

CONTRACT FOR SERVICES OF INDEPENDENT CONTRACTOR
Contract No. 0506-035

THIS CONTRACT, made and entered into this 1st day of September, 2005, by and between the City and County of Carson City, a political subdivision of the State of Nevada, hereinafter referred to as the "CITY", and MV Transportation, Inc., 360 Campus Lane, Suite 201, Fairfield, CA 94534 707-863-8980 FAX #707-863-8793 hereinafter referred to as the "INDEPENDENT CONTRACTOR".

WITNESSETH:

WHEREAS, the Purchasing & Contracts Director for the City and County of Carson City is authorized, pursuant to Nevada Revised Statute Chapter 332 and Carson City Purchasing Resolution #1990-R71, to approve and accept the Contract as set forth in and by the following provisions; and

WHEREAS, it is deemed that the services of **INDEPENDENT CONTRACTOR** for **CONTRACT No. 0506-035 Carson City Community Transit Service Operations** are both necessary and in the best interests of the CITY.

NOW, THEREFORE, in consideration of the aforesaid premises, the parties mutually agree as follows:

ARTICLE 1

1 CONTRACT TERM:

- 1.1 This Contract shall be effective from October 1, 2005 until September 30, 2008, unless sooner terminated by either party as specified in Article 6 Contract Termination.
- 1.2 CITY shall reserve the right to terminate the Contract without cause upon sixty (60) calendar days written notice.
- 1.3 CITY shall reserve the right to renew for two (2) additional years subject to negotiation.

For P&C Use Only	
BL expires	_____
GL expires	_____
AL expires	_____
WC expires	_____
Fid Bond	_____
Perf Bond	_____

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ARTICLE 2

2 NOTICE:

2.1 Unless otherwise specified, termination shall not be effective until thirty (30) calendar days after a party has served written notice of default, or without cause upon the other party.

2.2 All notices or other communications required or permitted to be given under this Contract shall be in writing and shall be deemed to have been duly given if delivered personally in hand, by telephonic facsimile with simultaneous regular mail, or mailed certified mail, return receipt requested, postage prepaid on the date posted, and addressed to the other party at the address specified below.

2.2.1 Notice to **INDEPENDENT CONTRACTOR** shall be addressed to:

MV Transportation, Inc.
Contract Administrator
360 Campus Lane, Suite 201
Fairfield, CA 94534
707-863-8980 / FAX 707-863-8793
TFoster@mvtransit.com

2.2.2 Notice to **CITY** shall be addressed to:

Carson City Purchasing & Contracts
Cheryl Adams, Purchasing & Contracts Manager
201 North Carson Street Suite 11
Carson City, NV 89701
775-887-2027 extension 1100 / FAX #775-887-2107
CAdams@ci.carson-city.nv.us

And

Carson City Development Services - Engineering
E. Michael Dulude, Transit/Transportation Planner
3505 Butti Way
Carson City, NV 89701-3498
775-887-2355 extension 1047 / FAX #775-887-2112
MDulude@ci.carson-city.nv.us

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ARTICLE 3

3 SCOPE OF WORK:

3.1 The parties agree that the scope of work for the **INDEPENDENT CONTRACTOR** shall be as follows:

3.1.1 **INDEPENDENT CONTRACTOR** shall provide transit service from 6:30 a.m. to 6:30 p.m., Monday through Friday and 8:00 a.m. to 4:00 p.m. on Saturday.

3.1.2 **System Management and Operation:**

3.1.2.1 **INDEPENDENT CONTRACTOR** shall manage and operate the Transit system in accordance with the policies and procedures established by Carson City Regional Transportation Commission (CCRTC) and with good management practices.

3.1.2.2 Management of day-to-day operations of the Transit system shall be vested in a local site supervisor who shall be well experienced in all aspects of paratransit and fixed route operations.

3.1.2.3 In addition, a responsible senior employee of the **INDEPENDENT CONTRACTOR** shall be available at all times, either by telephone or in person, to make major decisions or provide coordination as necessary.

3.1.2.4 **INDEPENDENT CONTRACTOR** shall be responsible for monitoring all aspects of the system operation including ridership, quality of service, fare collection, attitudes, motivations, and performance of all personnel.

3.1.2.5 Operating productivity shall include on-time performance and passengers per hour.

3.1.2.6 Methods of improving system operation and service shall be sought, communicated to CCRTC staff for appropriateness and concurrence (see Section 3.1.2.7), and the results shall be reported to the CITY, along with any corrective actions, which may have been taken.

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- 3.1.2.7 In no case shall a corrective action, which affects the nature, quality, or quantity of service, be taken without first obtaining prior CCRTC approval.
- 3.1.2.8 **INDEPENDENT CONTRACTOR** shall cooperate with **CITY** staff on all monitoring of the Transit system (fixed route and demand response).
- 3.1.2.9 **INDEPENDENT CONTRACTOR** shall cooperate with the **CITY** to provide information as it reviews the service and recommends changes to the service.
- 3.1.2.10 **INDEPENDENT CONTRACTOR** shall provide a properly trained supervisor, and the vehicle operators and dispatchers needed to operate the Transit system.
- 3.1.2.11 These employees shall be employed by **INDEPENDENT CONTRACTOR** and are not the employees of **CITY**.
- 3.1.2.12 **INDEPENDENT CONTRACTOR** shall meet passenger needs and expectations utilizing surveys and personal contact.
- 3.1.2.13 **INDEPENDENT CONTRACTOR** will respond to the passenger needs in a consistent, courteous, and timely manner while remaining financially responsible.
- 3.1.2.14 **CITY** staff will coordinate a program-marketing image to include a logo on all vehicles, brochures, and correspondence.
- 3.1.2.15 The **CITY** will prepare and distribute both written and radio Public Service Announcements, and collaborate with the **INDEPENDENT CONTRACTOR** to prepare and distribute flyers describing the service.
- 3.1.2.16 **CITY** staff will, before implementation, establish the service name and logo.
- 3.1.2.17 **INDEPENDENT CONTRACTOR** shall purchase uniforms for employees and require the employees to wear them.

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- 3.1.2.18 The design and type of uniforms shall be subject to CITY approval.
- 3.1.2.19 The CITY shall provide vehicles as necessary in order to properly and adequately meet service demand.
- 3.1.2.20 The CITY and **INDEPENDENT CONTRACTOR** shall jointly determine the number and type of vehicles needed.
- 3.1.2.21 In the event a vehicle is damaged or in need of repair, the CITY agrees to provide necessary repairs for normal wear and tear.
- 3.1.2.22 In the event a vehicle is damaged due to the negligence or intentional act of a third party or the negligence or intentional act of the **INDEPENDENT CONTRACTOR** or for any reason except normal wear and tear, **INDEPENDENT CONTRACTOR** agrees to pay for necessary repairs that the CITY will perform to repair the vehicles.
- 3.1.2.23 **INDEPENDENT CONTRACTOR'S** drivers shall perform a routine walk-around and vehicle check each time the driver takes possession of a vehicle and shall complete a daily vehicle inspection (DVI) report of which one (1) copy of the report shall be provided to the CITY for use in the Vehicle Maintenance Department. The DVI will contain any and all information that pertains to the safety and damage to the vehicle.
- 3.1.2.24 **INDEPENDENT CONTRACTOR** shall provide daily vehicle cleaning necessary to have a clean, presentable vehicle on the road.
- 3.1.2.25 **INDEPENDENT CONTRACTOR** shall provide uniforms and physicals for the vehicle operators.
- 3.1.2.26 The CITY shall provide a location park area at 3303 Butti Way, Building 11 for City vehicles.
- 3.1.2.27 **INDEPENDENT CONTRACTOR** shall provide fuel for all vehicles.

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3.1.2.28 Upon request, **INDEPENDENT CONTRACTOR** shall attend the monthly Regional Transportation Commission meetings.

3.1.3 **Compliance with the Six ADA Service Criteria for Demand Response Service:**

3.1.3.1 **Service Area:**

3.1.3.1.1 **INDEPENDENT CONTRACTOR** shall provide service within CCRTC established service boundary, except for those registrants who have been grandfathered into the service (see attached map of service area).

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3.1.3.2 Response Time:

- 3.1.3.2.1** **INDEPENDENT CONTRACTOR** shall be required to provide "next day service" as space is available.
- 3.1.3.2.2** **INDEPENDENT CONTRACTOR** must accommodate requests for any particular day if made before 12:00 p.m. the preceding day as space is available.
- 3.1.3.2.3** Same day service shall be provided if space and time are available. **CITY** will not ask the **INDEPENDENT CONTRACTOR** to provide service that is in violation of NRS 706.
- 3.1.3.2.4** Return trips shall also be scheduled on the preceding day.
- 3.1.3.2.5** **INDEPENDENT CONTRACTOR** shall utilize a systematic method to schedule vehicles and transport passengers using **CITY** vehicles. The method should be capable of accommodating both fixed route, and advanced and same day reservations for demand response, and for integrating all demands for service into efficient vehicle tours, which maximize productivity and assure service quality to the levels prescribed in Contract. Either manual or automated scheduling techniques are acceptable.
- 3.1.3.2.6** **INDEPENDENT CONTRACTOR** shall provide an adequate number of persons to staff the vehicle dispatch and passenger scheduling function. These persons shall be responsible for maintaining communication with all vehicles in service and for maintaining the daily dispatch log to be developed and used by **INDEPENDENT CONTRACTOR**. Scheduling and dispatching personnel shall be trained in professional techniques, radio protocol, and in cooperative approaches with drivers and passengers.
- 3.1.3.2.7** Requests for service must be taken during the same hours the **INDEPENDENT CONTRACTOR'S** administrative offices are open.

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3.1.3.2.7.1 The **INDEPENDENT CONTRACTOR** shall make arrangements to accept reservation requests on days that the administrative offices are closed, if services are provided the following day.

3.1.3.2.7.2 The **INDEPENDENT CONTRACTOR's** use of answering machines, answering services, or other arrangements are acceptable as long as the scheduling needs of passengers are met.

3.1.3.2.7.3 **INDEPENDENT CONTRACTOR** shall accept same day reservations, without affecting the scheduling of previously booked passengers, in a manner to maximize the productivity of the service if space and time is available.

3.1.3.3 Fares:

3.1.3.3.1 The fare for the fixed route is proposed at \$1.00 for the general public, \$0.50 for the elderly, disabled and youth under 18 years of age. The proposed fare for a demand response one-way trip is \$2.00 for ADA-eligible riders, and \$2.50 for older adults and non-ADA eligible individuals with disabilities.

3.1.3.3.2 **INDEPENDENT CONTRACTOR** shall collect fares, as directed by the **CITY**.

3.1.3.3.2.1 **INDEPENDENT CONTRACTOR** and the **CITY** will jointly develop a cash count protocol to protect system generated revenues and to accurately account for all revenues, including but not limited to farebox flashing, overnight cash security when required, count security, deposit procedures, and notification to the **CITY** of daily receipts by route.

3.1.3.3.3 The fare charged to passengers shall be determined by the **CITY**.

3.1.3.3.4 The **CITY** may alter the fare policy that the **INDEPENDENT CONTRACTOR** must follow at any

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time with fourteen (14) days' written notice to the **INDEPENDENT CONTRACTOR**. The CITY will follow the 'Public Involvement Process' as approved by CAMPO for changes to the fare policies affecting the public.

3.1.3.3.5 Two (2) children under 5 years of age can ride at no charge if accompanied by a fare paying adult.

3.1.3.3.6 **INDEPENDENT CONTRACTOR** shall keep a count of passengers by type of fare payment.

3.1.3.4 Hours and Days of Service:

3.1.3.4.1 The proposed fixed route will provide transit service in Carson City as well as a portion of Douglas County. Service will be available from 6:30 AM to 6:30 PM, Monday through Friday, 8:30 AM to 4:30 PM on Saturday, and no service on Sunday. Furthermore, the existing demand response service will remain in place and transition to a more traditional ADA type of service.

3.1.3.4.2 **INDEPENDENT CONTRACTOR** shall provide office hours from 8:00 a.m. to 5:00 p.m., Monday through Saturday.

3.1.3.4.3 The service provided for demand response shall be as follows:

3.1.3.4.3.1 Curb-to-curb, with Door-to-door upon request.

3.1.3.4.3.2 **INDEPENDENT CONTRACTOR** shall require its vehicle operators to assist those passengers needing assistance when boarding or leaving the vehicles.

3.1.3.4.3.3 **INDEPENDENT CONTRACTOR** demand response drivers shall provide "hands-on" assistance to disabled passengers for boarding and disembarking purposes if requested by passenger or passenger aide.

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3.1.3.4.3.4 Other service requirements may be added or existing requirements modified at any time by the CITY with 30 days written notice.

3.1.3.4.4 Holiday Closures:

3.1.3.4.4.1 The following holidays shall have no service hours; all other holidays shall have full service hours as described in Hours and Days of Service above:

New Year's Day
Memorial Day
Independence Day
Labor Day
Nevada Day
Thanksgiving Day
Day after Thanksgiving Day
Christmas Day

3.1.4 Records and Reporting:

3.1.4.1 **INDEPENDENT CONTRACTOR'S** effective billing period will be for the calendar month.

3.1.4.2 The following operations records and operating information shall be maintained by the **INDEPENDENT CONTRACTOR** and a monthly report prepared and submitted to the **CITY** with the **INDEPENDENT CONTRACTOR'S** invoice:

3.1.4.2.1 Daily ridership by vehicle

3.1.4.2.2 Daily ridership by type

3.1.4.2.3 Daily mileage by vehicle

3.1.4.2.4 Daily revenue vehicle hours per vehicle

3.1.4.2.5 Trip log from each vehicle operating including:

3.1.4.2.6 Total weekday passengers and total Saturday and Sunday passengers (if applicable)

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- 3.1.4.2.7 Total passengers requiring wheelchair lifts and total passengers not requiring wheelchair lifts
- 3.1.4.2.8 Total passengers by time of day
- 3.1.4.2.9 Total revenue vehicle hours by weekday and Saturday and Sundays (if applicable)
- 3.1.4.2.10 Total revenue vehicle miles by weekday and Saturdays and Sundays (if applicable)
- 3.1.4.2.11 Total non-revenue hours by weekday and Saturdays and Sundays (if applicable)
- 3.1.4.2.12 Total non-revenue hours by weekday and Saturdays and Sundays (if applicable)
- 3.1.4.2.13 Total miles by weekday and Saturdays and Sundays (if applicable)
- 3.1.4.2.14 Total hours by weekday and Saturdays and Sundays (if applicable)
- 3.1.4.2.15 Total fuel usage by vehicle by month and by day
- 3.1.4.3 A monthly operating report shall be prepared which summarizes the data collected daily.
 - 3.1.4.3.1 This report shall present the data on a total system basis including data requested in Section 3.1.4.2.
 - 3.1.4.3.2 It shall also include a statement of any existing or potential problems and complaints received along with suggested solutions.
 - 3.1.4.3.3 This report shall be due to the CITY by the 5th business day of the following month.
 - 3.1.4.3.3.1 **INDEPENDENT CONTRACTOR** must provide data on total ridership by category, on time performance with trend information, customer complaints, and resolution to complaints.

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3.1.5 Recruitment, Hiring, and Training:

- 3.1.5.1 INDEPENDENT CONTRACTOR shall recruit qualified personnel as needed to staff the operation.
- 3.1.5.2 INDEPENDENT CONTRACTOR shall determine an appropriate mix of part- and full-time personnel to meet expected system demand and attempt to hire those employees.
- 3.1.5.3 The CITY shall have the right to approve INDEPENDENT CONTRACTOR'S annual staffing plan.
- 3.1.5.4 INDEPENDENT CONTRACTOR shall maintain a safe environment for the passengers, employees, and the general public through the use of safety training, regularly scheduled safety meetings, and an annual safety campaign.

3.1.6 Inspection:

- 3.1.6.1 Vehicles utilized under this Contract may be inspected by the CITY at any time, including during operating hours.
- 3.1.6.2 Results of the inspection are to be presented to the INDEPENDENT CONTRACTOR in timely manner to ensure service operates as required.

3.1.7 Additional Equipment:

- 3.1.7.1 All vehicles utilized under this Contract shall be equipped with the following:
 - 3.1.7.1.1 Two-way communication ability with the base station and the vehicle furnished by the CITY.
 - 3.1.7.1.2 Fire extinguisher furnished by the CITY
 - 3.1.7.1.3 First aid kit furnished by the CITY
 - 3.1.7.1.4 Bio-hazard kit furnished by the CITY
 - 3.1.7.1.5 Tire chains furnished by the CITY

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3.1.7.2 Prescribed equipment shall be maintained and kept in fully useful and original condition at all times.

3.1.7.3 Prescribed equipment shall be secured to the vehicle.

3.1.8 Payment:

3.1.8.1 All payments by the CITY shall be made in arrears, after the service has been provided.

3.1.8.2 All invoices shall be submitted to the CITY by the 5th business day of each month for approval and shall be paid on or before the last working weekday of the month.

3.1.8.3 If the CITY disputes any items on an invoice for a reasonable cause, the CITY may deduct that disputed item from the payment, but shall not delay payment for the undisputed portions.

3.1.8.4 The amounts and reasons for such deletions shall be documented to **INDEPENDENT CONTRACTOR** within 15 working days after receipt of invoice by the CITY.

3.1.8.5 The CITY shall assign a sequential reference number to each deletion.

3.1.9 Disputes:

3.1.9.1 Except as otherwise provided, any dispute concerning a question of fact arising under this Contract which is not disposed of by agreement shall be decided by the CITY, who shall reduce the decision to writing and mail or otherwise furnish a copy thereof to the **INDEPENDENT CONTRACTOR**.

3.1.9.2 The decision of the CITY shall be final and conclusive unless within thirty (30) days from the date of receipt of such copy, the **INDEPENDENT CONTRACTOR** mails or otherwise furnishes to the CITY a written appeal.

3.1.9.3 The decision of the CITY's duly authorized representative for the determination of such appeals will be final and conclusive unless determined by a court of competent

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jurisdiction to have been fraudulent, or capricious, or arbitrary, or so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence.

3.1.9.4 In connection with any appeal proceeding under this clause, the **INDEPENDENT CONTRACTOR** shall be afforded an opportunity to be heard and to offer evidence in support of its appeal.

3.1.9.5 Pending final decision of a dispute hereunder, the **INDEPENDENT CONTRACTOR** shall proceed diligently with the performance of the contract and in accordance with the **CITY's** decision.

3.1.9.6 This clause does not preclude consideration of legal questions in connection with the decision provided for this clause, provided that nothing in this Contract shall be construed as making final the decision of any administrative official, representative, or board on a question of law.

3.1.10 Invoices:

3.1.10.1 **INDEPENDENT CONTRACTOR** shall submit the invoices to the **CITY** by the 5th business day of each month as follows:

3.1.10.1.1 Invoices shall be sent using the **CITY's** accounting procedures for claim payments that shall include documentation of the actual costs.

3.1.10.1.2 Each claim form submitted is subject to a **CITY** audit.

3.1.10.1.3 Charges shall be submitted monthly.

3.1.10.1.4 Each invoice shall contain a certification that all amounts billed are in accordance with this Contract.

3.1.10.1.5 Revenue hours supplied for the billing period indicated on each invoice.

3.1.11 Information and Documents:

3.1.11.1 All information, data, reports, records, maps, survey results as are existing, available, and necessary for carrying out the work as the Scope of Services, shall be furnished to

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INDEPENDENT CONTRACTOR without charge by the **CITY**, and the **CITY** shall cooperate in every way possible in the carrying out the work without undue delay.

3.1.12 **Proprietary Rights:**

3.1.12.1 All inventions, improvements, discoveries, proprietary rights, patents and copyrights made by **INDEPENDENT CONTRACTOR** under this Contract shall be made available to **CITY** with no royalties, charges, or other costs, but shall be owned by **INDEPENDENT CONTRACTOR**.

3.1.12.2 All manuals prepared by **INDEPENDENT CONTRACTOR** under this Contract shall be made available to **CITY** for possible future use at no charge but shall be owned by **INDEPENDENT CONTRACTOR** and shall not be copied, disclosed, or released by the **CITY** or participating organization without prior written consent of **INDEPENDENT CONTRACTOR**.

3.1.12.3 Reports are excluded from this provision and shall be owned by the **CITY**.

3.1.12.4 However, **INDEPENDENT CONTRACTOR** shall have the right to print and issue copies of these reports at **INDEPENDENT CONTRACTOR'S** expense.

3.1.12.5 **INDEPENDENT CONTRACTOR** may make presentations and releases relating to the project.

3.1.12.6 Papers and other formal publications shall be approved by the **CITY** before they are released.

3.1.13 **Shortages and Delays:**

3.1.13.1 In the event that the **CITY** fails to provide or delays providing items as herein described, in the number and size required, then **INDEPENDENT CONTRACTOR** shall not be responsible for any delays or resulting decline in the quality of service.

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3.1.14 Fidelity Bond:

3.1.14.1 INDEPENDENT CONTRACTOR shall cause its staff personnel to be covered under an appropriate bond protecting the CITY from employee theft up to the amount of \$100,000 with respect to any one occurrence by INDEPENDENT CONTRACTOR'S employees.

3.1.15 Non-Discrimination Assurances:

3.1.15.1 INDEPENDENT CONTRACTOR agrees that as a condition to receiving any federal assistance pursuant to this Contract, it will comply with Title VI of the Civil Rights Act of 1964, 78 Sta.252, 42 U.S.C. 2000d through 2000e-16 (hereinafter referred to as the Act), and all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation - the effectuation of the Act (hereinafter referred to as the Regulations), and other pertinent directives, to the end that, in accordance with the Act, Regulations, and other directives, no person in the United States shall, on the grounds of sex, race, color, marital status, age, creed, national origin, or disability except for a bona fide occupational qualification, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program activity of which the INDEPENDENT CONTRACTOR received federal financial assistance pursuant to this Contract.

3.1.15.2 INDEPENDENT CONTRACTOR shall promptly take any measure necessary to effectuate this condition precedent.

3.1.15.3 It is understood that the INDEPENDENT CONTRACTOR shall be deemed the "recipient" as that term is used in the Act or the Regulations referred to in this section.

3.1.15.4 More specifically, and without limiting the above general assurance, the INDEPENDENT CONTRACTOR hereby gives the following specific assurances with respect to the project to be undertaken pursuant to this Contract.

3.1.15.4.1 INDEPENDENT CONTRACTOR shall insert the following notification in all solicitations for bids for work or materials subject to Regulations promulgated

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in connection with this project, or more generally by the U.S. Department of Transportation for other purposes, and, in an adopted form in all proposals for negotiation Contracts:

3.1.15.4.1.1 "(Name of **INDEPENDENT CONTRACTOR**), in accordance with Title VI of the Civil Rights Act of 1964, and Title 49 Code of Federal Regulations, Department of Transportation, Sub- Title A, Part 21, 'Non-Discrimination in Federally Assisted Programs of the Department of Transportation' issued pursuant to such Act, hereby notifies all bidders that it will affirmatively ensure that in any contract entered into pursuant to this advertisement, disadvantages business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of sex, race, color, marital status, age, creed, national origin, or disability except for a bona fide occupational qualification in consideration for an award.

3.1.15.4.1.2 **INDEPENDENT CONTRACTOR** assures that all fixed facility construction or alteration and all new equipment included in the project comply with applicable regulations regarding "Non-Discrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," set forth in 49 CFR. Part 27, and any amendments thereto.

3.1.15.4.2 **INDEPENDENT CONTRACTOR**, for itself, its assignees, and successors in interest, agrees as follows:

3.1.15.4.2.1 Compliance with Regulations: **INDEPENDENT CONTRACTOR** shall comply with the Regulations relative to nondiscrimination in federally assisted programs of the United States Department of Transportation (hereinafter, "USDOT") title 49, CFR, Part 21,

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as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.

3.1.15.4.2.2 **INDEPENDENT CONTRACTOR** shall also comply with the Single Audit Act and OMB Circular A-133.

3.1.15.4.2.3 Nondiscrimination: **INDEPENDENT CONTRACTOR** shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. **INDEPENDENT CONTRACTOR** shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

3.1.16 Small, Disadvantaged and Women's Business Enterprise:

3.1.16.1 The following provisions are applicable:

3.1.16.1.1 **Policy.** It is the policy of the U.S. Department of Transportation that disadvantaged business enterprises, as defined in title 49, CFR, Part 23, shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with federal funds under this Contract. Consequently, the DBE requirements of Title 49, CFR, Part 23 apply to this Contract.

3.1.16.1.2 **DBE Obligation.** **INDEPENDENT CONTRACTOR** and any subcontractors agree to ensure that disadvantaged business enterprises as defined in Title 49, CFR, Part 23 have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with federal funds provided under this Contract.

3.1.16.1.2.1 In this regard, the and any subcontractors shall take all necessary and reasonable steps in accordance with Title 49, CFR, Part 23, to

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ensure that disadvantaged business enterprises have the maximum opportunity to compete for and perform contracts.

3.1.16.1.2.2 and any subcontractors shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of State of Nevada Department of Transportation, hereinafter referred to as "NDOT", assisted contracts.

3.1.17 OSHA Regulations:

3.1.17.1 **INDEPENDENT CONTRACTOR** agrees to abide by all laws, rules and regulations promulgated by the United States of America, the State of Nevada, or any agencies or subdivisions thereof, specifically included OSHA regulations currently in effect at the time of contract effective date.

3.1.18 Labor Provisions:

3.1.18.1 Overtime Requirements. No **INDEPENDENT CONTRACTOR** or subcontractor contracting for any part of the work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any work week in which he or she is employed on such work to work in excess of 40 hours in such work week unless such laborer or mechanic receives compensation at a rate not less than one and one-half (1-1/2) times the basic rate of pay for all hours worked in excess of 40 hours in such work week.

3.1.18.2 Violation, Liability for Unpaid Wages, Liquidated Damages. In the event of any violation of the clause set forth in Paragraph (b)(1) of 29 CFR Section 5.5, the **INDEPENDENT CONTRACTOR** and any subcontractor shall be liable [to the United States (in the case of work done under contract for the District of Columbia or a territory, to such district or to such territory),] for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in subparagraph (b)(1) of 29 CFR Section 5.5 in the sum of 410 for each calendar day on which such individual was required or

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permitted to work in excess of the standard work week of 40 hours without payment of the overtime wages require, by the clause set forth in paragraph (b)(1) of 29 CFR Section 5.5.

3.1.18.3 Withholding for Unpaid Wages and Liquidated Damages. The CITY or the INDEPENDENT CONTRACTOR shall, upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld, from any monies payable on account of work performed by the INDEPENDENT CONTRACTOR or subcontractor under any such contract or any other federal contract with the same prime INDEPENDENT CONTRACTOR or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act which is held by the same prime INDEPENDENT CONTRACTOR, such sums as may be determined to be necessary to satisfy any liabilities of such INDEPENDENT CONTRACTOR or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in subparagraph (b)(2) of 29 CFR Section 5.5.

3.1.18.4 Non-construction Grants. INDEPENDENT CONTRACTOR or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. The records to be maintained under this paragraph shall be made available by the INDEPENDENT CONTRACTOR or subcontractor for inspection, copying, or transcription by authorized representatives of the CITY, NDOT, and the Department of Labor, and the INDEPENDENT CONTRACTOR or subcontractor will permit such representatives to interview employees during working hours on the job.

3.1.19 Conservation:

3.1.19.1 INDEPENDENT CONTRACTORS shall recognize mandatory standards and policies relating to energy

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efficiency, which are contained in the state energy conservation plan in compliance with the Energy Policy and Conservation Act (42 USC Section 6321 et seq.).

3.1.20 Clean Air Act and Federal Water Pollution Control Act Requirements:

3.1.20.1 **INDEPENDENT CONTRACTOR** agrees to comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 USC 1857(h)), Section 508 of the Clean Water Act (33 USC 1368), Executive Order 11738, and Environmental Protection Agency regulations (40 CFR, Part 15) which prohibit the use under nonexempt federal contracts, grants, or loans of facilities included on the EPA List for Violating Facilities. **INDEPENDENT CONTRACTOR** shall report violations to FTA and to the USEPA Assistant Administrator for Enforcement (EN0329).

3.1.21 Anti-Kickback Provision:

3.1.21.1 All contracts or subcontracts for this project must comply with the Copeland Anti-Kickback Act (18 USC 874) as supplemental in the Department of Labor regulations (29 CFR part 3).

3.1.21.2 This act provides that each **INDEPENDENT CONTRACTOR** or subcontractor shall be prohibited from including by any means any person employed in the construction completion or repair of public work to give up any part of the compensation to which otherwise entitled.

3.1.22 Audit and Inspection of Records:

3.1.22.1 **INDEPENDENT CONTRACTOR** shall permit the authorized representatives of the CITY, the USDOT, the Comptroller General of the United States, and the State of Nevada to inspect and audit all data and records of the **INDEPENDENT CONTRACTOR** relating to performance under the contract until the expiration of three (3) years after final payment under this contract.

3.1.22.2 **INDEPENDENT CONTRACTOR** further agrees to include in all its subcontractors hereunder a provision to the effect that

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the subcontractor agrees that the CITY, the USDOT, the Comptroller General of the United States, and the State of Nevada, or any of their duly authorized representatives shall, until the expiration of three years after final payment under the subcontractor, have access to and the right to examine any directly pertinent books, documents, papers, and records of such subcontractor, involving transactions related to the subcontractor.

- 3.1.22.3. The term "subcontract" as used in this clause excludes (1) purchase orders not exceeding \$10,000 and (2) subcontracts or purchase orders for public utility services at rates established for uniform applicability to this general public.

3.1.23 Conflicts of Interest and Noncompetitive Practices:

- 3.1.23.1 **INDEPENDENT CONTRACTOR** will be required to sign an affidavit containing the following provisions.

- 3.1.23.2 This affidavit will be required at the time of contract award and again upon completion of the contract.

3.1.23.2.1 Conflict of Interest:

- 3.1.23.2.1.1 That the **INDEPENDENT CONTRACTOR** by entering into this contract the **CITY** to perform or provide work, services, or materials to the **CITY** has thereby covenanted, and by this affidavit does again covenant and assure, that it has no direct or indirect pecuniary or proprietary interest, and that it shall not acquire any such interest, which conflicts in any manner or degree with the services required to be performed under this contract and that it shall not employ any person or agent having any such interest.

3.1.23.2.2 Contingent Fees and Gratuities:

- 3.1.23.2.2.1 That the **INDEPENDENT CONTRACTOR**, by entering into this contract with the **CITY** to perform or provide services or materials for the **CITY**, has thereby covenanted, and by this

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affidavit does again covenant and assure:

3.1.23.2.2.2 That no person or selling agency except bona fide employees or designated agents or representatives of the **INDEPENDENT CONTRACTOR** has been employed or retained to solicit or secure this contract with a contract or understanding that a commission, percentage, brokerage, or contingent fee would be paid; and

3.1.23.2.2.3 That no gratuities, in the form of entertainment, gifts, or otherwise, were offered or given by the **INDEPENDENT CONTRACTOR** or any of its agents, employees or representatives, to any official, member, or employee of the **CITY** or other governmental agency with a view toward securing this contract or securing favorable treatment with respect to the awarding or amending, or the making of any determination with respect to the performance of this contract.

3.1.24 **Compliance:**

3.1.24.1 **INDEPENDENT CONTRACTOR** shall comply with all Federal, State and local laws as identified in this Contract.

3.1.24.2 **INDEPENDENT CONTRACTOR** shall also comply with the **CITY's** internal control procedures as established by the **CITY**.

3.1.25 **Adherence to Law:**

3.1.25.1 Both parties shall adhere to all applicable laws governing their relationship with their employees, including but not limited to laws, rules, regulations and policies concerning worker's compensation, and minimum wage requirements.

3.1.26 **Mutual Cooperation:**

3.1.26.1 **INDEPENDENT CONTRACTOR** recognizes that the performance of this contract is essential to the provision of

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vital public services and the accomplishment of the stated goals and mission of the CITY.

3.1.26.2 Therefore, the **INDEPENDENT CONTRACTOR** shall be responsible for maintaining a cooperative and good faith attitude in all relations with the CITY and shall active foster a public image of mutual benefit to both parties.

3.1.26.3 **INDEPENDENT CONTRACTOR** shall not make any statements or take any actions detrimental to this effort.

ARTICLE 4

4 CONSIDERATION:

4.1 The parties agree that **INDEPENDENT CONTRACTOR** will provide the services specified in Article 3 Scope of Work based on the following costs:

4.1.1 Year 1 - October 1, 2005 through September 30, 2006 - for a Grand Total of \$606,147.00 with a breakdown as follows.

4.1.1.1 Fixed Route Services

4.1.1.1.1 Estimated Annual Vehicle Service Hours - 13,808

4.1.1.1.2 Estimated Operating Cost Per Hour - \$29.04

4.1.1.1.3 One-Time Capital and/or Operating Costs - \$16,751.00

4.1.1.1.4 Annual Vehicle Insurance Rate - \$2,969.44 (included in the Estimated Operating Cost Per Hour)

4.1.1.1.5 Total Annual Cost - \$417,735.00

4.1.1.2 Demand Response Services

4.1.1.2.1 Estimated Annual Vehicle Service Hours - 6,488

4.1.1.2.2 Estimated Operating Cost Per Hour - \$29.04

4.1.1.2.3 One-Time Capital and/or Operating Costs - \$0

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4.1.1.2.4 Annual Vehicle Insurance Rate - \$2,969.44 (included in the Estimated Operating Cost Per Hour)

4.1.1.2.5 Total Annual Cost - \$188,412.00

4.1.2 Year 2 - October 1, 2006 through September 30, 2007- for a Grand Total of \$619,679.00 with a breakdown as follows.

4.1.2.1 Fixed Route Services

4.1.2.1.1 Estimated Annual Vehicle Service Hours - 14,913

4.1.2.1.2 Estimated Operating Cost Per Hour - \$28.27

4.1.2.1.3 Annual Vehicle Insurance Rate - \$3,160.33 (included in the Estimated Operating Cost Per Hour)

4.1.2.1.4 Total Annual Cost - \$421,591.00

4.1.2.2 Demand Response Services

4.1.2.2.1 Estimated Annual Vehicle Service Hours - 7,007

4.1.2.2.2 Estimated Operating Cost Per Hour - \$28.27

4.1.2.2.3 Annual Vehicle Insurance Rate - \$3,160.33 (included in the Estimated Operating Cost Per Hour)

4.1.2.2.4 Total Annual Cost - \$198,088.00

4.1.3 Year 3 - October 1, 2007 through September 30, 2008 - for a Grand Total of \$666,953.00 with a breakdown as follows.

4.1.3.1 Fixed Route Services

4.1.3.1.1 Estimated Annual Vehicle Service Hours - 16,106

4.1.3.1.2 Estimated Operating Cost Per Hour - \$28.18

4.1.3.1.3 Annual Vehicle Insurance Rate - \$3,298.67 (included in the Estimated Operating Cost Per Hour)

4.1.3.1.4 Total Annual Cost - \$453,687.00

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4.1.3.2 Demand Response Services

- 4.1.3.2.1 Estimated Annual Vehicle Service Hours - 7,568
- 4.1.3.2.2 Estimated Operating Cost Per Hour - \$28.18
- 4.1.3.2.3 Annual Vehicle Insurance Rate - \$3,298.67 (included in the Estimated Operating Cost Per Hour)
- 4.1.3.2.4 Total Annual Cost - \$213,266.00

4.2 CITY has determined the following method for calculating fuel cost variations and allowances/credits during the term of the contract:

4.2.1 On August 17, 2005, five fuel distributors were polled by CITY staff by using the American Automobile Association (AAA) website, Fuel Price web page, for the price of diesel and low octane unleaded fuel. Following are the five fuel distributors listed on this web page that offer both low octane unleaded and diesel fuel:

- 4.2.1.1 ARCO @ 1017 North Carson Street
- 4.2.1.2 Citgo @ 3701 North Carson Street
- 4.2.1.3 Jackson Food Store @ 1457 South Carson Street
- 4.2.1.4 Chevron @ 1102 North Carson Street
- 4.2.1.5 Shell @ 1462 South Carson Street

4.2.2 From this polling, an average price for diesel and low octane unleaded fuel was determined to be

- 4.2.2.1 diesel - \$3.10 per gallon
- 4.2.2.2 low octane unleaded - \$2.72 per gallon

4.2.3 Since the invoices are due by the 5th business day of each month, CITY staff will poll the above distributors at the same AAA website and recalculate the average for diesel and low octane unleaded fuel within this five (5) business day period. Based upon the difference, either positive or negative, the CITY will either pay the **INDEPENDENT CONTRACTOR** or the **INDEPENDENT CONTRACTOR** will credit the CITY based on that

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difference in fuel price average. This credit to the CITY or payable to the **INDEPENDENT CONTRACTOR** will be based on the number of gallons consumed during the invoiced period—as documented by the fuel summary report.

4.2.4 If this website is not available, then the above five fuel distributors will be polled via phone or field check.

4.3 Performance Incentive Program:

4.3.1 General:

4.3.1.1 A bonus or assessment will be authorized by CCRTC as appropriate for each of the performance categories listed for both fixed route and demand response services. Bonuses and/or assessments referred to are listed in Table A-1 and Table A-2. Bonuses and assessments will be calculated annually within ninety (90) days after the end of each fiscal year and will reflect **INDEPENDENT CONTRACTOR'S** performance during that period, as determined by CCRTC on the basis of an ongoing monitoring program. Any bonus awarded shall be at the sole discretion of the Carson City Regional Transportation Commission (CCRTC) and Carson City. Assessments shall be determined daily and **INDEPENDENT CONTRACTOR** notified daily of performance violations.

4.3.2 Fixed Route Performance Standards:

4.3.2.1 On-Time Performance:

4.3.2.1.1 "On-time" is defined as departing not more than five minutes after the scheduled departure time as indicated in the printed schedule and **INDEPENDENT CONTRACTOR'S** "headway" sheet and arriving no more than five minutes after scheduled arrival time at the end of the run. Early departures will be considered violation of the on-time performance standard and will be subject to the assessments provided in this contract. In cases where the desired departure time is different from that indicated on the printed schedule, CCRTC will inform **INDEPENDENT CONTRACTOR** as to the correct departure time prior to initiating the

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monitoring program. **INDEPENDENT CONTRACTOR** shall submit their "headway" sheet to the CCRTC for review and use in on-time performance monitoring.

4.3.2.1.2 All on-time performance will be conducted at stops at the beginning and end of each route. On time performance will be checked on a random sample basis. Time used will be determined by calling 775-887-1212.

4.3.2.1.3 Time checks may be divided into two categories: Peak Periods (defined as 7:30-9:30 a.m. and 2:30 to 5:30 p.m.) and Off-Peak Periods (all other operating times). A bonus will be awarded for achievement of at least 95% on-time performance during peak periods or at least 98% on-time performance during off-peak periods, for each six (6) month period. An assessment will be assessed if the average on-time performance is below 90%, for a combination Peak and Off-Peak periods, for each six (6) month period.

4.3.2.1.4 In the event that a bus is not on-time due to abnormal conditions beyond **INDEPENDENT CONTRACTOR'S** control (e.g. traffic accidents, trains blocking streets, construction, etc.) **INDEPENDENT CONTRACTOR** may provide documentation of such circumstances to **CITY**. If **CITY**, in its sole judgment, determines such documentation to be valid, the time check involved will be deleted from the sample and an additional time check made at random. Delays caused by passenger loading, wheelchairs, normal traffic congestion, etc. are not subject to this provision.

4.3.2.2 Missed Run:

4.3.2.2.1 Each instance of a bus failing to make a departure from the yard within five minutes of the scheduled time at the beginning of a run will result in an assessment.

4.3.2.3 Buses Running Ahead of Schedule:

4.3.2.3.1 Each bus observed by **CITY** to be running ahead of schedule, defined as leaving a stop before the

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scheduled time, will be subject to the assessment shown in Table A-1 for each instance.

4.3.2.4 Driver Out of Uniform:

4.3.2.4.1 Each occurrence of a bus driver being out-of-uniform while on duty will be subject to the assessment shown in Table A-1.

4.3.2.5 Bus Condition/Cleanliness:

4.3.2.5.1 All buses will be evaluated on a random sample basis, using a checklist to be jointly drafted by **INDEPENDENT CONTRACTOR** and CCRTC. Each bus which fails one or more items on the checklist shall be subject to the assessment shown in table A-1. Failure to correct damage identified in previous evaluations may result in additional assessments. In evaluating bus cleanliness; CCRTC will consider the time of day, weather conditions, and other such factors beyond **INDEPENDENT CONTRACTOR'S** control.

4.3.2.6 Public Service:

4.3.2.6.1 Marketing CCRTC's transit service to increase transit ridership and providing high quality service is an important element of this performance incentive program. **INDEPENDENT CONTRACTOR** shall comply with all marketing requirements as provided for in this Contract. A bonus shall be granted in the event ridership increases by 5% over the previous year for the same vehicle service hours.

4.3.2.6.2 A bonus shall be paid if the number of verifiable complaints does not exceed one (1) for a one month period. Customer complaints shall be verified by the **CITY** and **INDEPENDENT CONTRACTOR** notified of any action required. In the event five (5) or more verifiable complaints are received for separate incidents, an assessment shall be assessed.

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Garrison City Fixed Route Performance Incentive Program				
Item	Bonus Amount	Maximum	Assessment Amount	Maximum
On-time Performance	\$1,500 per six months		\$2,000 per year	
Missed Run		\$50 per each occurrence		
Buses Running Ahead of Schedule	N/A		\$50 each occurrence	
Driver Out of Uniform	N/A		\$50 each occurrence	
Bus Condition/ Cleanliness	\$2,000 per year		\$50 each occurrence	
Public Service/ Increased ridership	\$1,000 per year		N/A	

4.3.3 Demand Response Performance Standards:

4.3.3.1 On-Time Performance:

4.3.3.1.1 The demand response service will have an on-time pick-up window of 20 minutes (5 minutes before to 15 minutes after the scheduled pick-up time). 90% of all pick-ups must be performed within the policy pick-up window. At the end of the first year, bonuses and assessments will be established as detailed in Table A-2.

4.3.3.2 Productivity:

4.3.3.2.1 Productivity will be measured as unlinked registered passenger trips (excluding escorts and companions) per revenue vehicle hour. The productivity standard for the first year of service will be 2.5 passengers per hour. No assessment will be imposed in the first year of the contract for not meeting the productivity standard. However, a bonus of \$1,500 will be provided at the end of the half-year if **INDEPENDENT CONTRACTOR** has achieved an annual productivity average in excess of the standard. At the end of the

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first year the CITY and INDEPENDENT CONTRACTOR will negotiate a reasonable productivity level (which is expected to be higher than the first year standard) with CITY determining the appropriate bonuses and assessments.

4.3.3.3 Maximum On-Board Travel Times - Demand Response:

4.3.3.3.1 No rider will be on-board the vehicle for longer than 60 minutes, and no more than 5% of riders will be on-board the vehicle longer than 45 minutes. This standard will be measured by the CITY on a random sampling basis of 100 passenger trips per month recorded on driver manifests. Assessments will be \$300 for each month in which this standard is exceeded.

Table A-2 Carson City Demand Response Performance Incentive Program		
On-Time Measure	Bonus	Assessment
Above 95%	\$5,000	
91% - 95%	\$2,000	
90%	\$1,000	
85% - 89%		\$2,000
Below 85%		\$5,000

4.4 The CITY does not agree to reimburse INDEPENDENT CONTRACTOR for expenses unless otherwise specified.

ARTICLE 5

5 INSPECTION & AUDIT:

5.1 Books and Records:

5.1.1 INDEPENDENT CONTRACTOR agrees to keep and maintain under general accepted accounting principles (GAAP) full, true and complete records, contracts, books, and documents as are necessary to fully disclose to the City, State of Nevada, or United States Government, or their authorized representatives, upon audits or reviews, sufficient information to determine compliance with all city, state, and federal regulations and statues.

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5.2 Inspection & Audit:

5.2.1 **INDEPENDENT CONTRACTOR** agrees that the relevant books, records (written, electronic, computer related or otherwise), including, without limitation, relevant accounting procedures and practices of **INDEPENDENT CONTRACTOR** or its subcontractors, financial statements and supporting documentation, and documentation related to the work product shall be subject, at any reasonable time, to inspection, examination, review, audit, and copying at any office or location of **INDEPENDENT CONTRACTOR** where such records may be found with or without notice by the CITY.

5.2.2 All subcontracts shall reflect requirements of this paragraph.

5.3 Period of Retention:

5.3.1 **INDEPENDENT CONTRACTOR** must retain all books, records, reports, and statements relevant to this Contract a *minimum* of three years.

5.3.2 The retention period runs from the date of payment for the relevant goods or services by the CITY, or from the date of termination of the Contract, whichever is later.

5.3.3 Retention time shall be extended when an audit is scheduled or in progress for a period reasonably necessary to complete an audit and/or to complete any administrative and judicial litigation which may ensue.

ARTICLE 6

6 CONTRACT TERMINATION:

6.1 Termination Without Cause:

6.1.1 Any discretionary or vested right of renewal notwithstanding, this Contract may be terminated upon written notice by mutual consent of both parties or unilaterally by either party without cause.

6.2 Termination for Nonappropriation:

6.2.1 The continuation of this Contract beyond June 30, 2006 is subject to and contingent upon sufficient funds being appropriated, budgeted, and otherwise made available by the Carson City Board of Supervisors.

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6.2:2 The CITY may terminate this Contract, and **INDEPENDENT CONTRACTOR** waives any and all claim(s) for damages, effective immediately upon receipt of written notice (or any date specified therein) if for any reason the funding is not appropriated or is withdrawn, limited, or impaired.

6.3 Cause Termination for Default or Breach:

6.3.1 A default or breach may be declared with or without termination.

6.3.2 This Contract may be terminated by either party upon written notice of default or breach to the other party as follows:

6.3.2.1 If **INDEPENDENT CONTRACTOR** fails to provide or satisfactorily perform any of the conditions, work, deliverables, goods, or services called for by this Contract within the time requirements specified in this Contract or within any granted extension of those time requirements; or

6.3.2.2 If any state, county, city or federal license, authorization, waiver, permit, qualification or certification required by statute, ordinance, law, or regulation to be held by **INDEPENDENT CONTRACTOR** to provide the goods or services required by this Contract is for any reason denied, revoked, debarred, excluded, terminated, suspended, lapsed, or not renewed; or

6.3.2.3 If **INDEPENDENT CONTRACTOR** becomes insolvent, subject to receivership, or becomes voluntarily or involuntarily subject to the jurisdiction of the bankruptcy court; or

6.3.2.4 If the CITY materially breaches any material duty under this Contract and any such breach impairs **INDEPENDENT CONTRACTOR'S** ability to perform; or

6.3.2.5 If it is found by the CITY that any quid pro quo or gratuities in the form of money, services, entertainment, gifts, or otherwise were offered or given by **INDEPENDENT CONTRACTOR**, or any agent or representative of **INDEPENDENT CONTRACTOR**, to any officer or employee of the State of Nevada or the CITY with a view toward

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securing a contract or securing favorable treatment with respect to awarding, extending, amending, or making any determination with respect to the performing of such Contract.

6.4 Time to Correct:

6.4.1 Termination upon a declared default or breach may be exercised only after service of formal written notice as specified in Article 2 Notice, and the subsequent failure of the defaulting party within 15 calendar days of receipt of that notice to provide evidence, satisfactory to the aggrieved party, showing that the declared default or breach has been corrected.

6.5 Winding Up Affairs Upon Termination:

6.5.1 In the event of termination of this Contract for any reason, the parties agree that the provisions of this paragraph survive termination:

6.5.1.1 The parties shall account for and properly present to each other all claims for fees and expenses and pay those which are undisputed and otherwise not subject to set off under this Contract.

6.5.1.2 Neither party may withhold performance of winding up provisions solely based on nonpayment of fees or expenses accrued up to the time of termination;

6.5.1.3 **INDEPENDENT CONTRACTOR** shall satisfactorily complete work in progress at the agreed rate (or a pro rata basis if necessary) if so requested by the **CITY**;

6.5.1.4 **INDEPENDENT CONTRACTOR** shall execute any documents and take any actions necessary to effectuate an assignment of this Contract if so requested by the **CITY**.

6.5.1.5 **INDEPENDENT CONTRACTOR** shall promptly deliver into **CITY** possession all proprietary information in accordance with Article 21 City Ownership of Proprietary Information.

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ARTICLE 7

7 REMEDIES:

- 7.1 Except as otherwise provided for by law or this Contract, the rights and remedies of the parties shall not be exclusive and are in addition to any other rights and remedies provided by law or equity, including, without limitation, actual damages, and to a prevailing party reasonable attorneys' fees and costs.
- 7.2 It is specifically agreed that reasonable attorneys' fees shall include without limitation \$125 per hour for CITY-employed attorneys and INDEPENDENT CONTRACTOR-employed attorneys.
- 7.3 The CITY may set off consideration against any unpaid obligation of the INDEPENDENT CONTRACTOR to the CITY.

ARTICLE 8

8 LIMITED LIABILITY:

- 8.1 The CITY will not waive and intends to assert available NRS Chapter 41 liability limitations in all cases.
- 8.2 Contract liability of both parties shall not be subject to punitive damages.
- 8.3 Liquidated damages shall not apply unless otherwise specified in the incorporated attachments.
- 8.4 Damages for any CITY breach shall never exceed the amount of funds appropriated for payment under this Contract, but not yet paid to INDEPENDENT CONTRACTOR, for the fiscal year budget in existence at the time of the breach.
- 8.5 INDEPENDENT CONTRACTOR'S tort liability shall not be limited.

ARTICLE 9

9 FORCE MAJEURE:

- 9.1 Neither party shall be deemed to be in violation of this Contract if it is prevented from performing any of its obligations hereunder due to strikes, failure of public transportation, civil or military authority, act of public enemy, accidents, fires, explosions, or acts of God, including, without limitation, earthquakes, floods, winds, or storms.

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- 9.2 In such an event the intervening cause must not be through the fault of the party asserting such an excuse, and the excused party is obligated to promptly perform in accordance with the terms of the Contract after the intervening cause ceases.

ARTICLE 10

10 INDEMNIFICATION:

- 10.1 To the fullest extent permitted by law, **INDEPENDENT CONTRACTOR** shall indemnify, hold harmless and defend (at **CITY'S** option), not excluding the **CITY'S** right to participate, the **CITY** from and against all liability, claims, actions, damages, losses, and expenses, including, without limitation, reasonable attorneys' fees and costs, arising out of any alleged negligent, willful, or unlawful acts or omissions of **INDEPENDENT CONTRACTOR**, its officers, employees, agents, representatives, volunteers, and any others performing work for **INDEPENDENT CONTRACTOR**.
- 10.2 To the fullest extent permitted by law, **CITY** shall indemnify, hold harmless and defend, not excluding the **INDEPENDENT CONTRACTOR'S** right to participate, the **INDEPENDENT CONTRACTOR** from and against all liability, claims, actions, damages, losses, and expenses, including, without limitation, reasonable attorneys' fees and costs, arising out of any alleged negligent, willful, or unlawful acts or omissions of **CITY**, its officers, employees, agents, representatives, volunteers, and any others performing work for **CITY**.

ARTICLE 11

11 INDEPENDENT CONTRACTOR:

- 11.1 **INDEPENDENT CONTRACTOR** is associated with the **CITY** only for the purposes and to the extent specified in this Contract, and in respect to performance of the contracted services pursuant to this Contract.
- 11.2 **INDEPENDENT CONTRACTOR** is and shall be an independent contractor and, subject only to the terms of this Contract, shall have the sole right to supervise, manage, operate, control, and direct performance of the details incident to its duties under this Contract.
- 11.3 Nothing contained in this Contract shall be deemed or construed to create a partnership or joint venture, to create relationships of an employer-employee or principal-agent, or to otherwise create any liability for the **CITY** whatsoever with

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respect to the indebtedness, liabilities, and obligations of **INDEPENDENT CONTRACTOR** or any other party.

- 11.4 INDEPENDENT CONTRACTOR and CITY intend and agree that INDEPENDENT CONTRACTOR, and any of its employees, shall not be considered as an employee for all purposes including, but not limited to, the application of the Fair Labor Standards Act, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code and any Nevada revenue and taxation laws, and that INDEPENDENT CONTRACTOR shall solely be responsible for the following for INDEPENDENT CONTRACTOR and its employees:**
- 11.4.1** withholding of income taxes, FICA, FUTA or any other taxes or fees.
 - 11.4.2** workers compensation and employers liability coverage.
 - 11.4.3** health or other benefit plans.
 - 11.4.4** participation or contribution to any retirement plan.
 - 11.4.5** sick leave, vacation leave or any other type of leave.
 - 11.4.6** unemployment compensation coverage.
 - 11.4.7** wages or overtime compensation due its employees in rendering services pursuant to this contract.
- 11.5 INDEPENDENT CONTRACTOR shall indemnify and hold CITY harmless from, and defend CITY against, any and all losses, damages, claims, costs, penalties, liabilities, and expenses, including, without limitation, reasonable attorneys' fees and costs in the defense of any claim made under the Fair Labor Standards Act or any other federal or state law, arising or incurred because of, incident to, or otherwise with respect to Sections 11.4.1 through 11.4.7.**
- 11.6 Neither INDEPENDENT CONTRACTOR nor its employees, agents, or representatives shall be considered employees, agents, or representatives of the CITY.**
- 11.7 The CITY and INDEPENDENT CONTRACTOR shall evaluate the nature of services and term negotiated in order to determine "independent contractor" status and shall monitor the work relationship throughout the term of the Contract to ensure that the independent contractor relationship remains as such.**

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11.8 It is specifically understood and agreed that

11.8.1 Carson City, except as specifically provided in the Contract, shall not control or interfere with the right of the **INDEPENDENT CONTRACTOR** to manage the day to day operations in an independent and autonomous manner;

11.8.2 the **CITY** will not be providing training to the **INDEPENDENT CONTRACTOR**;

11.8.3 Carson City will be providing worker's space for dispatchers and management as well as the transit busses and Carson City will not be furnishing the **INDEPENDENT CONTRACTOR** any other worker's space, equipment, tools, supplies or travel expenses;

11.8.4 none of the workers who assist the **INDEPENDENT CONTRACTOR** in performance of his/her duties are employees of the **CITY**;

11.8.5 the arrangement with the **INDEPENDENT CONTRACTOR** does not contemplate continuing or recurring work (even if the services are seasonal, part-time, or of short duration);

11.8.6 the **CITY** shall not incur liability of any kind to any employee of the **INDEPENDENT CONTRACTOR** if the Contract is terminated for any reason. If any employee of the **INDEPENDENT CONTRACTOR** brings any employment related suit or action against the **CITY**, for any reason, **INDEPENDENT CONTRACTOR** shall defend, indemnify, and hold the **CITY** harmless from such suit or action; and

11.8.7 the **INDEPENDENT CONTRACTOR** is not restricted from offering his/her services to the general public while engaged in this work relationship with the **CITY** provided such service is not in direct competition with service provided under this Contract nor interferes in any way with the service provided to the **CITY**.

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ARTICLE 12

12 PERFORMANCE BOND/SECURITY:

- 12.1 A Performance Bond, or other surety approved by CITY in the amount of Twenty Five Percent (25%) of each year's contract price will be required after this Contract is awarded.
- 12.2 The Performance Bond or other approved surety shall be provided to Carson City Purchasing & Contracts, 201 N. Carson Street Suite 11, Carson City, NV 89701 within fifteen (15) working days of approval of this Contract.
- 12.3 CITY reserves the exclusive right to rescind this requirement at any time during the contract period.

ARTICLE 13

13 COMPREHENSIVE GENERAL LIABILITY INSURANCE:

- 13.1 The INDEPENDENT CONTRACTOR agrees, as a condition precedent to any duty of the CITY to make any payment under this Contract, to procure and maintain throughout the term of the Contract at no cost to the CITY, a comprehensive general liability insurance policy providing as a single limit not less than \$5,000,000 combined single limit bodily injury and property damage.
- 13.2 Said insurance shall specify that it is issued on an "occurrence" basis.
- 13.3 The INDEPENDENT CONTRACTOR agrees that Carson City shall be listed as an additional insured on such insurance policy as is required in this Article 12, that such insurance shall be primary as respects Carson City and that any "other insurance" provision shall not apply to the additional insured.
- 13.4 Carson City Purchasing & Contracts shall be listed as a certificate holder.
- 13.5 The INDEPENDENT CONTRACTOR shall furnish to Carson City Purchasing & Contracts, 201 North Carson Street Suite 11, Carson City, Nevada 89701, a certificate of said insurance prior to commencing work.
- 13.6 Such policies shall provide that they may not be canceled without at least 30 calendar days written notice to CITY.
- 13.7 In the event the CITY must pay any premium(s) on behalf of the INDEPENDENT CONTRACTOR, after the execution of this Contract, the INDEPENDENT

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CONTRACTOR shall reimburse the CITY for all such payment(s). Said payment(s) shall be deducted from any compensation due, or about to become due the INDEPENDENT CONTRACTOR by the CITY.

ARTICLE 14

14 VEHICLE INSURANCE:

14.1 The INDEPENDENT CONTRACTOR agrees, as a condition precedent to any duty of the CITY to make any payment under this Contract, to procure and maintain throughout the term of the Contract at no cost to the CITY vehicle liability insurance in the amount of not less than \$5,000,000 single limit. Coverage will also include collision and comprehensive coverage. Any deductible will be the responsibility of INDEPENDENT CONTRACTOR. Any losses or damages not covered by vehicle insurance shall be an obligation of the INDEPENDENT CONTRACTOR and not, under any circumstances, of CITY.

14.1.1 INDEPENDENT CONTRACTOR shall pay for all damage and repair when the INDEPENDENT CONTRACTOR was in possession and/or operating the vehicle.

14.2 Said insurance shall specify that it is issued on an "occurrence" basis.

14.3 Such policy or policies shall provide that they may not be canceled without at least 30 days written notice to CITY.

14.4 The INDEPENDENT CONTRACTOR agrees that Carson City shall be listed as an additional insured.

14.5 The INDEPENDENT CONTRACTOR agrees that Carson City Purchasing & Contracts shall be listed as a certificate holder.

14.6 The INDEPENDENT CONTRACTOR shall furnish to Carson City Purchasing & Contracts, 201 North Carson Street Suite 11, Carson City, Nevada 89701, a certificate of said insurance prior to commencing work.

14.7 In the event the CITY must pay any premium(s) on behalf of the INDEPENDENT CONTRACTOR, after the execution of this Contract, the INDEPENDENT CONTRACTOR shall reimburse the CITY for all such payment(s). Said payment(s) shall be deducted from any compensation due, or about to become due the INDEPENDENT CONTRACTOR by the CITY.

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ARTICLE 15

15 INDUSTRIAL INSURANCE:

- 15.1 The **INDEPENDENT CONTRACTOR** agrees, as a condition precedent to any duty of the **CITY** to make any payment under this Contract, to furnish and maintain throughout the term of the Contract at no cost to the **CITY**, worker's compensation insurance as required by the provisions of Chapters 616 and 617 of the NRS.
- 15.2 The **INDEPENDENT CONTRACTOR** agrees that Carson City Purchasing & Contracts shall be listed as a certificate holder.
- 15.3 The **INDEPENDENT CONTRACTOR** shall furnish to Carson City Purchasing & Contracts, 201 North Carson Street Suite 11, Carson City, Nevada 89701, a certificate of said insurance prior to commencing work.
- 15.4 In the event the **CITY** must pay any premium(s) on behalf of the **INDEPENDENT CONTRACTOR**, after the execution of this Contract, the **INDEPENDENT CONTRACTOR** shall reimburse the **CITY** for all such payment(s). Said payment(s) shall be deducted from any compensation due, or about to become due the **INDEPENDENT CONTRACTOR** by the **CITY**.

ARTICLE 16

16 BUSINESS LICENSE:

- 16.1 **INDEPENDENT CONTRACTOR** shall obtain a Carson City business license and provide a copy of same to Carson City Purchasing & Contracts, 201 North Carson Street Suite 11, Carson City, NV 89701 prior to commencing work.

ARTICLE 17

17 GOVERNMENT OBLIGATIONS:

- 17.1 **INDEPENDENT CONTRACTOR** shall be responsible for all applicable federal, state, and local government obligations.
- 17.2 **INDEPENDENT CONTRACTOR** will be responsible to pay all taxes, assessments, fees, premiums, permits, and licenses required by law.
- 17.3 Real property and personal property taxes are the responsibility of **INDEPENDENT CONTRACTOR** in accordance with NRS 361.157 and 361.159.

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17.4 **INDEPENDENT CONTRACTOR** agrees to be responsible for payment of any such government obligations not paid by its subcontractors during performance of this Contract.

17.5 The **CITY** may set-off against consideration due any delinquent government obligation.

ARTICLE 18

18 WAIVER OF BREACH:

18.1 Failure to declare a breach or the actual waiver of any particular breach of the Contract or its material or nonmaterial terms by either party shall not operate as a waiver by such party of any of its rights or remedies as to any other breach.

ARTICLE 19

19 SEVERABILITY:

19.1 If any provision contained in this Contract is held to be unenforceable by a court of law or equity; this Contract shall be construed as if such provision did not exist and the nonenforceability of such provision shall not be held to render any other provision or provisions of this Contract unenforceable.

ARTICLE 20

20 ASSIGNMENT:

20.1 **INDEPENDENT CONTRACTOR** shall neither assign, transfer nor delegate any rights, obligations or duties under this Contract without the prior written approval of the **CITY**.

ARTICLE 21

21 CITY OWNERSHIP OF PROPRIETARY INFORMATION:

21.1 Any files, reports, histories, studies, tests, manuals, instructions, photographs, negatives, blue prints, plans, maps, data, system designs, computer programs, codes, and records (which are intended to be consideration under the Contract), or any other documents or drawings, prepared or in the course of preparation by **INDEPENDENT CONTRACTOR** (or its subcontractors) in performance of its obligations under this Contract shall be the exclusive property of the **CITY** and all such materials shall be delivered into **CITY** possession by **INDEPENDENT CONTRACTOR** upon completion, termination, or cancellation of this Contract.

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- 21.2 **INDEPENDENT CONTRACTOR** shall not use, willingly allow, or cause to have such materials used for any purpose other than performance of **INDEPENDENT CONTRACTOR'S** obligations under this Contract without the prior written consent of the **CITY**.
- 21.3 Notwithstanding the foregoing, the **CITY** shall have no proprietary interest in any materials licensed for use by the **CITY** that are subject to patent, trademark or copyright protection.

ARTICLE 22

22 PUBLIC RECORDS:

- 22.1 Pursuant to NRS 239.010, information or documents received from **INDEPENDENT CONTRACTOR** may be open to public inspection and copying.
- 22.2 The **CITY** will have the duty to disclose unless a particular record is made confidential by law or a common law balancing of interests.
- 22.3 **INDEPENDENT CONTRACTOR** may clearly label individual documents as a "trade secret" or "confidential" provided that **INDEPENDENT CONTRACTOR** thereby agrees to indemnify and defend the **CITY** for honoring such a designation.
- 22.4 The failure to so label any document that is released by the **CITY** shall constitute a complete waiver of any and all claims for damages caused by any release of the records.
- 22.5 If a public records request for a labeled document is received by the **CITY**, the **CITY** will notify **INDEPENDENT CONTRACTOR** of the request and delay access to the material until seven (7) working days after notification to **INDEPENDENT CONTRACTOR**.
- 22.6 Within that time delay, it will be the duty of **INDEPENDENT CONTRACTOR** to act in protection of its labeled record. Failure to so act shall constitute a complete waiver.

ARTICLE 23

23 CONFIDENTIALITY:

- 23.1 **INDEPENDENT CONTRACTOR** shall keep confidential all information, in whatever form, produced, prepared, observed or received by **INDEPENDENT**

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CONTRACTOR to the extent that such information is confidential by law or otherwise required by this Contract.

ARTICLE 24

24 FEDERAL FUNDING:

24.1 In the event federal funds are used for payment of all or part of this Contract:

24.1.1 **INDEPENDENT CONTRACTOR** certified, by signing this Contract, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

24.1.2 This certification is made pursuant to the regulations implementing Executive Order 12549, Debarment and Suspension, 28 C.F.R. pt. 67, § 67.510, as published as pt. VII of the May 26, 1988, Federal Register (pp. 19160-19211), and any relevant program-specific regulations.

24.1.3 This provision shall be required of every subcontractor receiving any payment in whole or in part from federal funds.

24.1.4 **INDEPENDENT CONTRACTOR** and its subcontractors shall comply with all terms, conditions, and requirements of the Americans with Disabilities Act of 1990 (P.L. 101-136), 42 U.S.C. 12101, as amended, and regulations adopted thereunder contained in 28 C.F.R. 26.101-36.999, inclusive, and any relevant program-specific regulations.

24.1.5 **INDEPENDENT CONTRACTOR** and its subcontractors shall comply with the requirements of the Civil Rights Act of 1964, as amended, the Rehabilitation Act of 1973, P.L. 93-112, as amended, and any relevant program-specific regulations, and shall not discriminate against any employee or offeror for employment because of race, national origin, creed, color, sex, religion, age, disability or handicap condition (including AIDS and AIDS-related conditions.)

CONTRACT FOR SERVICES OF INDEPENDENT CONTRACTOR
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ARTICLE 25

25 GENERAL WARRANTY:

25.1 **INDEPENDENT CONTRACTOR** warrants that all deliverables and work product under this Contract shall be completed in a workmanlike manner consistent with standards in the trade, profession, or industry; shall conform to or exceed the specifications set forth in the incorporated attachments; and shall be fit for ordinary use, of good quality, with no material defects.

ARTICLE 26

26 PROPER AUTHORITY:

26.1 The parties hereto represent and warrant that the person executing this Contract on behalf of each party has full power and authority to enter into this Contract.

ARTICLE 27

27 GOVERNING LAW; JURISDICTION:

27.1 This Contract and the rights and obligations of the parties hereto shall be governed by, and construed according to, the laws of the State of Nevada. **INDEPENDENT CONTRACTOR** consents to the jurisdiction of the Nevada district courts for enforcement of this Contract.

ARTICLE 28

28 ENTIRE CONTRACT AND MODIFICATION:

28.1 This Contract and its integrated attachment(s) constitutes the entire Contract of the parties and such are intended as a complete and exclusive statement of the promises, representations, negotiations, discussions, and other Contracts that may have been made in connection with the subject matter hereof.

28.2 Unless an integrated attachment to this Contract specifically displays a mutual intent to amend a particular part of this Contract, general conflicts in language between any such attachment and this Contract shall be construed consistent with the terms of this Contract.

28.3 Unless otherwise expressly authorized by the terms of this Contract, no modification or amendment to this Contract shall be binding upon the parties unless the same is in writing and signed by the respective parties hereto.

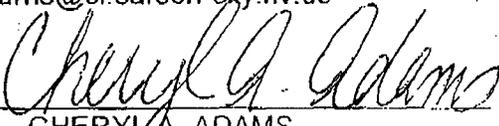
CONTRACT FOR SERVICES OF INDEPENDENT CONTRACTOR
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ARTICLE 29

29 ACKNOWLEDGMENT AND EXECUTION:

29.1 In witness whereof, the parties hereto have caused this Contract to be signed and intend to be legally bound thereby.

CARSON CITY
Finance Director
Attn: Cheryl A. Adams, Purchasing &
Contracts Manager
201 North Carson Street Suite 11
Carson City, Nevada 89701
Telephone: 775-887-2027 extension 1100
Fax: 775-887-2107
CAdams@ci.carson-city.nv.us

By: 
CHERYL A. ADAMS
Purchasing & Contracts Manager

DATED this 1st day of Sept, 2005.

CITY'S LEGAL COUNSEL
Noel S. Waters, District Attorney

I have reviewed this Contract and approve
as to its legal form.


Deputy District Attorney

DATED this 1st day of Sept, 2005.

CITY'S ORIGINATING DEPARTMENT
BY: Linda Ritter, City Manager
Executive Offices
201 North Carson Street Suite 2
Carson City, NV 89701
Telephone: 775-887-2100
Fax: 775-887-2286
LRitter@ci.carson-city.nv.us

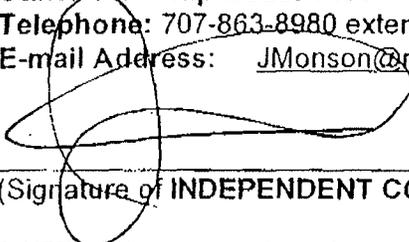

DATED this 1st day of Sept, 2005.

CONTRACT FOR SERVICES OF INDEPENDENT CONTRACTOR
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Jon Monson being first duly sworn, deposes and says: That he is the **INDEPENDENT CONTRACTOR**, or authorized agent of the **INDEPENDENT CONTRACTOR**, for whom the aforesaid described work is to be performed by; that he has read the foregoing Contract and understands the terms, conditions, and requirements thereof.

INDEPENDENT CONTRACTOR

BY: Jon Monson
TITLE: President/CEO
FIRM: MV Transportation, Inc.
BUSINESS LICENSE #: 05-18284
Address: 360 Campus Lane, Suite 201
City: Fairfield
State: CA Zip Code: 94534
Telephone: 707-863-8980 extension 3034 / Fax #: 707-863-8944
E-mail Address: JMonson@mvtransit.com



(Signature of INDEPENDENT CONTRACTOR)

DATED this _____ day of August, 2005.

STATE OF California)
County of Solano) ss

On this 29th day of August, in the year 2005, before me, Shiavona / Notary Public, personally appeared Jon Monson, personally known to me or proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to this instrument, and acknowledged that he executed it.

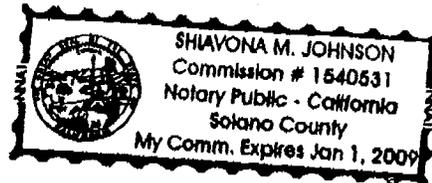
WITNESS my hand and official seal.



Notary's Signature

My Commission Expires: Jan 1, 2009

L.S.



CONTRACT FOR SERVICES OF INDEPENDENT CONTRACTOR
Contract No. 0506-035

CONTRACT ACCEPTANCE AND EXECUTION:

The Board Of Supervisors for Carson City, Nevada at their publicly noticed meeting of September 1, 2005 approved the acceptance of **CONTRACT No. 0506-035 Carson City Community Transit Service Operations**. Further, the Board Of Supervisors authorizes the Mayor of Carson City, Nevada to set his hand to this document and record his signature for the execution of this contract in accordance with the action taken.

CARSON CITY, NEVADA


MARV TEIXEIRA, MAYOR

DATED this 1st day of September, 2005.

ATTEST:


ALAN GLOVER, CLERK-RECORDER

DATED this 1st day of September, 2005.