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RESOLUTION NO. 08-109

A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO AN EXISTING AGREEMENT WITH LIMOUSINES OF SOUTH FLORIDA, INC. TO PROVIDE TRANSIT CIRCULATOR SERVICES; AUTHORIZING FUNDING FOR CONTINUED TRANSIT CIRCULATOR SERVICES IN FISCAL YEAR 2008-2009; AUTHORIZING THE VILLAGE MANAGER TO ISSUE A PURCHASE ORDER IN AN AMOUNT NOT TO EXCEED \$95,000.00; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Village transportation shuttle bus (IBUS), began its regularly scheduled routes on August 9, 2006; and,

WHEREAS, the Village entered into an agreement with Limousines of South Florida, Inc. on March 6, 2006 for municipal bus services; and,

WHEREAS, the cost associated with operating the Village's circulator system is estimated at approximately \$95,000.00 in the fiscal year 2008-2009; and,

WHEREAS, the estimated annual operating cost includes all transit services associated with the operation of one (1) mini-bus; and,

WHEREAS, the revenue receipts in fiscal year 2008-2009 from the twenty percent portion of the PTP funds is \$143,545 and the prior year carryover is \$137,801 total CITT funding dedicated to transit related infrastructure improvements in fiscal year 2008-2009 is \$281,346; and,

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

Section 1: The Village Manager is authorized to continue the agreement with Limousines of South Florida regarding Transit Circulator Services; in an amount not to exceed \$95,000.

Section 2: This resolution shall take effect immediately upon approval.

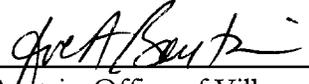
PASSED and ADOPTED this 1 day of December, 2008.

ATTEST:


Meighan Rader
Village Clerk


Eugene P. Flinn Jr.
Mayor

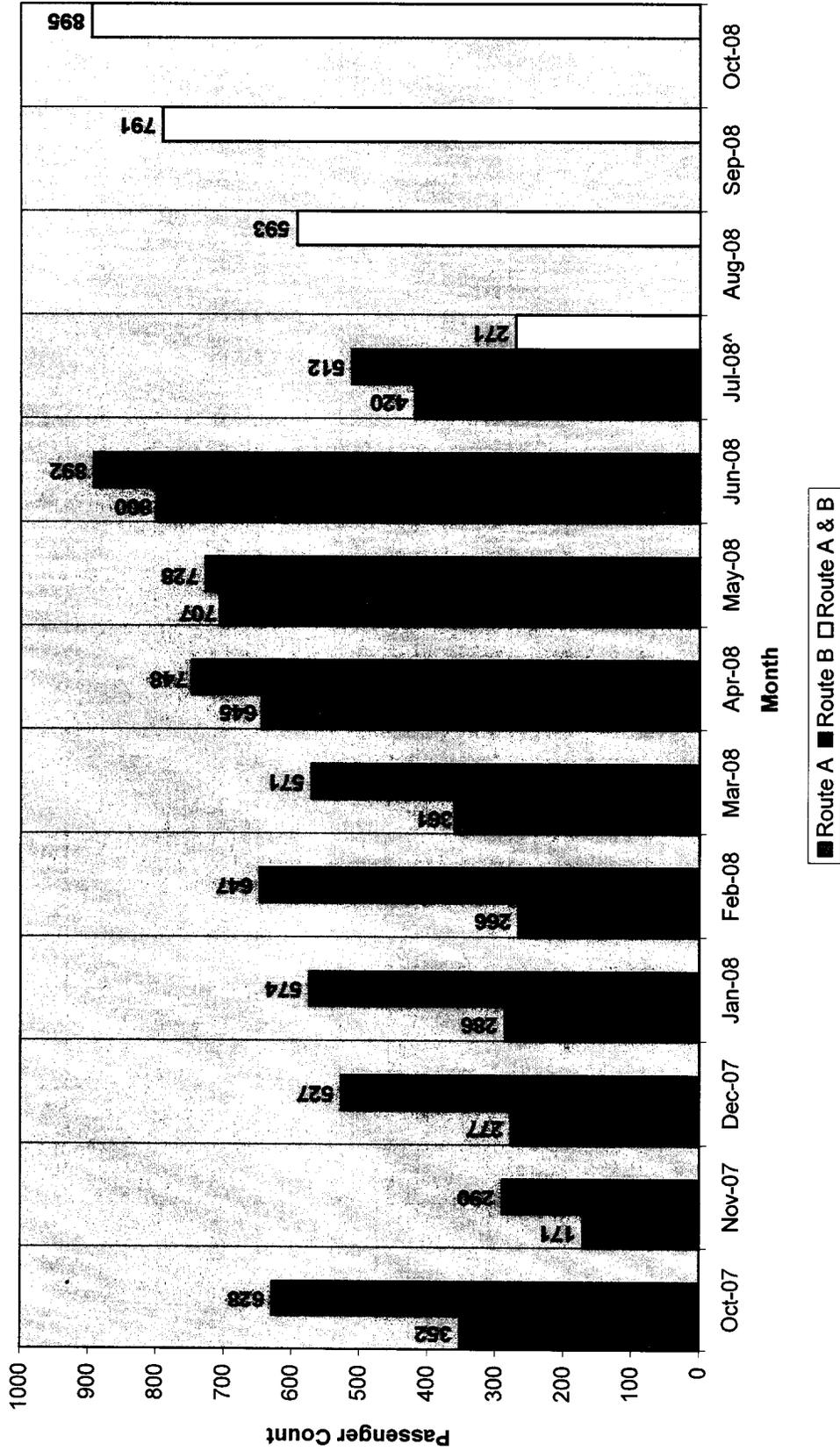
46
47 READ AND APPROVED AS TO FORM:

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51 Eve Boutsis, Office of Village Attorney

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54 FINAL VOTE AT ADOPTION:

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56 Council Member Edward Feller YES
57
58 Council Member Howard Tendrich YES
59
60 Council Member Shelley Stanczyk YES
61
62 Vice-Mayor Brian W. Pariser YES
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64 Mayor Eugene P. Flinn, Jr. YES
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**IBUS Circulator Route A & B
Passenger Statistics
October 2007 to October 2008**



[^]Schedule Change Effective July 21 ,2008

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RESOLUTION NO. 08-07

A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO AN EXISTING AGREEMENT WITH LIMOUSINES OF SOUTH FLORIDA, INC. TO PROVIDE TRANSIT CIRCULATOR SERVICES; AUTHORIZING FUNDING FOR CONTINUED TRANSIT CIRCULATOR SERVICES IN FISCAL YEAR 2007-2008; AUTHORIZING THE VILLAGE MANAGER TO ISSUE A PURCHASE ORDER IN AN AMOUNT NOT TO EXCEED \$165,000; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Limousines of South Florida, Inc. is currently contracted to provide municipal bus services to the village set forth in an executed Agreement dated the 6th day of March, 2006 per resolution 06-25; and

WHEREAS, the Village of Palmetto Bay implemented and began two (2) transit circulator routes on August 9, 2006; and

WHEREAS, the residents and visitors of the Village do not have easy access to existing transit services due to limited mobility; and

WHEREAS, the provision of regularly scheduled transit circulator service will connect to existing Miami-Dade Transit (MDT) services and help increase the use of services provided by MDT; and

WHEREAS, the Village is willing to continue to provide supplemental public transit throughout the Village in fiscal year 2007-2008 and has budgeted the necessary PTP surtax funds to so provide; and

WHEREAS, Miami-Dade County agrees that a supplemental service would be of benefit to residents and visitors to the Village of Palmetto Bay.

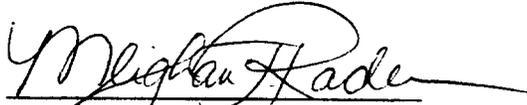
NOW, THEREFORE, BE IT RESOLVED, BY THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AS FOLLOWS:

Section 1: The Village of Palmetto Bay Council authorizes the Village Manager to issue a purchase order for the annual operating cost inclusive of transit services and fueling cost associated with the operation of two (2) shuttle buses.

Section 2: This resolution shall be effective immediately upon approval.

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PASSED and ADOPTED this 7th day of January, 2008.

Attest: 
Meighan Rader
Village Clerk


Eugene P. Flinn, Jr.
Mayor

READ AND APPROVED AS TO FORM:


Eve Boutsis
Village Attorney

FINAL VOTE AT ADOPTION:

- Council Member Ed Feller YES
- Council Member Paul Neidhart YES
- Council Member Shelley Stanczyk YES
- Vice-Mayor Linda Robinson YES
- Mayor Eugene P. Flinn, Jr. YES

**AGREEMENT FOR MUNICIPAL BUS SERVICES BETWEEN
THE VILLAGE OF PALMETTO BAY AND
LIMOUSINES OF SOUTH FLORIDA, INC.**

This agreement is entered into this 6th day of March, 2006, between the Village of Palmetto Bay ("village"), a municipal corporation of the State of Florida, located at 8950 SW 152nd Street, Palmetto Bay, Florida 33157 and Limousines of South Florida, Inc. ("contractor"), a Florida corporation, located at 2595 NW 38th Street, Miami, Florida 33142.

WITNESSETH:

WHEREAS, the village desires to engage and retain the services of the contractor to perform the work described in this agreement and the contractor desires to accept the engagement.

NOW THEREFORE, in consideration of the sum of \$10.00, the mutual promises and covenants contained in this agreement, and for other good and valuable consideration, the receipt and legal sufficiency of which is acknowledged by both parties, the parties agree as follows:

1. WHEREAS CLAUSES

1.1. The above whereas clauses are incorporated and made a part of this agreement.

2. SCOPE OF AGREEMENT

2.1 Contractor agrees to provide mini-bus services to the village residents (with no charge or fare) in accordance with the terms of this agreement.

2.2 The village shall provide a 25' mini-bus to the contractor for use solely for the provision of bus services. The village's 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.

2.3 Contractor shall provide bus services within the village according to the schedule determined by the village manager. The village manager shall be responsible for designation of the pick up and delivery points



village

contractor

and contractor shall only use such stops for the authorized route(s). The established services shall only include locations within the village or as authorized by the village manager. 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 days per week and a maximum of seven days per week. Contractor shall provide bus services at a minimum of four hours per day and a maximum of eight hours per day. No bus services shall be provided on New Year's Day, Memorial Day, Labor Day, Thanksgiving Day, or Christmas Day.

2.4 The contractor shall make available to the village, upon 72 hours advance written notice by the village manager, the village bus or an alternate backup bus of equivalent quality and size for any village special event at the same hourly rate specified in section 12 for the applicable years of service.

2.5 The village shall provide to the contractor all diesel fuel necessary for the provision of bus service. Diesel fuel shall be provided and paid for by the village. The contractor shall not use fuel provided by the village for any purpose other than the provision of bus services.

3. PERSONNEL REQUIREMENTS

3.1 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, including a current commercial driver's license with a passenger endorsement, and are subject to background checks. All drivers shall be employees of the contractor.

3.2 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 identifying the name of the village, village logo and the identity of the driver.

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


village
contractor

3.4 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's bus driver.

4. MAINTENANCE AND STORAGE OF VILLAGE BUS

4.1 Contractor shall properly store the village bus when not in use on village property or at a location designated by the village manager, and shall provide interior and exterior cleaning for the village bus so that the village bus is clean at all times.

4.2 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".

4.3 Contractor shall perform all other necessary repairs only with the prior written approval of the village manager of the amount of the repair, 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.

5. LICENSING, REPORTING, RECORDS

5.1 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 the village in obtaining any further county authorization.

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


village
contractor

5.3 Contractor shall implement a written 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 manager the complaints and actions taken within 24 hours of the complaint and in writing within four calendar days.

5.4 Contractor shall maintain during the term of this agreement and for a period of three years from the date of termination certain records relating to this agreement and all records required pursuant to federal, state, county and local law.

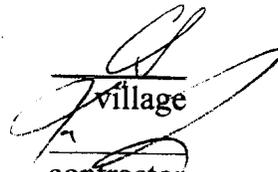
5.5 The village manager shall, during the term of this agreement and for a period of three years from the date of termination, have access to and the right to examine and audit any records of the contractor pertaining to this agreement.

6. PRE-SERVICE REQUIREMENTS

6.1 The following items shall be delivered to the village by contractor at least two days prior to the start of the service and are subject to approval by the village manager:

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; and
- j. Training procedures for drivers.


village
contractor

7. TERM AND TIME OF PERFORMANCE

7.1 The term of this agreement shall begin upon execution of the notice to proceed and shall remain in effect for a period of three years, unless sooner terminated as provided in section 8. The village manager may extend the term of this agreement up to an additional 60 days by written notice to the contractor. The village may, but is under no obligation to extend or renew, this agreement after expiration of the term.

8. TERMINATION

8.1 This agreement may be terminated by either party without cause upon 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 15 days prior written notice of the breach and a demand that it be cured.

8.2 Upon termination of this agreement pursuant to paragraph 8.1, the 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 expected. Any costs necessary to restore or prepare the village bus for return to the 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 of delivery of the bus 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 within 30 days.

8.3 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 8.2 of this agreement.

8.4 Compensation upon termination shall be limited to services performed and approved by the village manager up to the effective date of the termination, provided that the contractor has first complied with the provisions of paragraph 8.3.


Village
contractor

9. NOTICES

9.1 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, private postal service, or by hand delivery with a request for a written receipt of acknowledgement 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 the village: Charles D. Scurr, Village Manager
Village of Palmetto Bay
8950 SW 152nd Street
Palmetto Bay, Florida 33157

With a copy to: Eve A. Boutsis, Office of Village Attorney
Nagin Gallop Figueredo, P.A.
18001 Old Cutler Road, Suite 556
Palmetto Bay, Florida 33157

For the contractor: Mark Levitt, President
2595 NW 38th Street
Miami, Florida 33142

10. INDEMNIFICATION

10.1 Contractor agrees to indemnify, reimburse, defend and hold harmless the village and, at the village's option, defend or pay for an attorney selected by the village to defend the village and the 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 to the contractor under this agreement may be retained by the village until all of the


village
contractor

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 the village.

10.2 Nothing in this agreement is intended to serve as a waiver of sovereign immunity by the 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 entered into by the contractor.

10.3 The provisions of this section shall survive termination or expiration of this agreement.

11. INSURANCE

11.1 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 \$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, Florida Statutes.

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

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

11.4 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 manager.

12. PAYMENT

12.1 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:


village
contractor

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

12.2 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 4.3 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.

12.3 Compensation for bus services shall be payable by the village in arrears, each month, pursuant to the approval of the monthly invoice of contractor. The invoice shall indicate the number of hours of bus service provided in the prior month and any backup documentation required by the village manager.

12.4 Invoices shall be processed by the village pursuant to the Florida Prompt Payment Act.

12.5 If a dispute should occur regarding an invoice, the village manager may withhold payment of the disputed amount and may pay to the contractor the undisputed parts of the invoice.

13. MISCELLANEOUS

13.1 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


village
contractor

contractor's performance shall be comparable to the best local and national standards.

Contractor shall complete 100% 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.

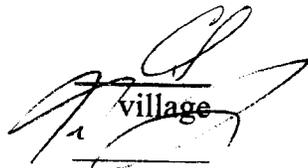
13.2 Waiver of Breach and Materiality: Failure by the village to enforce any provision of this agreement shall not be deemed a waiver of such provision or modification of this agreement. A waiver of any breach of a provision of this agreement shall not be deemed a waiver of any subsequent breach and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

The village and 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.

13.3 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


village
contractor

for public transportation. To the extent that any terms of this agreement are inconsistent with the ADA, the requirements of the ADA shall control.

13.4 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 days after the finding by the court becomes final.

13.5 Applicable Law, Venue, Waiver of Jury Trial: 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.

13.6 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.

13.7 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.

13.8 Sovereign Immunity and Attorneys' Fees: The village does not waive sovereign immunity for any claim for breach of contract or for an award of prejudgment interest; provided, however, that in any action arising out of or to enforce this contract, the prevailing party shall be entitled to its reasonable attorney's fees and costs.

13.9 Independent Contractor: The contractor and its employees, volunteers and agents shall be and remain independent contractors and not agents


village
contractor

or employees of the village with respect to all of the acts and services performed by and under the terms of this agreement. This agreement shall not in any way be construed to create a partnership, association or any other kind of joint undertaking, enterprise or venture between the parties.

13.10 Miscellaneous Provision: In the event a court must interpret any word or provision of this agreement, the word or provision shall not be construed against either party by reason of drafting or negotiating this agreement.

13.11 Facsimile and Counterparts: This agreement may be executed in one or more counterparts, and by the different parties hereto in separate counterparts, each of which when executed shall be deemed to be an original but all of which taken together shall constitute one and the same agreement. The parties hereby acknowledge and agree that facsimile signature of this agreement shall have the same force and effect as original signatures.

13.12 Survival of Provisions: Any terms or conditions of this agreement that requires acts beyond the date of the term of the agreement shall survive termination of the agreement and shall remain in full force and effect unless and until the terms or conditions are completed and shall be fully enforceable by either party.

13.13 Days: Reference in this agreement to days shall mean calendar days.

13.14 Village Manager: Reference in this agreement to village manager shall mean the village manager or his designee.

[SIGNATURE PAGE TO FOLLOW]



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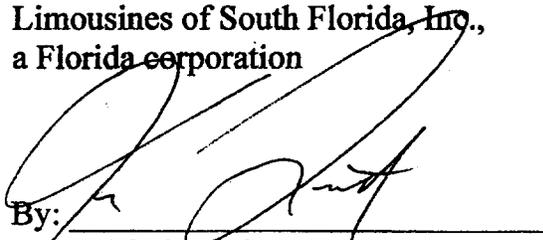
contractor

IN WITNESS WHEREOF, the parties hereto, acting through their duly authorized officers, have executed this agreement as of the date first above written.

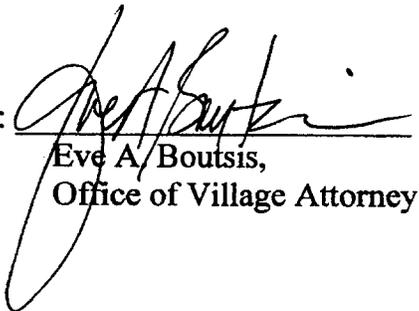
Village of Palmetto Bay,
a Florida municipal corporation

Limousines of South Florida, Inc.,
a Florida corporation

By: 
Charles D. Scurr,
Village Manager

By: 
Mark Levitt,
President

Approved as to form:

By: 
Eve A. Boutsis,
Office of Village Attorney


village
contractor