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**RESOLUTION NO. 06-25**

**A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, APPROVING AN AGREEMENT WITH LIMOUSINES OF SOUTH FLORIDA, INC. TO PROVIDE TRANSIT CIRCULATOR SERVICES; AUTHORIZING THE VILLAGE MANAGER TO EXPEND BUDGETED FUNDS AND EXECUTE THE AGREEMENT; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.**

**WHEREAS**, as part of the Village of Palmetto Bay Transportation Master Plan, the Village has identified the need for two (2) transit circulators to provide transportation services to the residents of the Village; and,

**WHEREAS**, the Village needs a contractor to furnish all the services necessary for the operation of our transit circulator system; and,

**WHEREAS**, pursuant to the Village's Purchasing Procedures, the Village may enter into piggyback contracts when another public agency has already followed proper formal bid procedures; and

**WHEREAS**, Village of Bal Harbour entered into an Agreement with Limousines of South Florida, Inc. after solicitation of a request for proposals; and,

**WHEREAS**, the Village waives competitive bidding in the award of the agreement to Limousines of South Florida, Inc. for the provision of all services necessary for certain mini-bus public transportation services for the village; and,

**WHEREAS**, Limousines of South Florida, has agreed to provide the necessary services to the village utilizing the same pricing, terms and conditions as set forth in the Agreement with Village of Bal Harbour dated the 15th day of June, 2004.

**NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AS FOLLOWS:**

**Section 1: Whereas Clauses.** The foregoing whereas clauses are true and correct and are incorporated herein by this reference.

**Section 2: Approval of Purchase.** The agreement between the village and Limousines of South Florida, Inc., a copy of which is attached as Exhibit A, together with such changes may be acceptable to the village manager and approved as to form and legality by the village attorney, is approved.



**BAL HARBOUR VILLAGE  
AGREEMENT FOR MUNICIPAL BUS SERVICES**

This Agreement is entered into on June 15<sup>th</sup>, 2004, between **BAL HARBOUR VILLAGE**, a municipal corporation of the State of Florida, hereafter referred to as the "Village" and **LIMOUSINES OF SOUTH FLORIDA, INC.**, a Florida Corporation, hereafter referred to as the "Contractor."

This Agreement contains the terms and conditions under which the Contractor shall furnish all services necessary for certain mini-bus public transportation services desired by the Village.

IN CONSIDERATION of the mutual covenants set forth in this Agreement, and for other good and valuable consideration, the receipt, adequacy and sufficiency of which are acknowledged, the parties agree as follows:

**SECTION ONE. SCOPE OF AGREEMENT**

1.1 Contractor agrees to provide mini-bus service to Village Residents (with no charge or fare) in accordance with the terms of this Agreement ("Bus Services").

1.2 The Village shall provide a 25' mini-bus ("Village Bus") to the Contractor for use solely for the provision of Bus Services. The Village Bus is owned by the Village, and the Contractor shall NOT utilize the Village Bus for any other use except as authorized by this Agreement.

1.3 Contractor shall provide Bus Services within the Village according to the schedule determined by the Village. The Village shall be responsible for designation of the route and transit stops and Contractor shall only use such stops for the authorized route(s). The established service shall include locations within the Village, the City of Surfside, Bay Harbor Islands, the City of North

Miami, and the City of Aventura. The transit stops to be established by the Village shall include, but shall not be limited to, existing public transit bus stops, the Village Hall, multi-family buildings, shopping centers, malls, and office buildings. Contractor shall provide Bus Services a minimum of five (5) days per week and a maximum of seven (7) days per week. Contractor shall provide Bus Services at a minimum of four (4) hours per day and a maximum of eight (8) hours per day. No Bus Services shall be provided on New Year's Day, Memorial Day, Labor Day, Thanksgiving Day, or Christmas Day.

1.4 The Contractor shall make available to the Village, upon seventy-two (72) hours advance notice by the Village, the Village Bus or an alternate back-up bus of equivalent quality and size for any Village special event at the same hourly rate specified in Section 11 for the applicable year of service.

1.5 The Village shall provide to the Contractor all diesel fuel necessary for the provision of Bus Services. Diesel fuel shall be provided from the Village fuel facility located in the Public Works complex across from Village Hall. The Contractor shall not use fuel provided by the Village for any purpose other than the provision of Bus Services.

## SECTION TWO. PERSONNEL REQUIREMENTS

2.1 Vehicle chauffeurs ("Drivers") employed by Contractor for the purpose of providing 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 (the "County") including a current commercial driver's license with a passenger endorsement. All Drivers shall be employees of Contractor.

2.2 Drivers must be considerate and courteous to all patrons. Contractor agrees to replace any Driver who is inconsiderate or discourteous as determined by the Village Manager. If needed, all Drivers must provide assistance to elderly and/or disabled residents with loading and unloading of packages on and off the bus. Drivers must be well groomed and in uniform attire consistent with that used by transportation providers.

2.3 Drivers shall display the proper route sign when in operation and the "out of service" sign when out of operation.

2.4 Contractor shall provide communication between the Village Bus, Contractor's headquarters, and the Village. The Village must, at all times, be able to make contact with the Village Bus Driver.

### SECTION THREE. MAINTENANCE AND STORAGE OF VILLAGE BUS

3.1 Contractor shall properly store the Village Bus when not in use, and shall provide interior and exterior cleaning for the Village Bus so that the Village Bus is clean at all times.

3.2 Contractor shall be responsible for performing all routine scheduled maintenance of the Village Bus including oil changes, tire rotation and replacement, and all other work considered routine scheduled maintenance by the manufacturer, Ford Motor Company. Ford Motor Company's scheduled maintenance manual for the Ford Diesel engine bus shall be used to define the phrase "scheduled maintenance."

3.3 Contractor shall perform all other necessary repairs, which shall be billed separately to the Village at rates competitive in the industry. No charge shall be made to the Village for work covered under the manufacturer's warranty. During periods of maintenance and repair, the

Contractor shall provide, at Contractor's sole cost and expense, an alternate bus of at least equal quality and size for the provision of Bus Services.

#### SECTION FOUR. LICENSING AND REPORTING

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

4.2 Contractor shall record on a daily basis and report weekly to the Village all disruptions in service, late service, vehicle breakdowns, accidents, vehicles out of service/commission and any other incident affecting service.

4.3 Contractor shall implement a dispute resolution process for the rapid resolution of passenger complaints regarding the provision of Bus Services. Contractor shall document passenger complaints and describe any actions taken to resolve such complaints and verbally report to the Village the complaints and actions taken within twenty-four (24) hours of the complaint and in writing within four (4) calendar days.

4.4 Contractor shall maintain certain records of information and data requested by the Village and all records required pursuant to federal, state, County, and local law.

#### SECTION FIVE. PRE-SERVICE REQUIREMENTS

The following items shall be delivered to the Village by Contractor at least two (2) days prior to the start of the service and are subject to approval by the Village:

5.1 An operations manual for the Bus Services which documents all operational procedures and policies, including but not limited to the following:

- (a) Vehicle operating procedures;
- (b) Communications operating procedures;
- (c) Drivers conduct rules and regulations;
- (d) Safety procedures;
- (e) Accident procedures;
- (f) Administration and reporting procedures;
- (g) Other operating procedures and policies as required for proper operation of Bus Services;
- (h) Dispute resolution procedures;
- (i) Maintenance procedures;
- (j) Training procedures for Drivers.

#### SECTION SIX. TERM AND TIME OF PERFORMANCE

The term of this Agreement shall begin on July 1, 2004 and shall remain in effect until June 30, 2007, unless sooner terminated as provided in Section Seven. The Village may, but is under no obligation to extend or renew, this Agreement after its expiration.

#### SECTION SEVEN. TERMINATION

7.1 This Agreement may be terminated by either party upon sixty (60) days advance written notice to the other party. Further, either party may immediately terminate this Agreement upon the failure of the other party to cure a breach following fifteen (15) days prior written notice of the breach and a demand that it be cured.

7.2 Upon termination of this Agreement, Contractor shall return the Village Bus to the Village in the condition in which it was received at the commencement of this Agreement, normal wear and tear excepted. Any costs necessary to restore or prepare the Village Bus for return to Village shall be the sole responsibility of the Contractor. The Village shall have the right to inspect and to approve the condition of the Village Bus prior to acceptance and should the Village determine that the Village Bus is not in the proper condition, Contractor shall at its sole cost and expense remedy any and all deficiencies identified by the Village.

7.3 In the event this Agreement is terminated, any compensation payable by the Village shall be withheld until the Village Bus is returned pursuant to Section 7.2 of this Agreement.

SECTION EIGHT. NOTICES

Whenever either party desires to give notice to the other, such notice must be in writing, sent by certified United States Mail, postage prepaid, return receipt requested, or by hand-delivery with a request for a written receipt of acknowledgment of delivery, addressed to the party for whom it is intended at the place last specified. Notice shall be deemed given on the day on which personally served, or if by mail, on the date of actual receipt. The place for giving notice shall remain the same as set forth in this Agreement until changed in writing in the manner provided in this section. For the present, the parties designate the following:

For Bal Harbour Village: Mr. Alfred J. Treppeda  
Village Manager  
655 96<sup>th</sup> Street  
Bal Harbour, FL 33154

With a Copy to:

David M. Wolpin, City Attorney  
2665 South Bayshore Drive, Suite 420  
Miami, FL 33133

For Contractor: Mr. Mark Levitt  
President  
2595 NW 38<sup>th</sup> Street  
Miami, FL 33142

## SECTION NINE. INDEMNIFICATION

9.1 Contractor agrees to indemnify, reimburse, defend and hold harmless the Village and, at Village's option, defend or pay for an attorney selected by the Village to defend the Village and Village's officers, agents and employees for, from and against all claims, actions or causes of actions, losses, damages, liabilities, costs and expenses, including reasonable costs, attorneys' and paralegals' fees, imposed on or incurred by the Village in connection with any and all loss of life, bodily injury, personal injury and damage to property which arises or relates, directly or indirectly, to the Contractor's use of any vehicle provided for in this Agreement and the Contractor's performance of the services set forth in this Agreement. To the extent considered necessary by the Village, any sums due Contractor under this Agreement may be retained by Village until all of Village's claims for indemnification, pursuant to this Agreement, have been settled or otherwise resolved and any amount withheld shall not be subject to payment of interest by Village.

9.2 Nothing in this Agreement is intended to serve as a waiver of sovereign immunity by Village. Nothing in this Agreement shall be construed as consent by the Village to be sued by third parties in any matter arising out of this Agreement or any other contract.

## SECTION TEN. INSURANCE

10.1 Contractor shall at all times during the term of this Agreement keep and maintain in full force and effect comprehensive general liability insurance, automotive liability insurance, and workers' compensation insurance, with minimum policy limits for each coverage in the amount of at least one million dollars (\$1,000,000.00) per occurrence, combined single limit for property damage and bodily injury, including death, except that the dollar amount of workers' compensation coverage shall be as provided by Chapter 440, Fla. Stat.

10.2 The Village shall be named as an additional insured on all of the above insurance policies to the extent permitted by law.

10.3 Each insurance policy shall state that it is not subject to cancellation or reduction in coverage without written notice to the Village thirty (30) days prior to the effective date of cancellation or reduction of coverage and shall provide for waivers of subrogation in favor of the Village.

10.4 Each insurance company utilized by the Contractor shall have a rating of no less than (A-) pursuant to Best's Insurance Guide. The forms and types of coverage shall be subject to the approval of the Village's risk management advisor.

#### SECTION ELEVEN. PAYMENT

In return for satisfactory performance of Bus Services provided by Contractor as specified in this Agreement, the Village agrees to pay Contractor the following rates per hour of bus operation.

Year One	\$30.25 per hour
Year Two	\$30.25 per hour
Year Three	\$31.25 per hour

The Village shall not be responsible for payment of any other monies to Contractor under this Agreement other than approved necessary repairs in accordance with Section 3.3 of the Agreement and any tolls and licensing fees directly associated with the provision of Bus Services. Such tolls and licensing fees are to be reimbursed to the Contractor at cost by the Village upon submission of receipts. No additional monies shall be paid by the Village for routine scheduled maintenance or storage of the Village Bus. Compensation for Bus Services shall be payable in arrears, each month, pursuant to the monthly invoice of Contractor, which shall indicate the number of hours of Bus

Service provided in the prior month. Invoices shall be processed by Village pursuant to the Florida Prompt Payment Act.

ARTICLE TWELVE. MISCELLANEOUS

12.1 Assignment and Performance: Neither this Agreement nor any interest in it shall be assigned, transferred or encumbered by either party.

The Contractor represents that all persons delivering the services required by this Agreement have the knowledge and skills, either by training, experience, education or a combination of the foregoing, to adequately and competently perform the duties, obligations and services set forth in this Agreement and to provide and perform such services to the Village's satisfaction.

The Contractor shall perform its duties, obligations and services under this Agreement in a skillful and respectable manner. The quality of the Contractor's performance shall be comparable to the best local and national standards.

Contractor shall complete one hundred percent of all scheduled trips on a daily basis, subject to delays which are attributable to vehicular accidents and mechanical failure which do not arise due to Contractor's failure to properly maintain the vehicles.

Contractor shall provide timely alternate transportation to any Village resident(s) left without transportation due to the preventable actions of Contractor.

12.2 Waiver of Breach and Materiality: Failure by the Village to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

The Village and the Contractor agree that each requirement, duty and obligation set forth in this Agreement is substantial and important to the formation of this Agreement and, therefore, is a material term of this Agreement.

12.3 Compliance With Laws: The Village and the Contractor shall comply with all federal, state, County, and local laws, codes, ordinances, rules and regulations in performing their respective duties, responsibilities and obligations related to this Agreement.

Contractor shall at all times 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.

Contractor shall comply with all applicable requirements of the Americans with Disabilities Act ("ADA") at all times while providing Bus Services for public transportation. To the extent that any terms of this Agreement are inconsistent with the ADA, the requirements of the ADA shall control.

12.4 Severance: In the event this Agreement or any portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless the Village or the Contractor elects to terminate this Agreement. The election to terminate this Agreement based upon this provision shall be made within seven (7) days after the finding by the court becomes final.

12.5 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

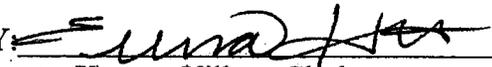
this Agreement shall be in Miami-Dade County, Florida. The parties hereby knowingly and voluntarily waive the right to trial by jury in any litigation between the parties hereunder.

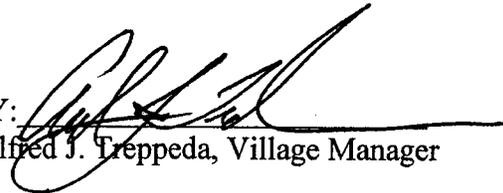
12.6 Amendments: No modification, amendment or alteration of the terms or conditions contained in this Agreement shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by both the Village and the Contractor.

12.7 Prior Agreements: This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained in this Agreement and the parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the parties agree that no deviation from the terms of this Agreement shall be predicated upon any prior representations or agreements, whether oral or written.

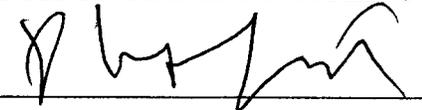
**IN WITNESS OF THE FOREGOING**, the Village has caused this Agreement to be signed by its Village Manager, attested by the Village Clerk with the corporate seal of Bal Harbour Village, and the Contractor has executed this Agreement effective as of the date set forth above in Section Six.

**BAL HARBOUR VILLAGE, FLORIDA**

BY:   
Jeanette Horton, Village Clerk  
ELISS HOREYATH

BY:   
Alfred J. Treppeda, Village Manager

APPROVED AS TO LEGAL SUFFICIENCY:

BY:   
David M. Wolpin, Village Attorney

LIMOUSINES OF SOUTH FLORIDA, INC. :

ATTEST:  
Print Name: Mark Levitt

By: [Signature]  
Mr. Mark Levitt  
President

Title: President

STATE OF FLORIDA  
COUNTY OF MIAMI-DADE

On July 2, 2004, BEFORE ME, an officer duly authorized by law to administer oaths and take acknowledgments, personally appeared MARK LEVITT, as of LIMOUSINES OF SOUTH FLORIDA, a Florida corporation, and acknowledged execution of the foregoing Agreement for the use and purposes mentioned in it, and who is personally known to me or has produced \_\_\_\_\_ as identification and did (did not) take an oath.

MY COMMISSION EXPIRES:

Notary Public, State of Florida at Large

[Signature]



Thomas M. Rankine  
Commission # DD139986  
Expires Aug. 6, 2006  
Aaron Notary  
1-800-350-5161