Brad Cornelsen, Chief Financial
Officer

MV Transportation, Inc.

Hialeah, FL Division #189

Hours Schedule for Third Amendment

November 1st, 2014

Month	Working Days Per Month			Holiday Name	Minimum Hours Per Month		
	Mon - Sat	Holidays	Net Days		Tier 1 Hrs	Tier 2 Hrs	Tot Hours/Mth
November	26	1	25	Thanksgiving	2,575	264	2,840
December	26	1	25	Christmas	2,575	264	2,840
January	26	1	25	New Years Day	2,575	264	2,840
February	25		25		2,476	254	2,730
March	27		27		2,674	275	2,949
April	25		25		2,476	254	2,730
May	27		27		2,674	275	2,949
June	26		26		2,575	264	2,840
July	26		26		2,575	264	2,840
August	27		27		2,674	275	2,949
September	25	1	24	Labor Day	2,476	254	2,730
October	27		27		2,674	275	2,949
	313	4	309		31,000	3,184	34,184

Proposed New Rates:

Rates	Tier 1	Tier 2
Yr 1	\$ 21,018	\$ 42,471
Yr 2	\$ 21,018	\$ 52,355

