



**THE STATE OF NEW HAMPSHIRE  
DEPARTMENT OF TRANSPORTATION**



163

**CHRISTOPHER D. CLEMENT, SR.  
COMMISSIONER**

**JEFF BRILLHART, P.E.  
ASSISTANT COMMISSIONER**

His Excellency John H. Lynch, Governor  
and the Honorable Council  
State House  
Concord, NH 03301

Bureau of Rail & Transit  
October 31, 2012

**REQUESTED ACTION**

Authorize the Department of Transportation to enter into an agreement with Flight Line, Inc., Vendor #155561, Salem, New Hampshire, for an amount not to exceed \$2,436,135 to initiate daily bus service between Portsmouth and Manchester effective from the date of Governor and Council approval through June 30, 2016. 100% Federal.

Funding for this agreement is available as follows:

**FY 2013**

04-96-96-964010-2916  
Public Transportation  
072-500574 Grants to Local Gov't – Federal \$2,436,135

**EXPLANATION**

The Department submitted a successful proposal for Congestion Mitigation and Air Quality (CMAQ) funds in the 2009-2010 round of funding, approved on February 28, 2011, to initiate bus service between Portsmouth and Manchester. Using CMAQ funds, the State will provide operating and marketing funds to Flight Line, Inc. for daily bus service between Portsmouth and Manchester with stops including the Portsmouth Transportation Center, Epping Park and Ride lot, Manchester-Boston Regional Airport, and downtown Manchester's Canal Street bus terminal. The Scope of Service requires a minimum of 10 daily trips and maximum of two-hour headways, however, the proposed service schedule includes 20 daily roundtrips, with the first arrival at Manchester-Boston Regional Airport no later than 5:00 AM and the last daily departure no earlier than midnight weekdays. Flight Line, Inc. will procure four accessible buses with their own funds to operate the service.

The Department of Transportation Bureau of Rail & Transit undertook the task of procuring a transportation operator to provide bus service between Portsmouth and Manchester. The Bureau prepared and issued a request for proposals (attached) and participated on a selection committee of Regional Planning Commissions' members and representatives of municipalities that drafted a scope of work for the Portsmouth to Manchester bus service. The Bureau solicited proposals by mail from qualified transportation providers and notified planning commissions and other interested parties. Public notices were also made available in the Union Leader and on the Department of Transportation website.

The selection committee members that were present and reviewed proposals consisted of David Preece of Southern NH Planning Commission, Scott Bogle of Rockingham Planning Commission, Jon Frederick of the City of Portsmouth, and Shelley Winters of the NH Department of Transportation Bureau of Rail & Transit.

The Department received three proposals for the Portsmouth to Manchester bus service. The review committee met on April 19, 2010, reviewed the proposals and ranked them in accordance with the four criteria included in the request for proposals. The proposals evaluated four criteria on a scale of 1 to 100, with each criterion having an assigned scoring weight. The criteria as listed in the request for proposals was:

1. The extent to which the firm, any subcontractors, and their personnel have demonstrated competence and resources to provide bus service (35%).
2. The extent to which the firm's proposal would provide the Basic Service in the Portsmouth-Manchester corridor and provide intermodal connections (35%).
3. The cost-effectiveness of the proposed Basic Service as demonstrated by the project budget and supporting documentation (20%)
4. Innovations or enhancements to the Basic Service and their cost-effectiveness as demonstrated by the separate budget (10%)

Rating Scale (0-100 scale)	
Point Value	Explanation
0	None. Not addressed or response of no value
1 – 25	Fair. Limited applicability
26 – 50	Good. Some applicability
51 – 75	Very Good. Substantial applicability
76 – 100	Excellent. Total applicability

The procurement and evaluation was conducted in accordance with Federal Transit Administration Circular 4220.1F and utilized the Competitive Proposal/RFP methodology; the proposal that is scored to be able to provide the greatest value, based on the defined criteria, is selected.

Based on the four criteria defined in the request for proposals and the scoring of the four evaluation committee members, the proposals were ranked as follows:

1. Flight Line Transportation
2. Falcon Bus Lines
3. New England Coach

The review committee made a recommendation that the Department enter into contract negotiations with Flight Line Inc. A summary of the scoring matrix is attached.

The total cost of the proposed contract is \$2,436,135. The use of approved Turnpike Toll Credits will be used to provide the 20% matching share, effectively using 100% Federal Funds. The use of Turnpike Toll Credits for this project was approved by the Capital Budget Overview Committee on October 17, 2012 (attached).

The total project budget is provided below.

Net operating expenses	\$2,332,400
Marketing expenses	\$ 103,735
Total Project Amount	\$2,436,135

Funds for this agreement are available in the Department's operating budget and are included in the Statewide Transportation Improvement Program (STIP). The Federal funds were approved by the CMAQ Selection Committee and are in an approved Federal Transit Administration (FTA) grant.

In the event that Federal funds become unavailable, general funds will not be requested to support this program.

The Agreement has been approved by the Attorney General as to form and execution, and the Department has verified that the necessary funds are available. Copies of the fully executed agreement are on file at the Secretary of State's Office and the Department of Administrative Services' Office, and subsequent to Governor and Council approval will be on file at the Department of Transportation.

Your approval of this resolution is respectfully requested.

Sincerely,



Christopher D. Clement, Sr.  
Commissioner

Attachments





**THE STATE OF NEW HAMPSHIRE**  
**DEPARTMENT OF TRANSPORTATION**



**CHRISTOPHER D. CLEMENT, SR.**  
**COMMISSIONER**

**JEFF BRILLHART, P.E.**  
**ASSISTANT COMMISSIONER**

October 5, 2012  
 Bureau of Rail & Transit

The Honorable Gene Chandler, Chairman  
 Capital Budget Overview Committee  
 State House  
 Concord, NH 03301

Re: Request for Approval of the Department of Transportation, Toll Credit Match  
 Portsmouth-Manchester Bus Service

Dear Chairman Chandler and Honorable Members of the Committee:

**Requested Action**

Pursuant to the provisions RSA Chapter 228:12-a, Use of Toll Credits, the Department requests the Capital Budget Overview Committee approve the Department of Transportation's use of Toll Credits to meet funding match requirements for the Portsmouth-Manchester "East-West Express" Bus Service. As the total project costs are not to exceed \$2,500,000 in federal funds, the usage of up to \$500,000 in Toll Credit match is requested.

**Explanation**

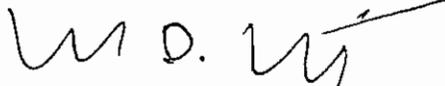
The Department submitted a successful proposal for Congestion Mitigation and Air Quality (CMAQ) funds in the 2009-2010 round of funding, approved on February 28, 2011, to initiate bus service between Portsmouth and Manchester. Using CMAQ funds, the State will provide funding to Flight Line, Inc. to operate daily bus service between Portsmouth and Manchester with stops including the Portsmouth Transportation Center, Epping Park and Ride lot, Manchester-Boston Regional Airport, and downtown Manchester's Canal Street bus terminal. The minimum hours of service shall provide for at least 10 daily roundtrips with the first daily arrival at Manchester-Boston Regional Airport no later than 5:00 AM and the last daily departure no earlier than midnight weekdays. In addition to operating funds, this project will also provide funding for marketing.

The Department issued a Request for Proposal for this project in 2010 and Flight Line, Inc. was ranked as the highest proposal by the selection committee, which consisted of David Preece of Southern NH Planning Commission, Scott Bogle of Rockingham Planning Commission, Jon Frederick of the City of Portsmouth, and Shelley Winters of the Department of Transportation.

Funds for this agreement are available in the Department's operating budget and are included in the Statewide Transportation Improvement Program (STIP). The Federal funds were approved by the CMAQ Selection Committee and are in an approved Federal Transit Administration (FTA) grant.

Your approval of this resolution is respectfully requested.

Sincerely,

A handwritten signature in black ink, appearing to read "C. D. Clement, Sr.", with a long horizontal stroke extending to the right.

Christopher D. Clement, Sr.  
Commissioner

Enclosures (2)

RECEIVED

OCT 23 2012

NH AERONAUTICS



CAP 12-040

JEFFRY A. PATTISON  
Legislative Budget Assistant  
(603) 271-3161

MICHAEL W. KANE, MPA  
Deputy Legislative Budget Assistant  
(603) 271-3161

State of New Hampshire  
OFFICE OF LEGISLATIVE BUDGET ASSISTANT  
State House, Room 102  
Concord, New Hampshire 03301

RICHARD J. MAHONEY, CPA  
Director, Audit Division  
(603) 271-2785

October 17, 2012

Christopher D. Clement, Sr., Commissioner  
Department of Transportation  
John O. Morton Building  
7 Hazen Drive  
Concord, New Hampshire 03302-0483

Dear Commissioner Clement,

The Capital Budget Overview Committee, pursuant to the provisions of RSA 228:12-a, on October 17, 2012, approved the request of the Department of Transportation, Bureau of Rail and Transit, to use up to \$500,000 of Turnpike Toll Credit, based on estimated costs, to meet funding match requirements for; the Portsmouth-Manchester "East-West Express" Bus Service, total project cost shall not exceed \$2,500,000 in federal funds, as specified in the request dated October 5, 2012.

Sincerely,

A handwritten signature in black ink that reads "Jeffrey A. Pattison".

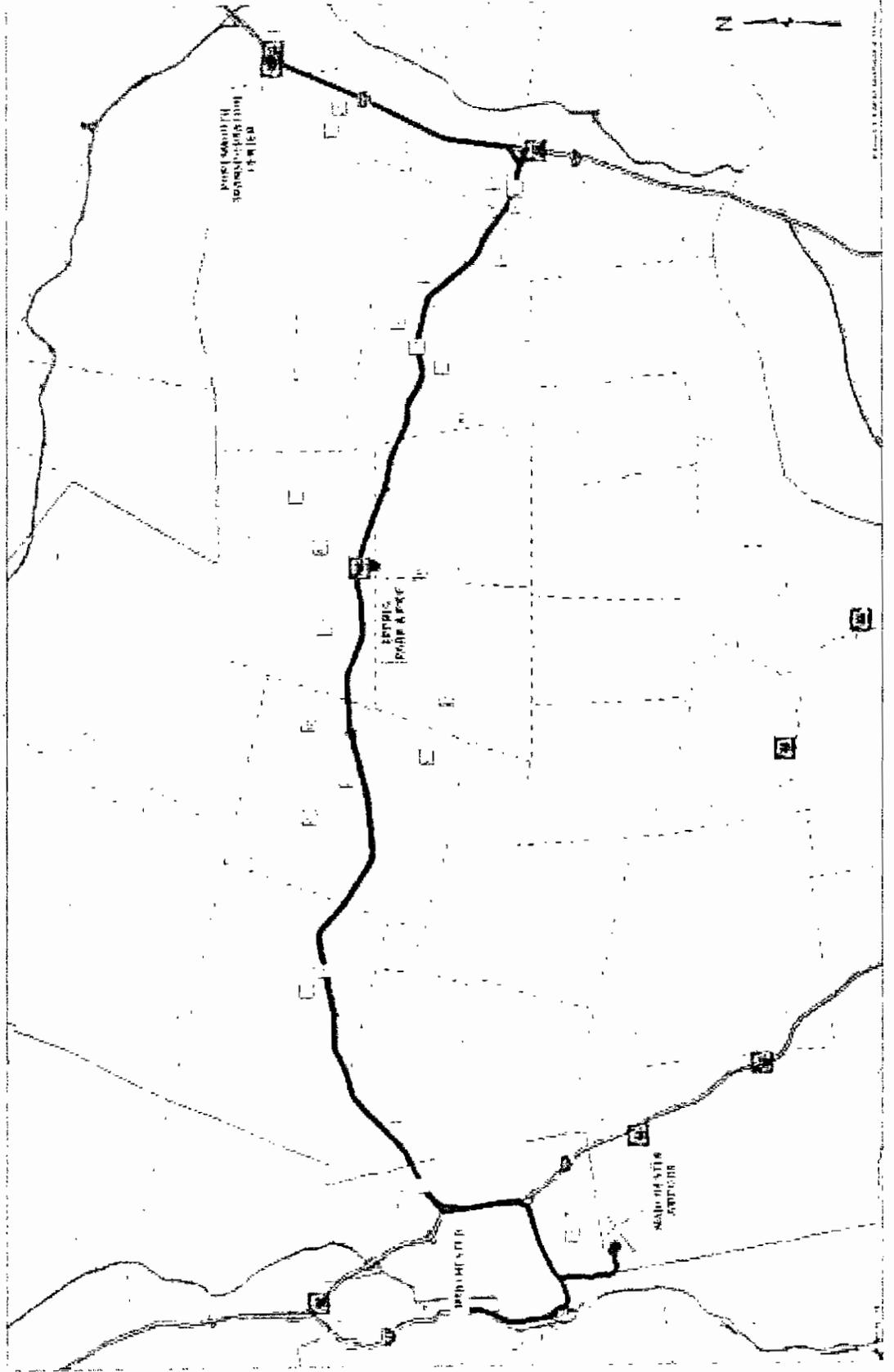
Jeffrey A. Pattison  
Legislative Budget Assistant

JAP/pe  
Attachment

Cc: Mark Sanborn, Federal Liaison  
Patrick Herlihy, Director of Aeronautics, Rail & Transit ✓



# E-W Express Bus Route



East-West Express: Three-year budget (9/28/12)

BASED ON HOURLY SERVICE STARTING IN DOWNTOWN PORTSMOUTH AT 3:25AM  
 LAST RUN DEPARTS FROM DOWNTOWN MANCHESTER AT 11:30PM / mht AT 12:00M

<u>Miles Driven</u>						
46	Total Miles per year		951,954			
 <u>FUEL</u>						
	Cost of fuel per year based on \$3.81 per gallon		\$161,832.20			
 <u>DRIVER HOURS</u>						
	cost of drivers per year at \$16 per hour		\$503,700.00			
			<u>YEAR 1</u>	<u>YEAR 2</u>	<u>YEAR 3</u>	
1	<u>Operating Expense</u>		\$84,050	\$100,247	\$100,247	
2	<u>Transportation Expense</u>		\$800,284	\$813,188	\$824,464	
3	<u>Salem NH Base</u>		100,486	111,363	118,828	
4	<u>Traffic &amp; Advertising Expense</u>		\$63,176	\$27,065	\$13,176	
5	<u>Insurance &amp; Safety Expense</u>		\$67,536	\$67,536	\$67,536	
6	<u>Administrative / General Expense</u>		\$93,090	\$93,090	\$93,090	
7	<u>Taxes and License</u>		\$70,357	\$70,357	\$70,357	
8	<u>Overhead</u>		\$173,994	\$173,994	\$173,994	
	cost per mile for scheduled service	1.5263	-\$1,452,973.42	-\$1,456,841.20	-\$1,461,692.90	-\$4,371,508
	suggested cost per mile in feasibility study	2.2000				
	FARE BOX		\$413,545	\$669,877	\$851,950	Total Subsidy Required
	Scheduled service only		-\$1,039,428	-\$786,964	-\$609,743	-\$2,436,135

## Portsmouth - Manchester Bus Service RFP Review

Reviewer 1: Scott Bogle, Rockingham Planning Commission  
 Reviewer 2: Jon Frederick, City of Portsmouth  
 Reviewer 3: David Preece, Southern NH Planning Commission  
 Reviewer 4: Shelley Winters, NHDOT

Firm Name: New England Coach

Criteria	Weight		Reviewer # 1	Reviewer # 2	Reviewer # 3	Reviewer # 4	Total Points
			4.1 The extent to which the firm, any subcontractor, and their personnel have demonstrated competence and resources to provide bus service.	35%	Score	50	25
Points	17.50	8.75	17.50		14.00	57.75	
4.2 The extent to which the firm's proposal would provide the Basic Service in the Portsmouth-Manchester corridor and provide intermodal connections.	35%	Score	75	75	70	75	
Points		26.25	26.25	24.50	26.25	103.25	
4.3 The cost-effectiveness of the proposed Basic Service as demonstrated by the project budget and supporting documentation.	20%	Score	50	60	45	60	
Points		10.00	12.00	9.00	12.00	43.00	
4.4 Innovations or enhancements to the Basic Service and their cost-effectiveness as demonstrated by the separate budget.	10%	Score	0	0	0	0	
Points		0.00	0.00	0.00	0.00	0.00	
			<b>53.75</b>	<b>47.00</b>	<b>51.00</b>	<b>52.25</b>	<b>204.00</b>
							<b>51.00</b>

Firm Name: Falcon Bus

Criteria	Weight		Reviewer # 1	Reviewer # 2	Reviewer # 3	Reviewer # 4	Total Points
			4.1 The extent to which the firm, any subcontractor, and their personnel have demonstrated competence and resources to provide bus service.	35%	Score	55	75
Points	19.25	26.25	26.25		22.75	94.50	
4.2 The extent to which the firm's proposal would provide the Basic Service in the Portsmouth-Manchester corridor and provide intermodal connections.	35%	Score	70	70	65	60	
Points		24.50	24.50	22.75	21.00	92.75	
4.3 The cost-effectiveness of the proposed Basic Service as demonstrated by the project budget and supporting documentation.	20%	Score	60	55	50	60	
Points		12.00	11.00	10.00	12.00	45.00	
4.4 Innovations or enhancements to the Basic Service and their cost-effectiveness as demonstrated by the separate budget.	10%	Score	50	20	50	50	
Points		5.00	2.00	5.00	5.00	17.00	
			<b>60.75</b>	<b>63.75</b>	<b>64.00</b>	<b>60.75</b>	<b>249.25</b>
							<b>62.31</b>

Firm Name: Flight Line Transportation

Criteria	Weight		Reviewer # 1	Reviewer # 2	Reviewer # 3	Reviewer # 4	Total Points
			4.1 The extent to which the firm, any subcontractor, and their personnel have demonstrated competence and resources to provide bus service.	35%	Score	85	70
Points	29.75	24.50	31.50		28.00	113.75	
4.2 The extent to which the firm's proposal would provide the Basic Service in the Portsmouth-Manchester corridor and provide intermodal connections.	35%	Score	95	75	90	80	
Points		33.25	26.25	31.50	28.00	119.00	
4.3 The cost-effectiveness of the proposed Basic Service as demonstrated by the project budget and supporting documentation.	20%	Score	80	58	75	60	
Points		16.00	11.60	15.00	12.00	54.60	
4.4 Innovations or enhancements to the Basic Service and their cost-effectiveness as demonstrated by the separate budget.	10%	Score	90	80	90	80	
Points		9.00	8.00	9.00	8.00	34.00	
			<b>88.00</b>	<b>70.35</b>	<b>87.00</b>	<b>76.00</b>	<b>321.35</b>
							<b>80.34</b>





**THE STATE OF NEW HAMPSHIRE**  
**DEPARTMENT OF TRANSPORTATION**



**GEORGE N. CAMPBELL, JR.**  
**COMMISSIONER**

**JEFF BRILLHART, P.E.**  
**ASSISTANT COMMISSIONER**

**From:** *Shelly* Shelley Winters, Public Transportation Administrator  
**Date:** March 3, 2010  
**Subject:** East - West Bus Revised RFP  
**To:** All Interested Parties

To comply with Federal Transit Administration requirements, a revised Request for Proposals for East-West bus service has been issued by the Department of Transportation.

The revisions are:

- Clarification of the Basic Service required in the Scope of Services
- Clarification of additional service provisions or enhancements in the Scope of Services
- Separate budget submissions for the Basic Service and service enhancements
- Removal of the matching fund requirement from the proposal
- Revised selection criteria to reflect the aforementioned changes
- Extension of time for submission to March 18, 2010

Questions may be addressed to the Bureau of Rail & Transit in writing at the address below or via email to [swinters@dot.state.nh.us](mailto:swinters@dot.state.nh.us). Responses will be posted on the Bureau website for all potential bidders to review.

Rail & Transit website: <http://www.nh.gov/dot/org/aerorailtransit/railandtransit/index.htm>.

# **NEW HAMPSHIRE DEPARTMENT OF TRANSPORTATION**

## **REVISED REQUEST FOR PROPOSALS FOR BUS OPERATION**

### **1. Introduction**

The New Hampshire Department of Transportation (NHDOT) seeks proposals from qualified transportation providers to provide a safe, clean, efficient, and reliable bus service between Portsmouth and Manchester, NH.

The selected operator will be responsible for providing the equipment for this service, and for operating, servicing, cleaning, inspecting, and maintaining the equipment. The selected operator will be required to comply with all pertinent Federal Transit Administration regulations and federal and state motor carrier regulations. This service will be provided under contract with the NHDOT and will be awarded through a competitive selection.

To support this operation, the NHDOT intends to request Congestion Mitigation and Air Quality (CMAQ) funding to reimburse the operating deficit of the service for three years. Interested firms are encouraged to review the study "Portsmouth-Manchester Airport Bus Feasibility Study" prepared in 2009 by the Southern New Hampshire Planning Commission ([www.snhpc.org](http://www.snhpc.org)) and the Rockingham Planning Commission ([www.rpc-nh.org](http://www.rpc-nh.org)).

### **2. Scope of Services**

The selected operator will be required to provide the services described below. Proposed variations in the scope of service may be considered if it is demonstrated to the satisfaction of the NHDOT that the goals of the project will be met.

#### **Basic Service:**

1. The selected operator will provide daily bus service over a 3-year contract period beginning with the availability of funding if approved. The proposal must include proposed service frequency, schedule, and stops. The service shall provide for arrivals at Manchester-Boston Regional Airport no later than 5:00 am and departures no earlier than midnight daily. The NHDOT will, in its sole discretion, determine the suitability of the proposed schedule in meeting the objectives of the service.
2. The selected operator shall propose service consisting of ten daily round trips between Portsmouth and Manchester with two-hour headways. The proposal must include one stop in Portsmouth at the Portsmouth Transportation Center and two stops in Manchester, at Manchester-Boston Regional Airport and the Canal Street bus terminal, with an intermediate stop at the Epping park and ride lot.
3. Additional service provision or enhancements may be proposed beyond the Basic Service, including additional hours, trips or stops. Service to downtown Portsmouth and the Exeter railroad station is encouraged but not required. The cost of additional or enhanced service should be included in a separate budget.

**Requirements:**

4. The selected operator shall deliver excellent customer service during its provision of the services, including a customer service phone number that shall be staffed during service hours, and prompt response to each complaint in writing within ten working days
5. The selected operator must develop and implement a marketing program designed to build ridership on the bus service, to include, at a minimum, advertising through print, electronic, and Internet media, widespread distribution of schedule and fare information, and other elements to be proposed by the operator.
6. The selected operator shall install and maintain communications equipment such as two-way radios, cellular telephones, or like equipment that will enable communication between drivers and supervisors at administrative, maintenance and storage facilities.
7. All buses shall be suitably and prominently identified with the East-West bus service.
8. The operator must perform daily cleaning and inspection, light and heavy maintenance and all other servicing functions necessary to maintain the vehicles in a safe, clean, comfortable and reliable condition to original equipment manufacturers' schedules. Qualified personnel possessing proper licenses and certificates shall perform all bus maintenance. The operator shall be responsible for providing all materials, supplies, equipment and labor required to properly maintain the buses. Repairs to buses shall be made in a timely manner and temporary replacement buses provided to avoid any interruption of the service.
9. The operator will be responsible for obtaining rights to operate in the Portsmouth-Manchester corridor, within the Manchester-Boston Regional Airport and to other facilities as needed. Bus facility operators in Portsmouth and Manchester will sell tickets for the proposed service and may charge a commission.
10. The operator shall provide monthly reports showing revenue service characteristics including number of trips, revenue hours, and revenue miles operated; ridership; on-time performance; and operating costs on forms to be provided by NHDOT.
11. The operator shall collect all financial and operational data required for the FTA's National Transit Database (NTD) reports. It shall be the responsibility of the operator to ensure that all reported data meets FTA definitions and requirements for accuracy, as well as current deadlines. It shall also be the operator's responsibility to keep the data collection procedures current with the latest FTA guidelines and reporting requirements. Updated NTD requirements can be viewed at the FTA website.
12. The operator must fully comply with all applicable state and federal regulations, including FTA drug and alcohol testing, driver training, and vehicle inspection, testing, and maintenance requirements. All drivers shall have appropriate driver training as required by NHDOT, and Commercial Driver's License (CDL) with required endorsements.
13. The selected operator shall be responsible for paying all toll charges, licenses, fees, taxes, violation fines, fuel, and other operating costs incurred by the operator in providing the intercity bus services.

14. The operator shall be responsible for providing all other functions necessary for the safe, clean, efficient, reliable, customer-oriented operation of the bus service that are not specifically discussed herein.
15. The operator shall obtain and keep in force general liability insurance with a combined single limit of at least \$5,000,000, naming the state, as well as owners and operators of facilities the operator will utilize, as additional insured.
16. The selected operator will be expected to enter into an agreement to provide the service with the Department of Transportation for an amount not to exceed 10% over the Project Budget submitted with its proposal. Variations from this amount will be at the sole discretion of the Department.

### **3. Submission Requirements**

The following information should be included in the proposal. If the firm proposes to use any subcontractors in its operation, this same information should be provided for them:

1. **Statement of Qualifications:** Describe the experience and qualifications of the firm that proposes to undertake the intercity bus service. List the contract manager, maintenance manager, supervisors and other key personnel and indicate the number of years and type of experience the firm and these key personnel have in intercity or commuter bus services. Include a letter of commitment that these personnel will be available to perform the contract duties during the life of the service contract.
2. **Summary of Financial Capacity:** Provide a summary of the financial capacity of the firm and supply proof of required insurance coverage.
3. **Description of Service:** Describe the proposed service schedule and the firm's customer service approach. Describe how tickets will be sold.
4. **Vehicles:** List the year, make, model, seating capacity and condition of each vehicle proposed for use in this service. Vehicles must fully comply with the Americans with Disabilities Act. Describe the servicing, cleaning, inspection and light and heavy maintenance activities the firm will perform to maintain the vehicles in a safe, clean, comfortable and reliable condition.
5. **Description of Training and Certifications:** List training, certifications, and operating experience for staff to operate the service and facilities and maintain the equipment. Describe the firm's training requirements for management, supervisors, drivers, and maintenance staff, including customer service training.
6. **Description of Marketing Program:** Describe the marketing activities the firm will undertake to promote this intercity bus service.
7. **Ridership and Revenue Projections:** Provide ridership and revenue projections based on the proposed service schedule and anticipated fares from start-up through the third year of operation. Include proposed fare structure.
8. **Contact information:** Include the name, address, phone and fax numbers of the firm and any subcontractors.
9. **Project Budget:** Include a proposed fixed-price budget for operation of the Basic Service described in the Scope of Services above, in Years 1, 2 and 3 of the service. The budget

should show in detail all major revenue and expense items for the service with supporting documentation.

Bidders shall ensure that all information required herein is submitted with the proposal. Failure to provide all information, inaccuracy or misstatement may be sufficient cause for rejection of the proposal or withdrawal of an award. Bidders are encouraged to provide any additional information describing operational abilities. Responses to each requirement listed above should be in order and be clearly marked with the section number to which they respond.

#### **4. Evaluation Criteria and Selection Procedure**

The NHDOT will evaluate proposals and select an operator based on:

1. The extent to which the firm, any subcontractors, and their personnel have demonstrated competence and resources to provide bus service (35%).
2. The extent to which the firm's proposal would provide the Basic Service in the Portsmouth-Manchester corridor and provide intermodal connections (35%).
3. The cost-effectiveness of the proposed Basic Service as demonstrated by the project budget and supporting documentation (20%)
4. Innovations or enhancements to the Basic Service and their cost-effectiveness as demonstrated by the separate budget (10%)

The NHDOT will select that firm whose proposal is judged best able to successfully operate this service based upon the above criteria.

#### **5. Submission Information**

In order to be considered for selection, five copies of the bidder's completed proposal must be received at the office of the NHDOT Bureau of Rail and Transit, located at 7 Hazen Drive (PO Box 483), Concord, NH 03302, by 3:00 PM on **March 18, 2010**. Proposals received after the due date will not be considered. Proposals should not exceed 10 pages excluding resumes and statements of experience, and will not be accepted by electronic mail or fax.

##### **Schedule:**

RFP Issued	January 29, 2010
Revised RFP Issued	March 3, 2010
Proposals Due	March 18, 2010
Contract Commencement (expected)	July 1, 2011

#### **6. General Terms and Conditions**

1. The NHDOT reserves the right to reject any and all proposals. Award of a contract for this service is contingent on the availability of Federal funding and the selected operator's commitment of the required matching funds from sources other than fare revenue.
2. Confidentiality: The information contained in proposals submitted for the NHDOT's consideration will be held in confidence until all evaluations are concluded and an award has been made. At that time, the winning proposal will be available for public inspection. Pricing and other information that is an integral part of the offer cannot be considered

confidential after an award has been made. The NHDOT will honor requests for confidentiality for information of a proprietary nature to the extent permitted by law. Clearly mark any information considered confidential.

3. Costs of Preparation: The bidder assumes all costs of preparation of the proposal and any presentations necessary to the proposal process.
4. Addenda: All clarifications and interpretations of the proposal specifications, individual questions and supplemental instructions will be in the form of written Addenda to the proposal documents which will be made available to all prospective bidders on the Department's website at <http://www.nh.gov/dot/org/aerorailtransit/railandtransit/index.htm>.
5. Contract Documents: The NHDOT will enter into a contract with the successful bidder, subject to approval by the Governor and Council, for the service as outlined in the scope of services, the proposal, and any additional provisions negotiated by the parties. The contract will include the required FTA clauses for transit operations and the pertinent provisions of the FTA Master Agreement.
6. Contract Term: The contract term shall be for a period of three years commencing upon approval of Governor and Council or mutually agreeable date.
7. Cancellation/Termination: If the operator defaults on its agreement to provide services to the NHDOT's satisfaction, or in any other way fails to provide service in accordance with the contract terms, the NHDOT shall promptly notify the operator of such default and, if adequate correction is not made within an appropriate time, take whatever action it deems necessary to provide alternate services and may, at its option, cancel this contract with written notice. Other provisions for termination upon mutual agreement may also be included in the contract.
8. Payments: Payment will be upon submittal of a monthly invoice together with required supporting documentation, covering the services provided in the previous month to the Contract Administrator.
9. Compliance with Law: The operator shall comply with all applicable federal, state, and local regulations. The operator must be authorized to do business in New Hampshire.
10. Contract Requirements: The following are among the provisions to be required by the contract for operation of this service:
  - FTA required clauses
  - Equal Opportunity/Non-Discrimination/DBE
  - Title VI Plan
  - FTA Compliant Drug and Alcohol Testing Policy
  - Labor Protection
  - Vehicle Maintenance plan
  - Compliance with Americans with Disabilities Act and regulations
  - Indemnification and Insurance (\$5 million liability coverage)
  - Audits and Inspections
  - FTA Half-fare requirement for off-peak service hours

## **Attachments**

### **A. Sample Reports**

**B. Sample Form for Budget Proposal (Excel file available on NHDOT website)**





ATTACHMENT A - SAMPLE QUARTERLY REPORT

MONTHLY PRODUCTIVITY REPORT

AGENCY:  
FISCAL YEAR:

Vehicle Number:

Report under:

	JULY	AUGUST	SEPT.	OCT.	NOV.	DEC.	JAN.	FEB.	MARCH	APRIL	MAY	JUNE	TOTAL
MAXIMUM SERVICE DAYS													
VEHICLE HOURS													
REVENUE VEHICLE HOURS													
VEHICLE MILES													
REVENUE VEHICLE MILES													
# RIDERS													

COSTS MEASURES														
TOTAL COST														\$0
COST PER MILE														
COST PER HOUR														
COST PER PASSENGER														

RIDERSHIP MEASURES													
# RIDES	0	0	0	0	0	0	0	0	0	0	0	0	0
RIDERS PER VEHICLE HOUR													
RIDERS PER VEHICLE MILE													
RIDERS PER SERVICE DAY													

FARES COLLECTED														
FARE BOX/TOTAL COST														\$0
FARE PER PASSENGER														
MILES/SERVICE DAY														
HOURS/SVC DAY														

PERCENT REVENUE HOURS														
PERCENT REVENUE HOURS														
PERCENT REVENUE MILES														
CUMULATIVE SERVICE DAYS													0	

NOTE: Estimates shown in Italics

Portsmouth - Manchester Proposed Budget

A. ADMINISTRATION

Obj. Code	Description	Total Funds			REMARKS
		Amt. Budgeted Year 1	Amt. Budgeted Year 2	Amt. Budgeted Year 3	
501.02	Other Salaries & Wages				
501.04	Administrative Salaries & Wages				
501.99	Other Salaries & Wages				
502.01	FICA				
502.02	Pension Plans				
502.03	Hospital, Medical, and Surgical Plans				
502.04	Dental Plans				
502.05	Life Insurance Plans				
502.06	Short-Term Disability Insurance Plans				
502.07	Unemployment Insurance				
502.08	Worker's Compensation				
502.09	Sick Leave				
502.10	Holiday				
502.11	Vacation				
502.12	Other Paid Absence				
502.13	Uniform and Work Clothing Allowance				
502.99	Other Fringe Benefits				
503.01	Management Services				
503.02	Advertising Services				
503.03	Professional & Technical Services				
503.04	Temporary Services				
503.06	Custodial Services				
503.07	Security Services				
503.08	Office & Communications Equipment Repair				
503.10	Training				
503.99	Other Services				
504.03	Inventory Purchases				
504.04	Office Supplies & Materials				
504.05	Educational & First Aid Supplies				
504.99	Other Materials & Supplies				
505.02	Telephone				
505.99	Utilities - Other				
508.01	Physical Damage Insurance				
508.03	Liability & Property Insurance				
508.04	Uninsured Settlements				
508.05	Provisions for Uninsured Settlements				
508.06	Recoveries of Settlements				
508.08	Other Corporate Insurance				
508.99	Other Insurance				
507.04	Licensing & Registration Fees				
507.06	Electric Power Taxes				
507.99	Other Taxes				
509.01	Dues & Subscriptions				
509.02	Travel & Meetings				
509.08	Advertising/Promotion Media				
509.99	Other Misc. Expenses				
512.12	Other Administrative Facilities				
530.00	Contributed Services				
	<b>Sub-Total</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	

## Portsmouth - Manchester Proposed Budget

## B. OPERATING

Obj. Code	Description	Total Funds			REMARKS
		Amt. Budgeted Year 1	Amt. Budgeted Year 2	Amt. Budgeted Year 3	
501.01	Operator's Salaries & Wages				
501.02	Other Salaries & Wages				
501.03	Dispatcher's Salaries & Wages				
501.05	Maintenance Wages & Salaries				
501.99	Other Salaries & Wages				
502.01	FICA				
502.02	Pension Plans				
502.03	Hospital, Medical, and Surgical Plans				
502.04	Dental Plans				
502.06	Life Insurance Plans				
502.08	Short-Term Disability Insurance Plans				
502.07	Unemployment Insurance				
502.08	Worker's Compensation				
502.09	Sick Leave				
502.10	Holiday				
502.11	Vacation				
502.12	Other Paid Absence				
502.13	Uniform and Work Clothing Allowance				
502.99	Other Fringe Benefits				
503.04	Temporary Services				
503.05	Contract Maintenance Services				
503.09	Building Repair & Maintenance				
503.10	Training				
504.01	Fuel & Lubricants Consumed				
504.02	Tires & Tubes Consumed				
504.03	Inventory Purchases				
504.05	Educational and First Aid Supplies				
504.99	Other Materials & Supplies				
505.02	Telephone				
509.03	Bridge, Highway & Tunnel Tolls				
511.01	Long Term Debt Obligation				
511.02	Short Term Debt Obligation				
512.04	Passenger Revenue Vehicles				
512.05	Service/Supervisory Vehicles				
512.07	Maintenance Facilities				
530.00	Contributed Services				
	Sub-Total	0.00	0.00	0.00	

**Portsmouth - Manchester Proposed Budget**

**C. CAPITAL - PREVENTIVE MAINTENANCE**

Obj. Code	Description	Total Funds			REMARKS
		Amt. Budgeted Year 1	Amt. Budgeted Year 2	Amt. Budgeted Year 3	
501.05	Maintenance Wages & Salaries				
501.99	Other Salaries & Wages				
502.01	FICA				
502.02	Pension Plans				
502.03	Hospital, Medical, and Surgical Plans				
502.04	Dental Plans				
502.05	Life Insurance Plans				
502.06	Short-Term Disability Insurance Plans				
502.07	Unemployment Insurance				
502.08	Worker's Compensation				
502.09	Sick Leave				
502.10	Holiday				
502.11	Vacation				
502.12	Other Paid Absence				
502.13	Uniform and Work Clothing Allowance				
502.99	Other Fringe Benefits				
503.05	Contract Maintenance Services				
503.09	Building Repair & Maintenance				
503.10	Training				
504.01	Fuels & Lubricants				
504.02	Tires & Tubes Consumed				
504.03	Inventory Purchases				
504.05	Educational and First Aid Supplies				
504.99	Other Materials & Supplies				
	<b>Sub-Total</b>	<b>0.00</b>	<b>0.00</b>	<b>0.00</b>	

Year 1                      Year 2                      Year 3                      Project Total





Subject: Portsmouth - Manchester "East-West" Bus Service: Flight Line (CMAQ/5307) FORM NUMBER P-37 ( version 1/09)

**AGREEMENT**

The State of New Hampshire and the Contractor hereby mutually agree as follows:

**GENERAL PROVISIONS**

**1. IDENTIFICATION.**

1.1 State Agency Name <u>NH Department of Transportation</u>		1.2 State Agency Address <u>PO Box 483, 7 Hazen Drive, Concord, NH 03302-0483</u>	
1.3 Contractor Name <u>Flight Line, Inc.</u>		1.4 Contractor Address <u>51A Pelham Rd, Salem, NH 03079</u>	
1.5 Contractor Phone Number <u>(800) 245-2525</u>	1.6 Account Number <u>04-96-96-964010-2916-072</u>	1.7 Completion Date <u>June 30, 2016</u>	1.8 Price Limitation <u>\$2,436,135.00</u>
1.9 Contracting Officer for State Agency <u>Patrick Herlihy, Director of Aeronautics and Rail &amp; Transit</u>		1.10 State Agency Telephone Number <u>(603) 271-2468</u>	
1.11 Contractor Signature <u><i>James R. Dowl</i></u>		1.12 Name and Title of Contractor Signatory <u><i>President</i></u>	
1.13 Acknowledgement: State of <u>NH</u> , County of <u>Rockingham</u> On <u>Oct. 12, 2012</u> , before the undersigned officer, personally appeared the person identified in block 1.12, or satisfactorily proven to be the person whose name is signed in block 1.11, and acknowledged that s/he executed this document in the capacity indicated in block 1.12.			
1.13.1 Signature of Notary Public or Justice of the Peace <u><i>Jameson H. Brown</i></u> [Seal]			
1.13.2 Name and Title of Notary or Justice of the Peace <u>Jameson H. Brown Notary Public</u>			
1.14 State Agency Signature <u><i>[Signature]</i></u>		1.15 Name and Title of State Agency Signatory <u><i>Patrick C. Herlihy, Director</i></u>	
1.16 Approval by the N.H. Department of Administration, Division of Personnel (if applicable) By: _____ Director, On: _____			
1.17 Approval by the Attorney General (Form, Substance and Execution) By: <u><i>[Signature]</i></u> <u>Dana M. Holt</u> On: <u>10/31/12</u>			
1.18 Approval by the Governor and Executive Council By: _____ On: _____			

**2. EMPLOYMENT OF CONTRACTOR/SERVICES TO BE PERFORMED.** The State of New Hampshire, acting through the agency identified in block 1.1 ("State"), engages contractor identified in block 1.3 ("Contractor") to perform, and the Contractor shall perform, the work or sale of goods, or both, identified and more particularly described in the attached EXHIBIT A which is incorporated herein by reference ("Services").

**3. EFFECTIVE DATE/COMPLETION OF SERVICES.**  
3.1 Notwithstanding any provision of this Agreement to the contrary, and subject to the approval of the Governor and Executive Council of the State of New Hampshire, this Agreement, and all obligations of the parties hereunder, shall not become effective until the date the Governor and Executive Council approve this Agreement ("Effective Date").  
3.2 If the Contractor commences the Services prior to the Effective Date, all Services performed by the Contractor prior to the Effective Date shall be performed at the sole risk of the Contractor, and in the event that this Agreement does not become effective, the State shall have no liability to the Contractor, including without limitation, any obligation to pay the Contractor for any costs incurred or Services performed. Contractor must complete all Services by the Completion Date specified in block 1.7.

**4. CONDITIONAL NATURE OF AGREEMENT.**  
Notwithstanding any provision of this Agreement to the contrary, all obligations of the State hereunder, including, without limitation, the continuance of payments hereunder, are contingent upon the availability and continued appropriation of funds, and in no event shall the State be liable for any payments hereunder in excess of such available appropriated funds. In the event of a reduction or termination of appropriated funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate this Agreement immediately upon giving the Contractor notice of such termination. The State shall not be required to transfer funds from any other account to the Account identified in block 1.6 in the event funds in that Account are reduced or unavailable.

**5. CONTRACT PRICE/PRICE LIMITATION/ PAYMENT.**  
5.1 The contract price, method of payment, and terms of payment are identified and more particularly described in EXHIBIT B which is incorporated herein by reference.  
5.2 The payment by the State of the contract price shall be the only and the complete reimbursement to the Contractor for all expenses, of whatever nature incurred by the Contractor in the performance hereof, and shall be the only and the complete compensation to the Contractor for the Services. The State shall have no liability to the Contractor other than the contract price.  
5.3 The State reserves the right to offset from any amounts otherwise payable to the Contractor under this Agreement those liquidated amounts required or permitted by N.H. RSA 80:7 through RSA 80:7-c or any other provision of law.

5.4 Notwithstanding any provision in this Agreement to the contrary, and notwithstanding unexpected circumstances, in no event shall the total of all payments authorized, or actually made hereunder, exceed the Price Limitation set forth in block 1.8.

**6. COMPLIANCE BY CONTRACTOR WITH LAWS AND REGULATIONS/ EQUAL EMPLOYMENT OPPORTUNITY.**  
6.1 In connection with the performance of the Services, the Contractor shall comply with all statutes, laws, regulations, and orders of federal, state, county or municipal authorities which impose any obligation or duty upon the Contractor, including, but not limited to, civil rights and equal opportunity laws. In addition, the Contractor shall comply with all applicable copyright laws.  
6.2 During the term of this Agreement, the Contractor shall not discriminate against employees or applicants for employment because of race, color, religion, creed, age, sex, handicap, sexual orientation, or national origin and will take affirmative action to prevent such discrimination.  
6.3 If this Agreement is funded in any part by monies of the United States, the Contractor shall comply with all the provisions of Executive Order No. 11246 ("Equal Employment Opportunity"), as supplemented by the regulations of the United States Department of Labor (41 C.F.R. Part 60), and with any rules, regulations and guidelines as the State of New Hampshire or the United States issue to implement these regulations. The Contractor further agrees to permit the State or United States access to any of the Contractor's books, records and accounts for the purpose of ascertaining compliance with all rules, regulations and orders, and the covenants, terms and conditions of this Agreement.

**7. PERSONNEL.**  
7.1 The Contractor shall at its own expense provide all personnel necessary to perform the Services. The Contractor warrants that all personnel engaged in the Services shall be qualified to perform the Services, and shall be properly licensed and otherwise authorized to do so under all applicable laws.  
7.2 Unless otherwise authorized in writing, during the term of this Agreement, and for a period of six (6) months after the Completion Date in block 1.7, the Contractor shall not hire, and shall not permit any subcontractor or other person, firm or corporation with whom it is engaged in a combined effort to perform the Services to hire, any person who is a State employee or official, who is materially involved in the procurement, administration or performance of this Agreement. This provision shall survive termination of this Agreement.  
7.3 The Contracting Officer specified in block 1.9, or his or her successor, shall be the State's representative. In the event of any dispute concerning the interpretation of this Agreement, the Contracting Officer's decision shall be final for the State.

Contractor Initials JA  
Date 10-1-12

## 8. EVENT OF DEFAULT/REMEDIES.

8.1 Any one or more of the following acts or omissions of the Contractor shall constitute an event of default hereunder ("Event of Default"):

8.1.1 failure to perform the Services satisfactorily or on schedule;

8.1.2 failure to submit any report required hereunder; and/or

8.1.3 failure to perform any other covenant, term or condition of this Agreement.

8.2 Upon the occurrence of any Event of Default, the State may take any one, or more, or all, of the following actions:

8.2.1 give the Contractor a written notice specifying the Event of Default and requiring it to be remedied within, in the absence of a greater or lesser specification of time, thirty (30) days from the date of the notice; and if the Event of Default is not timely remedied, terminate this Agreement, effective two (2) days after giving the Contractor notice of termination;

8.2.2 give the Contractor a written notice specifying the Event of Default and suspending all payments to be made under this Agreement and ordering that the portion of the contract price which would otherwise accrue to the Contractor during the period from the date of such notice until such time as the State determines that the Contractor has cured the Event of Default shall never be paid to the Contractor;

8.2.3 set off against any other obligations the State may owe to the Contractor any damages the State suffers by reason of any Event of Default; and/or

8.2.4 treat the Agreement as breached and pursue any of its remedies at law or in equity, or both.

## 9. DATA/ACCESS/CONFIDENTIALITY/PRESERVATION.

9.1 As used in this Agreement, the word "data" shall mean all information and things developed or obtained during the performance of, or acquired or developed by reason of, this Agreement, including, but not limited to, all studies, reports, files, formulae, surveys, maps, charts, sound recordings, video recordings, pictorial reproductions, drawings, analyses, graphic representations, computer programs, computer printouts, notes, letters, memoranda, papers, and documents, all whether finished or unfinished.

9.2 All data and any property which has been received from the State or purchased with funds provided for that purpose under this Agreement, shall be the property of the State, and shall be returned to the State upon demand or upon termination of this Agreement for any reason.

9.3 Confidentiality of data shall be governed by N.H. RSA chapter 91-A or other existing law. Disclosure of data requires prior written approval of the State.

**10. TERMINATION.** In the event of an early termination of this Agreement for any reason other than the completion of the Services, the Contractor shall deliver to the Contracting Officer, not later than fifteen (15) days after the date of termination, a report ("Termination Report") describing in detail all Services performed, and the contract price earned, to and including the date of termination. The form, subject matter, content, and number of copies of the Termination

Report shall be identical to those of any Final Report described in the attached EXHIBIT A.

**11. CONTRACTOR'S RELATION TO THE STATE.** In the performance of this Agreement the Contractor is in all respects an independent contractor, and is neither an agent nor an employee of the State. Neither the Contractor nor any of its officers, employees, agents or members shall have authority to bind the State or receive any benefits, workers' compensation or other emoluments provided by the State to its employees.

**12. ASSIGNMENT/DELEGATION/SUBCONTRACTS.** The Contractor shall not assign, or otherwise transfer any interest in this Agreement without the prior written consent of the N.H. Department of Administrative Services. None of the Services shall be subcontracted by the Contractor without the prior written consent of the State.

**13. INDEMNIFICATION.** The Contractor shall defend, indemnify and hold harmless the State, its officers and employees, from and against any and all losses suffered by the State, its officers and employees, and any and all claims, liabilities or penalties asserted against the State, its officers and employees, by or on behalf of any person, on account of, based or resulting from, arising out of (or which may be claimed to arise out of) the acts or omissions of the Contractor. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the State, which immunity is hereby reserved to the State. This covenant in paragraph 13 shall survive the termination of this Agreement.

## 14. INSURANCE.

14.1 The Contractor shall, at its sole expense, obtain and maintain in force, and shall require any subcontractor or assignee to obtain and maintain in force, the following insurance:

14.1.1 comprehensive general liability insurance against all claims of bodily injury, death or property damage, in amounts of not less than \$250,000 per claim and \$2,000,000 per occurrence; and

14.1.2 fire and extended coverage insurance covering all property subject to subparagraph 9.2 herein, in an amount not less than 80% of the whole replacement value of the property.

14.2 The policies described in subparagraph 14.1 herein shall be on policy forms and endorsements approved for use in the State of New Hampshire by the N.H. Department of Insurance, and issued by insurers licensed in the State of New Hampshire.

14.3 The Contractor shall furnish to the Contracting Officer identified in block 1.9, or his or her successor, a certificate(s) of insurance for all insurance required under this Agreement. Contractor shall also furnish to the Contracting Officer identified in block 1.9, or his or her successor, certificate(s) of insurance for all renewal(s) of insurance required under this Agreement no later than fifteen (15) days prior to the expiration date of each of the insurance policies. The certificate(s) of insurance and any renewals thereof shall be

attached and are incorporated herein by reference. Each certificate(s) of insurance shall contain a clause requiring the insurer to endeavor to provide the Contracting Officer identified in block 1.9, or his or her successor, no less than ten (10) days prior written notice of cancellation or modification of the policy.

**15. WORKERS' COMPENSATION.**

15.1 By signing this agreement, the Contractor agrees, certifies and warrants that the Contractor is in compliance with or exempt from, the requirements of N.H. RSA chapter 281-A ("*Workers' Compensation*").

15.2 To the extent the Contractor is subject to the requirements of N.H. RSA chapter 281-A, Contractor shall maintain, and require any subcontractor or assignee to secure and maintain, payment of Workers' Compensation in connection with activities which the person proposes to undertake pursuant to this Agreement. Contractor shall furnish the Contracting Officer identified in block 1.9, or his or her successor, proof of Workers' Compensation in the manner described in N.H. RSA chapter 281-A and any applicable renewal(s) thereof, which shall be attached and are incorporated herein by reference. The State shall not be responsible for payment of any Workers' Compensation premiums or for any other claim or benefit for Contractor, or any subcontractor or employee of Contractor, which might arise under applicable State of New Hampshire Workers' Compensation laws in connection with the performance of the Services under this Agreement.

**16. WAIVER OF BREACH.** No failure by the State to enforce any provisions hereof after any Event of Default shall be deemed a waiver of its rights with regard to that Event of Default, or any subsequent Event of Default. No express failure to enforce any Event of Default shall be deemed a waiver of the right of the State to enforce each and all of the provisions hereof upon any further or other Event of Default on the part of the Contractor.

**17. NOTICE.** Any notice by a party hereto to the other party shall be deemed to have been duly delivered or given at the time of mailing by certified mail, postage prepaid, in a United States Post Office addressed to the parties at the addresses given in blocks 1.2 and 1.4, herein.

**18. AMENDMENT.** This Agreement may be amended, waived or discharged only by an instrument in writing signed by the parties hereto and only after approval of such amendment, waiver or discharge by the Governor and Executive Council of the State of New Hampshire.

**19. CONSTRUCTION OF AGREEMENT AND TERMS.**

This Agreement shall be construed in accordance with the laws of the State of New Hampshire, and is binding upon and inures to the benefit of the parties and their respective successors and assigns. The wording used in this Agreement is the wording chosen by the parties to express their mutual

intent, and no rule of construction shall be applied against or in favor of any party.

**20. THIRD PARTIES.** The parties hereto do not intend to benefit any third parties and this Agreement shall not be construed to confer any such benefit.

**21. HEADINGS.** The headings throughout the Agreement are for reference purposes only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

**22. SPECIAL PROVISIONS.** Additional provisions set forth in the attached EXHIBIT C are incorporated herein by reference.

**23. SEVERABILITY.** In the event any of the provisions of this Agreement are held by a court of competent jurisdiction to be contrary to any state or federal law, the remaining provisions of this Agreement will remain in full force and effect.

**24. ENTIRE AGREEMENT.** This Agreement, which may be executed in a number of counterparts, each of which shall be deemed an original, constitutes the entire Agreement and understanding between the parties, and supersedes all prior Agreements and understandings relating hereto.

**EXHIBITS TO CONTRACT**

EXHIBIT A	Scope of Services
EXHIBIT B	Budget
EXHIBIT C	Special Provisions
EXHIBIT D	Premises, Routes, and Pickup/Drop-Off Locations
EXHIBIT E	NHDOT Public Comment Procedures
CERTIFICATE OF GOOD STANDING	
CERTIFICATE OF CORPORATE VOTE	
CERTIFICATE OF INSURANCE	
REQUIRED FEDERAL CLAUSES	
UNIFIED PROTECTIVE ARRANGEMENT	
REQUIRED QUARTERLY REPORT	
REQUIRED CHARTER REPORT	
SERVICE SCHEDULE	



## EXHIBIT A: SCOPE OF SERVICES

The Contractor shall provide the following services:

- A.1.** Daily commuter bus service between Portsmouth (Portsmouth Transportation Center), Epping (Park & Ride lot), Manchester-Boston Regional Airport (MBRA), and downtown Manchester (Canal Street bus terminal) with a minimum of 10 daily trips and a maximum of two-hour headways. The service shall provide for arrivals at Manchester-Boston Regional Airport no later than 5:00 am and the last departure no earlier than midnight daily. Additional stops may be added with the approval of the State. Specific bus routes and pick-up/drop-off spots at each of the above locations shall be determined by the State. See exhibit D for details.
- A.2.** The Contractor will submit a final schedule prior to the Commencement Date for the approval of the State, and shall not change, add, or delete any route or make any fare, service or operating schedule adjustments without the prior written agreement of the State, except in an emergency situation. In such an emergency, the Contractor shall notify the State no later than the next working day following the day of such changes. Such change shall be valid for five days; thereafter, the written approval of the State shall be required.
- A.3.** The Contractor has agreed to purchase four (4) new ADA-accessible Sprinter 3500 vehicles for use on the subsidized routes detailed in A.1 above. These vehicles shall be the only vehicles utilized on these routes. Exceptions may be granted by the State upon written request from the Contractor. The State shall approve an "East-West Express" logo that will be prominently displayed on the driver and curbside of the project vehicles, at the Contractor's expense. Upon termination of this Contract, continued usage of the "East-West Express" logo by the Contractor shall be at the discretion of the State and require written approval of the State. Removal of the logo shall be at the Contractor's expense.
- A.4.** The Contractor shall develop and implement, with the State's approval, a marketing program to inform commuters and the general public about the service. The marketing program shall include, at a minimum, print, electronic, and Internet media, and widespread distribution of schedule and fare information.
- A.5.** Notwithstanding FTA requirements, the Contractor shall develop and implement, with the State's approval, a customer service program that provides an opportunity for customer comment (e.g., regarding scheduling changes) and suggestions for improvements as detailed in the request for proposals.

**EXHIBIT B: BUDGET**

- B.1.** The Contract Price is the reimbursable portion of the eligible project costs. The Project Budget and Contract Price are:

Net operating expenses	\$2,332,400
Marketing	\$103,735
<b>Contract Price</b>	<b>\$2,436,135</b>

- B.2.** At least fourteen (14) days prior to the submission of the Contractor's first request for reimbursement, the Contractor shall submit to the State a detailed budget including any revisions to its budget, incorporating all funds to be expended in the provision of services pursuant to this contract. Budget revisions may be made with written approval of the State, and are limited to the six-month interval and year-end of the contract. Revisions that meet or exceed a 10% and \$2,500 change will require a detailed explanation. Budget revisions may only request the transfer of funds within a category or between categories with the same matching ratio.
- B.3.** The Contractor may seek reimbursement for eligible expenses listed in the Project Budget. Requests for reimbursement shall include a detailed statement of expenses utilizing the State's transit accounts, a statement of revenues, and a request for reimbursement of the net operating cost (expenses less revenues) and marketing expenses. Reimbursements will be made by the State for a period of three (3) years following the Commencement Date of the Operating Service. However, total reimbursements may not exceed the Contract Price Limitation of \$2,436,135.
- B.4.** Upon the project Completion Date, the Contractor may, with written permission from the State, continue to operate the service without subsidy and utilize the Premises with written permission from the State.
- B.5.** The State reserves the right to review and adjust, if necessary, the Contractor's project reimbursement rate (cost allocation rate).

## EXHIBIT C: SPECIAL PROVISIONS

- C.1.** Amend P-37 **Section 2 "Employment of Contractor/Services to Be Performed"** by adding the following:
- The Contractor may change services only with the prior written agreement of the State and in accordance with applicable FTA requirements.
- C.2.** Amend P-37 **Section 5 "Contract Price/Price Limitation/Payment"** by adding the following:
- 5.5 Contract Price Limitation represents the maximum to be paid by the State to the Contractor under this contract for a period of three (3) years beginning on the Commencement Date. Notwithstanding the budget in Exhibit B.1., payment for eligible operating expenses shall not exceed the operating deficit (total eligible costs less fare revenues). The Department will reimburse 100% of these eligible expenses.
- 5.6 **Request for Payment.** The Contractor shall submit a request for payment to the State on a form specified by the State on a biweekly, monthly, or quarterly basis, together with all information to support the request. Such requests for payment shall be properly completed and signed. Requests for payments must be for allowable costs only as defined in 2 CFR Part 225 (formerly OMB Circular A-87). No requests for advance payment will be accepted by the State. Upon receipt of the request for payment, the State shall review the request to make an initial determination of the allowability of costs. In connection with this review, the State may demand production of (and the Contractor shall produce) and inspect any documents and records described in Section 4. Within 30 days of receipt of the request for payment and other documents and records required by the State, the State shall approve, deny in part or approve in part the amount due and owing to the Contractor and shall pay said approved amount, subject to other provisions of this Agreement.
- 5.7 **Final Payment.** Satisfactory acceptance by the State and FTA of all reports required by this Agreement is a condition precedent to final payment (i.e., payment for the last month or portion thereof of this Agreement). All reports will be prepared to the satisfaction of the State and FTA. The final payment may be retained and withheld pending receipt and satisfactory acceptance of all reports required by this Agreement and resolution of all pending matters.
- C.3.** Amend P-37 **Section 6 "Compliance by Contract With Laws and Regulations/Equal Employment Opportunity"** by adding the following:
- 6.4 The provisions of the Office of Management and Budget Circular A-102, 49 CFR Part 18, shall apply to administration of this agreement and any subcontracts under this agreement.
- 6.5 The Contractor shall comply with all applicable federal and state statutes, rules, and regulations prohibiting discrimination in Employment or public accommodation.
- C.4.** Amend P-37 **Section 10 "Termination"** by adding the following after the original, unnumbered paragraph:
- 10.1 The termination report must be accepted by the State and FTA prior to final payment.
- 10.2 **Termination; Liability.** In the event of termination under Section 8 or Section 10.6 of this Agreement, the acceptance of a Termination Report by the State shall in no event relieve the Contractor from any and all liability for damages sustained or incurred by the State as a result of the Contractor's breach of its obligations hereunder, including refund of any federal funds required by FTA.
- 10.3 **Completion of Services; Payment of Price.** Excepting those obligations of the Contractor which, by the terms of this Agreement, do not expire on the Completion Date, upon the completion of the Services and

upon payment of the Contract Price, this Agreement, and all obligations of the parties hereunder, shall cease and shall be without recourse to the parties hereto.

- 10.4 **Relinquishing of Name.** The Contractor shall relinquish any and all interest in and to the name "East-West Express", and all substantially similar variants thereof, and all branding, marketing concepts, designs, logos, campaigns and any other advertising or commercial identification concept, and shall assign the same to the State upon the termination of this Agreement.
- 10.5 **Project Equipment.** At the end of the contract term or any extension or renewal thereof, or other sooner termination of the Contract, the Contractor agrees to deliver any Project Equipment purchased with State/Federal funds under this contract to the State.
- 10.6. **Termination Procedures/Requirements.** The contract shall continue to remain in force and effect for the entire three (3) year period specified and any subsequent extension period, unless terminated sooner in one of the following ways:
  - a) By the State for cause if the Contractor is in material breach of a term or terms of the contract which is/are not corrected within thirty (30) days of written notice to cure given by the State to the Contractor;
  - b) By the Contractor for cause if the State is in material breach of a term or terms of the contract which is/are not corrected within thirty (30) days of written notice to cure given by the Contractor to the Department;
  - c) Notwithstanding any language in the Contract to the contrary, the State or Contractor may terminate the Contract without cause upon ninety (90) days written notice; or,
  - d) Upon a mutual determination and agreement that continued performance under the contract is not desirable.
- 10.6.1. In the event of termination under (a) above, the State may engage the services of others to continue work for the balance of the contract period, and the Contractor shall compensate the State for the actual costs to reissue a subsequent Request for Proposal (RFP) to secure another Contractor to provide the service(s).
- 10.6.2. In the event of termination under (b) above, the Contractor may pursue all of its remedies at law or in equity. Damages consisting of anticipated profits and amounts for the purchase of equipment will not be paid under any circumstances.
- 10.6.3. In the event of termination under (c) above, if the Contractor terminates the contract within the first twelve months of the contract term, even with having provided 90 days notice, the Contractor agrees to compensate the State for the actual costs to reissue a subsequent RFP to secure another Contractor to provide the service(s).
- 10.6.4. In the event of termination under (d) above, the termination shall take effect 60 days after the parties reach a mutual determination to terminate. Upon the termination taking effect, both parties shall, effective the date of the termination, be exonerated of any and all further liabilities and/or obligations under the contract.
- 10.6.5. As applicable, a minimum of sixty (60) days prior to the expiration or termination of the contract under (c) or (d) above, the Contractor shall provide to the State a complete and accurate inventory of all equipment, furniture, and supplies used to support the contracted service. The Contractor shall also provide a complete and accurate inventory of all categories of documents related to contracted service including but not limited to manuals, procedures, reports, databases, etc. Copies of all documents shall be provided to the State prior to the termination of service, as requested.

**C.5.** Amend P-37 **Section 12 "Assignment/Delegation/Subcontracts"** by adding the following after the original, unnumbered paragraph:

- 12.1 The failure of a transferee of any other successor in interest to the Contractor to assume the obligations of the Contractor hereunder or to obtain the approval of the State as herein required shall not relieve such transferee or successor of such obligations or limit the State with respect to any right, remedies or controls it may have under this Agreement.
- 12.2 Any transfer by operation of law or otherwise of the Contractor's interest in this Agreement or of a controlling interest in the Contractor's ownership so as to permit the exercise of substantial managerial influence over the operations of the Contractor by such transferee shall be deemed a transfer of the Contractor's interests in the Premises for the purposes of this Article. The Contractor agrees to comply with the requirements of the laws of New Hampshire regarding the filing of updated beneficial interest disclosure statements.
- 12.3 The Contractor shall cause the provisions of this contract to be inserted in all subcontracts for any work covered by this Agreement so that the provisions will be binding on each subcontractor; provided, however, that the foregoing provisions shall not apply to subcontractors for standard commercial supplies or raw materials.
- 12.4 This Agreement and the covenants and conditions herein contained shall inure to the benefit of and be binding upon the Contractor, its successors and assigns, and shall be binding upon the Contractor, its successors and assigns, and shall inure to the benefit of the Contractor and only such transferee of the Contractor as are permitted hereunder.

**C.6.** Amend P-37 **Section 13 "Indemnification"** by adding the following after the original, unnumbered paragraph:

- 13.1 The Contractor agrees to indemnify and hold the State harmless from and against all bills for labor performed and equipment, fixtures, and materials furnished to the Contractor, and from and against any and all liens, bills, or claims therefore or against the Premises, and from and against all losses, damage, costs, expenses, suits, and claims whatsoever in connection with any improvements or alterations made by the Contractor during the term of this Agreement.

**C.7.** Amend P-37 **Section 14 "Insurance"** by adding the following:

- 14.4 The Contractor shall procure and maintain insurance in standard policies of the kinds and in the amounts hereinafter provided, with financially sound and responsible insurance companies authorized to do such business in the State. The Contractor shall furnish to the State a certificate or certificates of insurance in form satisfactory to the State showing compliance with this Section. All such policies shall contain endorsements providing substantially that (a) such policies may not be reduced, cancelled, materially changed, or allowed to lapse with respect to the State except after thirty (30) days' prior written notice to the State; and (b) the State may, but shall not be obligated to, make premium payments to prevent such cancellation for non-payment of premiums, and that such payments shall be accepted by the insurer.
- 14.5 The Contractor will be solely responsible for payment of all deductibles and self-insured retentions (if any) to which such policies are subject. Deductibles and self-insured retentions must be approved by the State. Such approvals shall not be unreasonably withheld.
- 14.6 As applicable, the Contractor shall obtain and keep in full force and effect throughout the term of this Agreement insurance upon the Contractor's personal property, fixtures and furnishings located upon the Premises, in an amount equal to one hundred percent (100%) of the full replacement cost thereof, with coverage against such perils, casualties, and contingencies as are from time to time customarily covered by "all risk" insurance policies

- 14.7 **Additional Insurance.** Throughout the term of this Agreement, the Contractor shall carry automobile liability insurance in the minimum amounts required by law, and such other insurance as required by law.
- 14.8 The Contractor's insurance policies shall contain only such "deductibles" as the State shall reasonably approve.
- 14.9 Duly executed certificates of the insurance required by this section, together with reasonably satisfactory evidence of payment of premiums, shall be delivered to the State before the commencement date of this Agreement. At least thirty (30) days prior to the expiration of each such insurance policy, the Contractor shall furnish the State with evidence of payment of premium and the re-issuance of a policy continuing the insurance in force as required hereunder. All such policies shall contain endorsements providing substantially that (a) such policies may not be reduced, canceled, materially changed, or allowed to lapse with respect to the State except after thirty (30) days' prior written notice to the State; and (b) the State may, but shall not be obligated to, make premium payments to prevent such cancellation for non-payment of premiums, and that such payments shall be accepted by the insurer.
- 14.10 **Personal Property at the Contractor's Risk.** All of the furnishings, fixtures, equipment, effects, and property of every kind, nature and description of the Contractor shall be at the sole risk and hazard of the Contractor, and if the whole or any part thereof shall be destroyed or damaged by fire, water, or otherwise, or by the leakage or bursting of water pipes, no part of said loss or damage is to be charged to or to be borne by the State.

C.8. Amend P-37 by adding "**Definitions**" as section 25:

## 25. DEFINITIONS

**Commencement Date:** Commencement of the Services shall begin upon issuance of a Notice to Proceed by the State and, except as otherwise specifically provided for herein, all services, including all reports required by this Agreement, shall be completed in their entirety prior to the Completion Date.

**Completion Date:** Completion date of the contract shall be three (3) years after the Commencement Date. Upon the Completion Date, the Contractor shall return all project equipment to the State.

**Effective Date:** Notwithstanding any provision of this Agreement to the contrary, and subject to the approval of the Governor and Executive Council of the State of New Hampshire, this Agreement, and all obligations of the parties hereunder, shall not become effective until the date the Governor and Executive Council approve this Agreement. If the Contractor commences the Services prior to the Effective Date, all Services performed by the Contractor prior to the Effective Date shall be performed at the sole risk of the Contractor, and in the event that this Agreement does not become effective, the State shall have no liability to the Contractor, including without limitation, any obligation to pay the Contractor for any costs incurred or Services performed.

**Eligible Expenses:** As defined by prevailing Federal and State laws and regulations and shall not be incurred, and are therefore not reimbursable, until after the State has issued its Notice to Proceed.

**Facilities:** Bus terminals located at the Premises.

**Notice to Proceed:** Written notification from the State to the Contractor authorizing commencement of contracted services. This issuance is contingent upon the approval of this project's Federal Transit Administration's grant agreement and shall not be issued prior to official grant execution.

**Premises:** The Portsmouth Transportation Center, Epping Park & Ride lot, Manchester-Boston Regional Airport (MBRA), and the Downtown (Canal Street) Manchester Transportation Center identified as the fixed stops and as shown in Exhibit D. (Note: The Portsmouth Transportation Center and Epping Park & Ride Lot are State-owned.)

**Project Equipment:** Includes vehicles identified in Exhibit A that are utilized in these Services, as well as any items purchased using State or Federal funds for use in the same.

- C.9.** Amend P-37 by adding "ACCOUNTING, BOOKKEEPING, AND REPORTING REQUIREMENTS" as section 26:

**26. ACCOUNTING, BOOKKEEPING, AND REPORTING REQUIREMENTS**

- 26.1 **Bookkeeping.** Contractor and/or subcontractors shall establish and maintain accounting and bookkeeping documents as required by the State. The Contractor shall maintain payroll information, time sheets, and accounts payable and receivable documents to support requests for reimbursement and make them available upon request by the State. All such documentation related to this Contract, including invoices for monthly operations expenses incurred, shall be kept separate from non-East-West Express documentation.
- 26.2 **Maintenance of Records.** The contractor shall keep and maintain the records, documents, and accounts described herein between the Effective Date and the Completion Date and for a period of three years after the Completion Date or the date of resolution of all matters relating to this Agreement, whichever is later. The Contractor shall maintain, and make available to the State and Federal Transit Administration (FTA), records relating to complaints and comments received from the public. In the event the State disputes the Contractor's operations or records as submitted for payment or otherwise, final resolution shall rest with the State.
- 26.3 **Audits and Inspections.** Between the Effective Date and the Completion Date, and for a period of three (3) years after the FTA grant is closed or the date of resolution of all matters relating to this Agreement, whichever is later, at any time during the Contractor's normal business hours, and as often as the State or FTA may demand, the Contractor shall make available to the State and FTA or their designees all records pertaining to matters covered by this Agreement. The Contractor shall permit the State and FTA to audit, examine, and reproduce such records, and to make audits of all contracts, invoices, materials, payrolls, records of personnel, data and other information relating to all matters covered by this Agreement. Review of accounting books and supporting records will be made at dates convenient to the Contractor and reviewers. Financial information so obtained will be treated as confidential to the full extent permitted under RSA 91-A. As used in this paragraph, "Contractor" includes all persons, natural or fictional, affiliated with, controlled by, or under common ownership with, the entity identified as the Contractor in this Agreement.
- 26.4 **FTA Reporting.** The Contractor agrees to conform to the reporting system and uniform system of accounts and records required by FTA including, but not limited to, 49 USC S. 5335(a) for FTA's National Transit Database (NTD) and FTA regulations at 49 CFR Part 630. In reference to NTD reporting, the Contractor shall report NTD data directly and shall collect all financial and operational data required for satisfactory submission of NTD reports. It shall be the responsibility of the Contractor to ensure that all reported data meets FTA definitions and requirements for accuracy and submission deadlines. The Contractor can review NTD requirements on the FTA website.
- 26.5 **NHDOT Reporting.** The Contractor shall provide monthly reports showing revenue service characteristics including, but not limited to, the number of trips, revenue hours, and revenue miles operated; ridership; on-time performance; and operating costs on forms to be provided by or approved by the State. The State reserves the right to request additional data and modify required or approved reporting formats.

- C.10.** Amend P-37 by adding "Project Equipment" as section 27:

**27. PROJECT EQUIPMENT**

- 27.1 The following terms and conditions apply to all equipment and real property purchased in whole or in part with funds provided through this or other Agreements between the State and the Contractor:

- 27.1.1 All procurements shall be made in accordance with 49 CFR Part 18 and FTA Circular 4220.1F and future amendments, and with Buy America requirements, 49 CFR Part 660.
- 27.1.2 Capital Equipment, as defined by FTA, with a cost in excess of five hundred dollars (\$500) per unit may be purchased by the Contractor subject to the prior written approval of the State upon submission of a required procurement form.
- 27.1.3 Title to all project equipment procured with project funds shall be in the name of the State and shall be labeled as East-West Express.
- 27.2 The Contractor shall maintain a current inventory listing of all nonexpendable property involved in this Agreement. The Contractor shall submit to the State an annual certification that the equipment is and will continue to be used in accordance with the terms of the Agreement.

**C.11. Amend P-37 by adding "Premises & Facilities" as section 28:**

**28. PREMISES & FACILITIES**

- 28.1 **Rights Reserved by State.** The State reserves all rights, privileges, and responsibilities regarding all State-owned Premises as defined in this Contract.
- 28.2 **Scope of Services requires utilization and access to Premises.** Contractor shall have no obligation to manage or operate Premises or Facilities but shall utilize Premises for contracted service. All matters regarding the usage, condition, or enhancements to the Premises or Facilities shall require approval of and be coordinated through the State and respective facility operators. The Contractor shall work cooperatively with the State and contracted facility operators with respect to required access, usage and impacts of the Contracted Service. The Contractor shall not perform any act or any practice that may injure the Premises and shall, in its use of the Premises, comply with the requirements of all applicable governmental laws, rules, and regulations.
- 28.3 **Access to Premises.** The Contractor shall access and utilize the identified Premises in a manner that is consistent with Exhibit D provided in this Contract and/or guidelines set forth by the State and/or each facility operator. The Contractor may request to change pick-up locations and egress within the parking areas of any scheduled location. However, the State must approve such changes in writing before such changes are implemented. The State reserves the right to establish, and require the Contractor to implement, alternative pick-up locations or entrance/egress routes as the State deems necessary.
- 28.4 **Operation within Premises.** Contractor shall operate within and utilize the Premises in accordance with each facility operator's protocols and reasonable guidelines.
- 28.5 **Privacy Expectation.** The Contractor acknowledges that the State has installed, or has the right to install, surveillance cameras in the Bus Terminals and on the Premises and understands that as such, the Contractor and its employees, agents, and representatives shall have no expectation of privacy in the Bus Terminals or on the Premises. The surveillance cameras and any recordings made thereby constitute the private property of the State.
- 28.6 **Commission Rates.** The Contractor shall pay applicable commission rates at all State-contracted Facilities and Premises at a rate that is revised semi-annually by the State. The Contractor shall reimburse the contracted facility operators on a monthly basis for fees associated with usage of the facilities under their management.
- 28.7 **Rights to Operate.** The Contractor will be responsible for obtaining rights to operate in the Portsmouth-Manchester corridor, within the Manchester-Boston Regional Airport, and to other facilities as needed.

- C.12.** Amend P-37 by adding "**Equipment Maintenance**" as section 29:

**29. EQUIPMENT MAINTENANCE**

29.1 **Contractor Responsibility.** Contractor shall be responsible for the maintenance and repair of all equipment used in the service described in Exhibit A. Contractor shall maintain all such equipment at a high level of cleanliness, safety, and mechanical soundness. The Contractor shall adhere to vehicle manufacturers' maintenance standards at a minimum. The Contractor further agrees to maintain, repair, or make any physical improvement to equipment as requested by the State to maintain them in safe operating condition. Qualified personnel possessing proper licenses and certificates shall perform all vehicle maintenance. The State, FTA, and/or their designees shall have the right to conduct periodic inspections for the purpose of confirming proper maintenance and repair and utilization of project funds for such maintenance.

29.2 **Service Interruptions.** The Contractor shall be responsible for providing all materials, supplies, equipment, and labor required to properly maintain the vehicles. Repairs to vehicles shall be made in a timely manner and temporary substitute vehicles shall meet ADA requirements and shall be provided by the Contractor to avoid any interruption of the service.

- C.13.** Amend P-37 by adding "**Repair Records and Reports**" as section 30:

**30. REPAIR RECORDS AND REPORTS**

The Contractor shall maintain a complete and up-to-date record of all equipment repairs, and shall make such records available to the State and FTA upon request.

- C.14.** Amend P-37 by adding "**Vehicle Storage**" as section 31:

**31. VEHICLE STORAGE**

The Contractor shall park or garage each vehicle at a facility under its control or other secure location approved by the State. The Contractor shall also ensure that each vehicle will be parked or garaged in such a manner that its daily operations are not impaired or curtailed by conditions of weather or any other circumstance.

- C.15.** Amend P-37 by adding "**Training and Driver Review**" as section 32:

**32. TRAINING AND DRIVER REVIEW**

The contractor shall maintain a training program satisfactory to the State, and its personnel shall participate in training courses deemed necessary by the State. The Contractor agrees that the State shall have the right to review the performance of all drivers who are employed in connection with this Agreement, and to disallow the use of any driver whose performance as a driver is determined to be unsatisfactory by the State. Notwithstanding any other driver training, the Contractor shall ensure that drivers are trained to proficiency with respect to Americans with Disabilities Act (ADA) requirements as set forth in 49 CFR 37.173.

- C.16.** Amend P-37 by adding "**Safety Requirements**" as section 33:

**33. SAFETY REQUIREMENTS**

- 33.1 **Equipment Standards.** All project equipment shall be inspected and certified by the Department of Safety, and shall meet all applicable Federal Motor Vehicle Safety Standards and Federal Motor Carrier Safety Regulations as required by the United States Department of Transportation, and by the New Hampshire Department of Safety under RSA 266:72-a, in the operation of all project equipment.
- 33.2 **Accident Notification.** The Contractor shall provide the State with full and prompt written notification of any accident involving any vehicle used in its services pursuant to this Agreement. In addition, the Contractor shall report any accident in compliance with State law.
- 33.3 **Drug and Alcohol Testing.** The Contractor shall submit to the State by February 15 of each year a report covering the previous year (January through December 31), summarizing the results of its alcohol and drug testing programs on FTA approved forms, in compliance with 49 CFR Part 655.
- 33.4 **Communications Equipment.** The Contractor shall install and/or maintain communications equipment such as two-way radios, cellular telephones, or like equipment that will enable communication between drivers and supervisors at administrative, maintenance, and storage facilities, but shall not compromise the safety of its passengers.

**C.17.** Amend P-37 by adding "**Service Limitations**" as section 34:

#### **34. SERVICE LIMITATIONS**

- 34.1 With regard to the Project Equipment used pursuant to this Agreement, the Contractor shall not engage in the provision of transportation services other than those described in Exhibit A, or outside the service area described in Exhibit A, without the written consent of the State and without obtaining the appropriate operating authority. The Contractor shall not engage in charter or school bus operations with any Project Equipment as detailed in Exhibit A.
- 34.2 The Contractor will adhere to NHDOT Public Comment Procedures, attached as Exhibit E or as amended by the State, prior to implementing a proposed major service reduction and/or fare increase, temporary change in service levels, or experimental or interim service.

**C.18.** Amend P-37 by adding "**Grant Obligations**" as section 35:

#### **35. GRANT OBLIGATIONS**

The Contractor agrees that any duty imposed upon the State by the United States Department of Transportation through the FTA Master Agreement, including any amendments, is hereby made an obligation of the Contractor.

**C.19.** Amend P-37 by adding "**Contractor Representations**" as section 36:

#### **36. CONTRACTOR REPRESENTATIONS**

Contractor warrants that with respect to the Services to be performed, it has obtained all licenses, permits, or approvals which are required by any law, order or regulation of any authority, state or federal, or which may be necessary for the performance of the Services hereunder. The Contractor warrants that all personnel engaged in the Services shall be qualified to perform such Services, and shall be properly licensed and authorized to perform such Services under all applicable laws.

**C.20.** Amend P-37 by adding "**Brokerage Representation**" as section 37:

### **37. BROKERAGE REPRESENTATION**

The Contractor warrants that it has not employed or retained any company or person, other than a bona-fide employee working solely for the Contractor, to solicit or secure this Agreement; and that it has not paid or agreed to pay any company or person, other than a bona-fide employee working solely for the Contractor, any fee, commission, percentage, brokerage fee, gifts or any other consideration, contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, the State shall have the right to annul this Agreement without liability, or, in its discretion to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage, brokerage fee, gift, or contingent fee.

**C.21.** Amend P-37 by adding "**Conflict of Interest**" as section 38:

### **38. CONFLICT OF INTEREST**

No officer, member, or employee of the Contractor, and no representative, officer, or employee of the State of New Hampshire or of the governing body of the locality or localities in which the Services are to be performed, who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of such Services, shall participate in any decision relating to this Agreement which affects his or her personal interest or the interest of any corporation, partnership, or association in which he or she has any personal or pecuniary interest, direct or indirect, in this Agreement or the proceeds thereof. No member or delegate to the Congress of, officer of, or employee of, the United States of America shall be admitted to any share, part, or benefit arising from this Agreement.

**C.22.** Amend P-37 by adding "**State's Liability**" as section 39:

### **39. STATE'S LIABILITY**

No official, employee, or consultant of the State of New Hampshire shall be personally liable to the Contractor or to any partner or shareholder thereof, or to any successor in interest or person claiming through or under the Contractor or any partner or shareholder thereof, in the event of any default or breach of this Agreement, or for any amount which may become due or on any claim, cause, or obligation whatsoever under the terms of this Agreement.

**C.23.** Amend P-37 by adding "**Force Majeure**" as section 40:

### **40. FORCE MAJEURE**

In any case where either the State or the Contractor is required to perform any act, delays caused by or resulting from war, fire, flood, unusually severe weather, strikes, or other causes beyond such party's reasonable control shall not be counted in determining the time during which such act shall be completed whether such time be designated by a fixed date, a fixed time, or a "reasonable" time, and such time shall be deemed to be extended by the period of delay.

**C.24.** Amend P-37 by adding "**Headings**" as section 41:

### **41. HEADINGS**

The headings throughout the Agreement are for reference purposes only, and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

- C.25.** Amend P-37 by adding "**Partial Invalidity**" as section 42:

**42. PARTIAL INVALIDITY**

If any term of this Agreement, or the application thereof to any person or circumstances, shall to any extent be invalid or unenforceable, the rest of this Agreement shall not be affected thereby, and each term of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

- C.26.** Amend P-37 by adding "**Recording**" as section 43:

**43. RECORDING**

The State and the Contractor agree not to record this Agreement. Both parties will, at the request of either, execute, acknowledge and deliver a Notice of Agreement in recordable form. Such notice shall contain only the information required by law for recording a notice of lease.

- C.27.** Amend P-37 by adding "**No Agreement Until Signed**" as section 44:

**44. NO AGREEMENT UNTIL SIGNED**

No legal obligations shall arise with respect to the Premises or other matters herein until this Agreement is executed and delivered by the State and the Contractor, with all required signatures.

- C.28.** Amend P-37 by adding "**Successors and Assigns**" as section 45:

**45. SUCCESSORS AND ASSIGNS**

This Agreement and the covenants and conditions herein contained shall insure to the benefit of and be binding upon the Contractor, its successors and assigns, and shall be binding upon the Contractor, its successors and assigns, and shall insure to the benefit of the Contractor and only such transferee of the Contractor as are permitted hereunder.

- C.29.** Amend P-37 by adding "**State Employees Barred From Interest**" as section 46:

**46. STATE EMPLOYEES BARRED FROM INTEREST**

No official, employee or consultant of the State of New Hampshire shall have any personal interest, direct or indirect, in this Agreement or the Contractor, nor shall any such official, employee or consultant participate in any decision relating to this Agreement which affects their personal interest or the interests of any corporation, partnership, or association in which they are directly or indirectly interested.

- C.30.** Amend P-37 by adding "**Counterparts**" as section 47:

**47. COUNTERPARTS**

This Agreement may be executed in any number of counterparts and each of such counterparts shall, for all purposes, be deemed to be an original and all such counterparts shall together constitute but one and the same Agreement.

- C.31.** Amend P-37 by adding "**The State's Right to Perform the Contractor's Obligations**" as section 48:

**48. THE STATE'S RIGHT TO PERFORM THE CONTRACTOR'S OBLIGATIONS**

If the Contractor fails to perform any of its obligations under this Agreement within the time permitted for its performance, then the State after ten (10) days' prior written notice to the Contractor (or, in the case of any emergency, upon such notice or without notice, as may be reasonable under the circumstances) and without waiving any of its rights under this Agreement, may (but will not be required to) pay such amount or perform such obligation.

**C.32.** Amend P-37 by adding "Reimbursement of the State by the Contractor" as section 49:

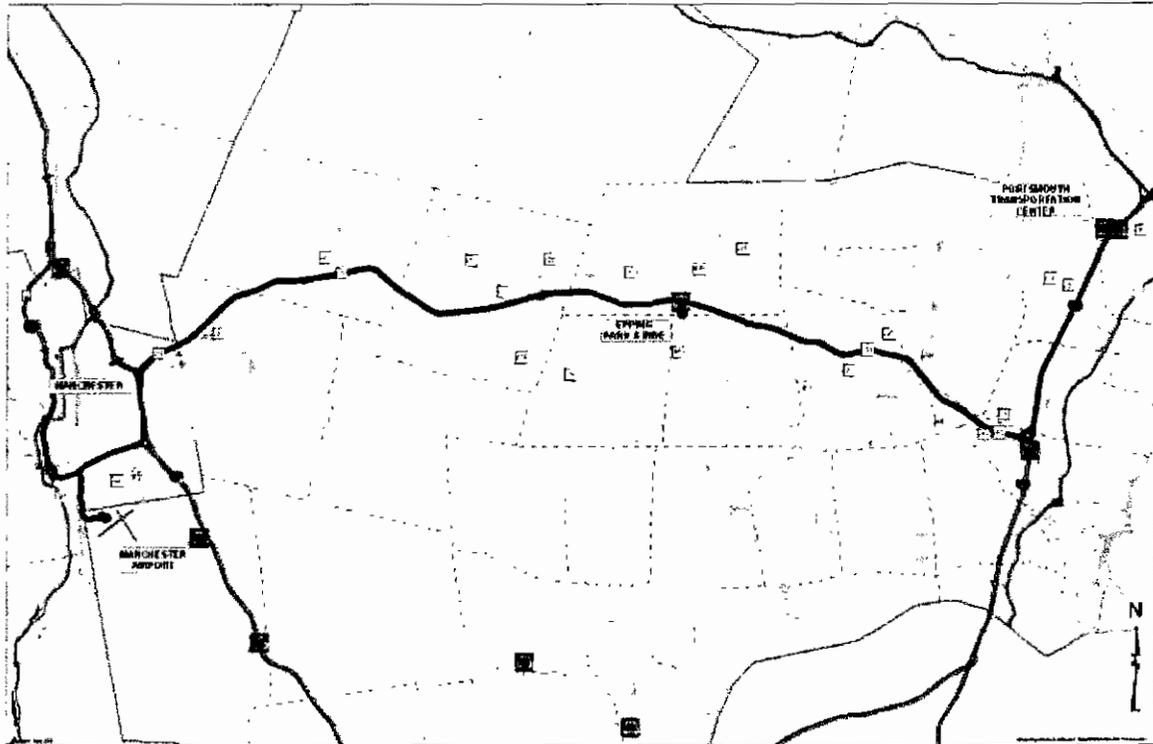
**49. REIMBURSEMENT OF THE STATE BY THE CONTRACTOR**

All amounts paid by the State and all costs and expenses incurred by the State in connection with the performance of any such obligations will be payable by the Contractor to the State on demand.



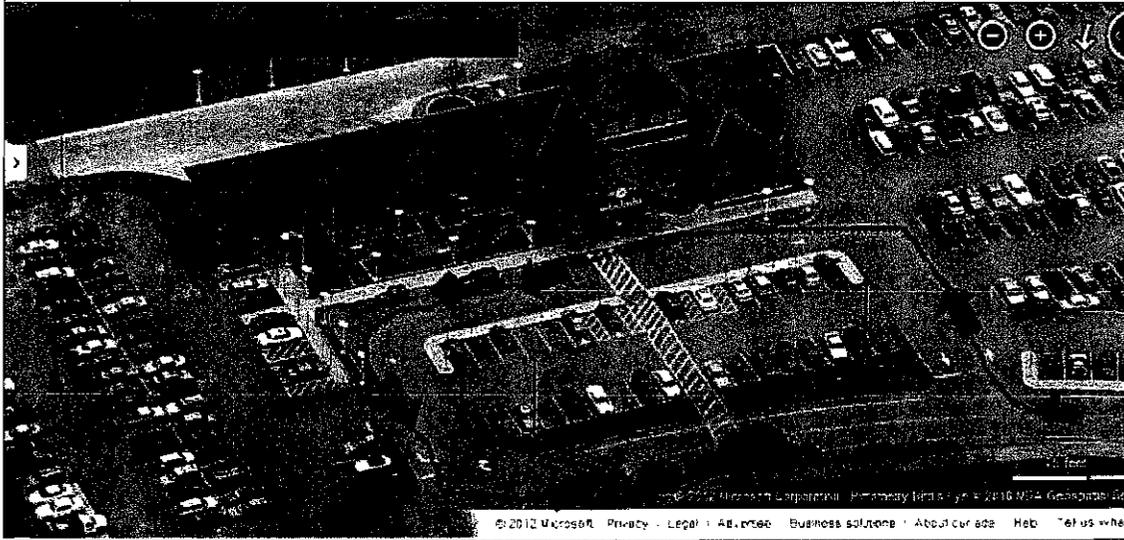
**EXHIBIT D: PREMISES, ROUTES, AND PICKUP/DROP-OFF LOCATIONS**

# E-W Express Bus Route





# Portsmouth Transportation Center Main Terminal



◆ = East-West Express pickup

# Portsmouth Transportation Center Bus Route - Main Terminal



◆ = East-West Express pickup



# Portsmouth Transportation Center Overflow Terminal



◆ = East-West Express pickup

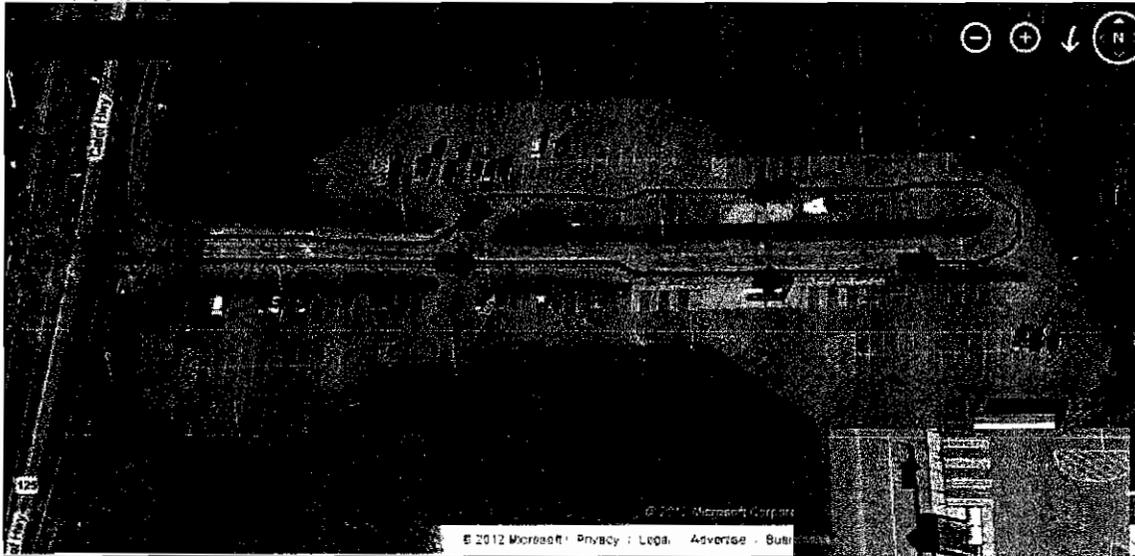
# Portsmouth Transportation Center Bus Route - Overflow Terminal



◆ = East-West Express pickup



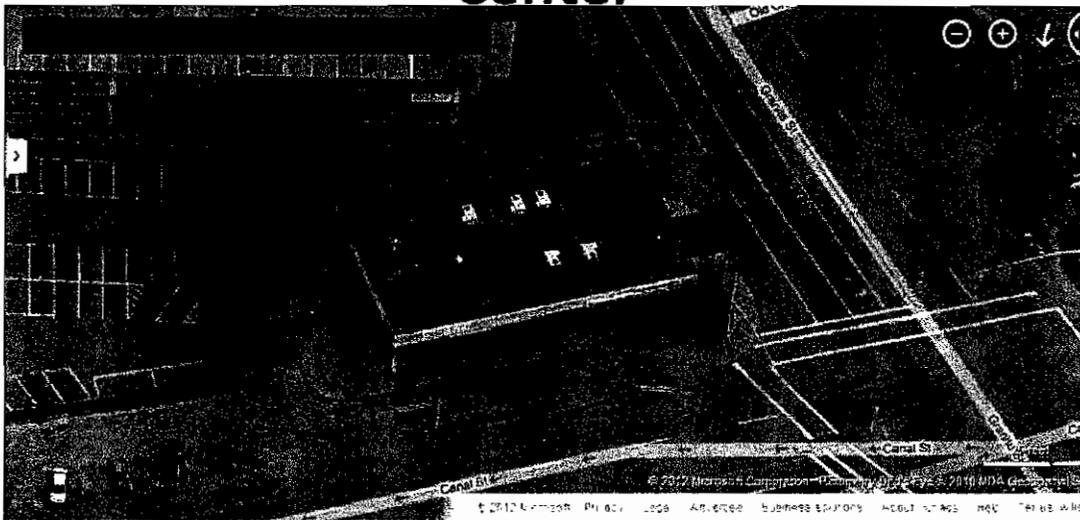
## Epping Park & Ride



◆ = East-West pickup



## Manchester Transportation Center



◆ = East-West Express pickup (exit on Granite St. to proceed to Route 293 South)



# Manchester-Boston Regional Airport (MBRA)



◆ = East-West Express pickup



## EXHIBIT E: NHDOT PUBLIC COMMENT PROCEDURES



### New Hampshire Department of Transportation

#### Commuter Bus Service Public Comment Procedures

**Overview.** Federal Transit Administration (FTA) grantees are required to develop a local process to solicit and consider public comment prior to a fare increase or major service reduction. This document describes when an opportunity for a public hearing will be provided, how hearings will be conducted, and how the results of hearings will be considered in the decision-making process.

The Department of Transportation provides commuter bus service through a contract with Flight Line, Inc. The Department and Flight Line, Inc. welcome and encourage citizen input into service planning. Their objective is to be proactive and provide complete information, timely public notice, and opportunities for meaningful public involvement.

**Notice Requirements.** A "major service reduction" is defined as greater than a 25% reduction in either the service miles or the service hours of any established route provided by Flight Line, Inc. for the Department. Flight Line, Inc. will provide the opportunity for public comment on major service reductions and/or fare increases by posting notices on all commuter coaches, in bus terminals, and on its website and publication in a local newspaper of general circulation. The notice will explain the service reduction and/or fare increase proposed and will include a statement that members of the public may request a public hearing on the changes. A period of not less than 14 calendar days will be allowed for written public hearing requests.

Flight Line, Inc. may, with Department approval, temporarily change service levels to reflect emergency or other operating conditions without providing for public participation. Except in those situations where advanced notification is impractical, Flight Line, Inc. will notify the public of changes by posting notices in all commuter coaches and other means designed to inform the public.

Flight Line, Inc. may, with Department approval, undertake experimental or interim service up to six months without providing for a formal public comment process. If such service proves ineffective it may be eliminated during or at the end of the six-month trial period without providing for public participation.

Promotional fares may be provided to introduce new or expanded service for limited periods up to six months and may be increased at the end of such period without a formal public comment process.

**Public Comments.** While written comments will be encouraged, Flight Line Flight Line, Inc. will also keep records of the approximate number and nature of verbal comments received. Flight Line, Inc. or the Department will respond to written comments as soon as practicable. Flight Line, Inc. and the Department will consider each suggestion made in public comments and explain in responses the reasons why it may or may not be implemented. Written comments may be provided on suggestion or other forms or in other formats.

**Public Hearings.** The Department will determine the need for a public hearing or public informational meeting based on the number of comments or requests for a public hearing Flight Line, Inc. or the Department receives. The hearing will be properly advertised according to Department policies and procedures. The notice will include a description of the proposed action, its purpose, and any information and relevant data.

Public hearings will be designed to provide a means to inform the public of the basis for proposed actions, and the hearings will not be designed to be adversarial in nature. The public hearing will be conducted in an orderly manner under the control of the Department or Flight Line, Inc. staff. An audio recording of the proceedings will be made and a copy of the audio recording, written public testimony and any other written material will be available to the public for examination at the Department of Transportation.

The Department may take necessary steps in the conduct of the hearing to assure that all who desire to speak may be heard. Written comments will be accepted for seven (7) calendar days following the public hearing, regardless of whether or not respondents participated in the public hearing.

**Final Actions.** Following the hearing and the receipt and consideration of comments, Flight Line, Inc. will present a recommended action to the Department. The Department has the authority to approve, revise, or deny the recommended action.

# State of New Hampshire

## Department of State

### CERTIFICATE

I, William M. Gardner, Secretary of State of the State of New Hampshire, do hereby certify that FLIGHT LINE INC. doing business in New Hampshire as FLIGHT LINE GROUND TRANSPORTATION SERVICES, a(n) Massachusetts corporation, is authorized to transact business in New Hampshire and qualified on May 22, 1992. I further certify that all fees and annual reports required by the Secretary of State's office have been received.



In TESTIMONY WHEREOF, I hereto set my hand and cause to be affixed the Seal of the State of New Hampshire, this 6<sup>th</sup> day of April, A.D. 2012

A handwritten signature in cursive script, appearing to read "William Gardner".

William M. Gardner  
Secretary of State



Flight Line, Inc

**CERTIFICATE OF VOTE**

I, **Kathleen M Dowd**, hereby certify that I am the Sole Owner of the company known as **Flight Line, Inc.**

I hereby further certify and acknowledge that the State of New Hampshire will rely on this certification as evidence that **James Dowd III** is **President of Flight Line, Inc.**, and has full authority to bind Flight Line, Inc., and that no corporate resolution, shareholder vote, or other document or action is necessary to grant such authority.

As such, **James Dowd III** is duly authorized to enter into contracts with the State of New Hampshire Department of Transportation, and to sign and otherwise fully execute such acceptances and contracts and any related documents, and such authority existed on October 1, 2012.

Signed: Kathleen M. Dowd  
Kathleen M. Dowd, Owner, Flight Line, Inc.

Date: 10-26-2012

STATE OF NEW HAMPSHIRE  
COUNTY OF Rockingham

On this the 26 day of October 2012, before me Jody P Ronayne, undersigned officer, personally appeared Kathleen M. Dowd, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged that he/she executed the same for the purposes therein contained.

In witness whereof I hereunto set my hand and official seal.

Jody P Ronayne  
Notary Public

Date 10/26/12

JODY RONAYNE, Notary Public  
My Commission Expires February 2, 2016





# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
9/28/2012

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> FIAI/Cross Ins-Manchester One Wall Street  Manchester NH 03101		<b>CONTACT NAME:</b> Stacie Hayner <b>PHONE (A/C, No, Ext):</b> (603) 669-3218 <b>FAX (A/C, No):</b> (603) 645-4331 <b>E-MAIL ADDRESS:</b> shayner@crossagency.com	
		<b>INSURER(S) AFFORDING COVERAGE</b>	<b>NAIC #</b>
		<b>INSURER A:</b> Acadia Insurance Group, LLC	31325
		<b>INSURER B:</b> Technology Ins Co, Inc.	
		<b>INSURER C:</b>	
		<b>INSURER D:</b>	
		<b>INSURER E:</b>	
		<b>INSURER F:</b>	

**COVERAGES**      **CERTIFICATE NUMBER:** 12-13 All lines      **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<b>GENERAL LIABILITY</b>			CFA0236633-14	2/1/2012	2/1/2013	EACH OCCURRENCE \$ 2,000,000
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY						DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 250,000
	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR						MED EXP (Any one person) \$ 5,000
	GEN'L AGGREGATE LIMIT APPLIES PER						
	<input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC						GENERAL AGGREGATE \$ 2,000,000
							PRODUCTS - COMP/OP AGG \$ 2,000,000
A	<b>AUTOMOBILE LIABILITY</b>			CAA0239470-14	2/1/2012	2/1/2013	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000
	<input type="checkbox"/> ANY AUTO						BODILY INJURY (Per person) \$
	<input type="checkbox"/> ALL OWNED AUTOS	<input checked="" type="checkbox"/> SCHEDULED AUTOS					BODILY INJURY (Per accident) \$
	<input checked="" type="checkbox"/> HIRED AUTOS	<input type="checkbox"/> NON-OWNED AUTOS					PROPERTY DAMAGE (Per accident) \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB		<input checked="" type="checkbox"/> OCCUR	COA0239472-14	2/1/2012	2/1/2013	Uninsured motorist combined \$ 1,000,000
	<input type="checkbox"/> EXCESS LIAB		<input type="checkbox"/> CLAIMS-MADE				EACH OCCURRENCE \$ 1,000,000
	DED		RETENTION \$				AGGREGATE \$
B	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b>			WVC3018584 (3a.) MA & NH Lisa & James Dowd III excluded	2/1/2012	2/1/2013	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input checked="" type="checkbox"/> OTHER \$
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	<input type="checkbox"/> Y <input checked="" type="checkbox"/> N	N/A				E.L. EACH ACCIDENT \$ 1,000,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE \$ 1,000,000
							E.L. DISEASE - POLICY LIMIT \$ 1,000,000

**DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)**  
 State of NH Department of Transportation, Manchester-Boston Regional Airport & City of Manchester (1 Airport Rd, Suite 300 Manchester, NH 03103), Boston Express, Inc. (7 Langdon St. Concord, NH 03301), Jalbert Leasing, Inc. dba C&J Bus Lines (185 Grafton Dr. Portsmouth, NH 03801) are included as additional insured with respects to the CGL as per written contract. The insurer will endeavor to provide the Contracting officer identified in 1.9 (Patrick Herlihy, Director of Aeronautics and Rail & Transit) or his or her successor, no less than ten (10) days prior written notice of cancellation or modification of the policy. Refer to policy for exclusionary endorsements and special provisions.

<b>CERTIFICATE HOLDER</b>  PHERLIHY@DOT.STATE.NH.US  State of New Hampshire Department of Transportation P.O. BOX 483 Concord, NH 03302	<b>CANCELLATION</b>  SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.  <b>AUTHORIZED REPRESENTATIVE</b>  Jim Watson/JSC 
--	---



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
9/28/2012

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> FIAI/Cross Ins-Manchester One Wall Street  Manchester NH 03101		<b>CONTACT NAME:</b> Stacie Hayner <b>PHONE (A/C No. Ext):</b> (603) 669-3218 <b>FAX (A/C. No.):</b> (603) 645-4331 <b>E-MAIL ADDRESS:</b> shayner@crossagency.com	
<b>INSURED</b> Flight Line, Inc. 51a Pelham Road  Salem NH 03079		<b>INSURER(S) AFFORDING COVERAGE</b> <b>INSURER A:</b> Acadia Insurance Group, LLC <b>NAIC #</b> 31325 <b>INSURER B:</b> Technology Ins Co, Inc. <b>INSURER C:</b> <b>INSURER D:</b> <b>INSURER E:</b> <b>INSURER F:</b>	

**COVERAGES** CERTIFICATE NUMBER: 12-13 All lines REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR		CPA0236633-14	2/1/2012	2/1/2013	EACH OCCURRENCE \$ 2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 250,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000	
	GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC						
	A	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO ALL OWNED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> SCHEDULED AUTOS NON-OWNED AUTOS		CAA0239470-14	2/1/2012	2/1/2013	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ Uninsured motorst combined \$ 1,000,000
	A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$		CUA0239472-14	2/1/2012	2/1/2013	EACH OCCURRENCE \$ 1,000,000 AGGREGATE \$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <input checked="" type="checkbox"/> Y	N/A	N/A	N/A	<input checked="" type="checkbox"/> WC STATU-TORY LIMITS <input checked="" type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000	

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)  
 State of NH Department of Transportation, Manchester-Boston Regional Airport & City of Manchester (1 Airport Rd, Suite 300 Manchester, NH 03103), Boston Express, Inc. (7 Langdon St. Concord, NH 03301), Jalbert Leasing, Inc. dba C&J Bus Lines (185 Grafton Dr. Portsmouth, NH 03801) are included as additional insured with respects to the CGL as per written contract. The insurer will endeavor to provide the Contracting officer identified in 1.9 (Patrick Herlihy, Director of Aeronautics and Rail & Transit) or his or her successor, no less than ten (10) days prior written notice of cancellation or modification of the policy. Refer to policy for exclusionary endorsements and special provisions.

<b>CERTIFICATE HOLDER</b>  PHERLIHY@DOT.STATE.NH.US  Manchester-Boston Regional Airport & City of Manchester 1 Airport Road Suite 300 Manchester, NH 03103	<b>CANCELLATION</b>  SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.  AUTHORIZED REPRESENTATIVE  Jim Watson/JSC 
---	--



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
9/28/2012

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> FIAI/Cross Ins-Manchester One Wall Street  Manchester NH 03101		<b>CONTACT NAME:</b> Stacie Hayner <b>PHONE (A/C No. Ext):</b> (603) 669-3218 <b>FAX (A/C No.):</b> (603) 645-4331 <b>E-MAIL ADDRESS:</b> shayner@crossagency.com	
<b>INSURED</b> Flight Line, Inc. 51a Pelham Road  Salem NH 03079		<b>INSURER(S) AFFORDING COVERAGE</b> <b>INSURER A:</b> Acadia Insurance Group, LLC NAIC # 31325 <b>INSURER B:</b> Technology Ins Co, Inc. <b>INSURER C:</b> <b>INSURER D:</b> <b>INSURER E:</b> <b>INSURER F:</b>	

**COVERAGES** **CERTIFICATE NUMBER:** 12-13 All lines **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADD'L SUBR INSR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY		CPA0236633-14	2/1/2012	2/1/2013	EACH OCCURRENCE \$ 2,000,000
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY					DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 250,000
	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR					MED EXP (Any one person) \$ 5,000
	GEN'L AGGREGATE LIMIT APPLIES PER:					
	<input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PROJ <input type="checkbox"/> LOC					GENERAL AGGREGATE \$ 2,000,000
						PRODUCTS - COM/POP AGG \$ 2,000,000
A	AUTOMOBILE LIABILITY		CAA0239470-14	2/1/2012	2/1/2013	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000
	<input type="checkbox"/> ANY AUTO					BODILY INJURY (Per person) \$
	<input type="checkbox"/> ALL OWNED AUTOS	<input checked="" type="checkbox"/> SCHEDULED AUTOS				BODILY INJURY (Per accident) \$
	<input checked="" type="checkbox"/> HIRED AUTOS	<input type="checkbox"/> NON-OWNED AUTOS				PROPERTY DAMAGE (Per accident) \$
A	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR		CUA0239472-14	2/1/2012	2/1/2013	Uninsured motorist combined \$ 1,000,000
	<input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE					EACH OCCURRENCE \$ 1,000,000
	DED RETENTION \$					AGGREGATE \$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY		WVC3018584 (3a.) MA & NH Lisa & James Dowd III excluded	2/1/2012	2/1/2013	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input checked="" type="checkbox"/> OTHER
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	Y/N				E.L. EACH ACCIDENT \$ 1,000,000
	If yes, describe under DESCRIPTION OF OPERATIONS below	Y				E.L. DISEASE - EA EMPLOYEE \$ 1,000,000
		N/A				E.L. DISEASE - POLICY LIMIT \$ 1,000,000

**DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES** (Attach ACORD 101, Additional Remarks Schedule, if more space is required)  
 State of NH Department of Transportation, Manchester-Boston Regional Airport & City of Manchester (1 Airport Rd, Suite 300 Manchester, NH 03103), Boston Express, Inc. (7 Langdon St. Concord, NH 03301), Jalbert Leasing, Inc. dba C&J Bus Lines (185 Grafton Dr. Portsmouth, NH 03801) are included as additional insured with respects to the CGL as per written contract. The insurer will endeavor to provide the Contracting officer identified in 1.9 (Patrick Herlihy, Director of Aeronautics and Rail & Transit) or his or her successor, no less than ten (10) days prior written notice of cancellation or modification of the policy. Refer to policy for exclusionary endorsements and special provisions.

<b>CERTIFICATE HOLDER</b>  PHERLIHY@DOT.STATE.NH.US  Boston Express, Inc. 7 Langdon Street Concord, NH 03301	<b>CANCELLATION</b>  SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.  AUTHORIZED REPRESENTATIVE  Jim Watson/JSC 
--	--



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
9/28/2012

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> FIAI/Cross Ins-Manchester One Wall Street  Manchester NH 03101		<b>CONTACT NAME:</b> Stacie Hayner <b>PHONE (A/C, No, Ext):</b> (603) 669-3218 <b>E-MAIL ADDRESS:</b> shayner@crossagency.com		<b>FAX (A/C, No):</b> (603) 645-4331
<b>INSURED</b> Flight Line, Inc. 51a Pelham Road  Salem NH 03079		<b>INSURER(S) AFFORDING COVERAGE</b>		<b>NAIC #</b>
		INSURER A: Acadia Insurance Group, LLC		31325
		INSURER B: Technology Ins Co, Inc.		
		INSURER C:		
		INSURER D:		
		INSURER E:		
		INSURER F:		

**COVERAGES** CERTIFICATE NUMBER: 12-13 All lines REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL/SUBR INSR LTR	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR		CFA0236633-14	2/1/2012	2/1/2013	EACH OCCURRENCE \$ 2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 250,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000	
	GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC						
	A	AUTOMOBILE LIABILITY ANY AUTO ALL OWNED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS		CAA0239470-14	2/1/2012	2/1/2013	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ Uninsured motorist combined \$ 1,000,000
		UMBRELLA LIAB <input checked="" type="checkbox"/> EXCESS LIAB DED RETENTION \$		CUA0239472-14	2/1/2012	2/1/2013	OCCUR <input checked="" type="checkbox"/> CLAIMS-MADE AGGREGATE \$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N/A	WVC3018584 (3a.) MA & NH Lisa & James Dowd III excluded	2/1/2012	2/1/2013	<input checked="" type="checkbox"/> WC STATU-TORY LIMITS <input checked="" type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000	

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)  
State of NH Department of Transportation, Manchester-Boston Regional Airport & City of Manchester (1 Airport Rd, Suite 300 Manchester, NH 03103), Boston Express, Inc. (7 Langdon St. Concord, NH 03301), Jalbert Leasing, Inc. dba C&J Bus Lines (185 Grafton Dr. Portsmouth, NH 03801) are included as additional insured with respects to the CGL as per written contract. The insurer will endeavor to provide the Contracting officer identified in 1.9 (Patrick Herlihy, Director of Aeronautics and Rail & Transit) or his or her successor, no less than ten (10) days prior written notice of cancellation or modification of the policy. Refer to policy for exclusionary endorsements and special provisions.

<b>CERTIFICATE HOLDER</b>  PHERLIHY@DOT.STATE.NH.US  Jalbert Leasing, Inc. dba C&J Bus Lines 185 Grafton Drive Portsmouth, NH 03801	<b>CANCELLATION</b>  SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.  AUTHORIZED REPRESENTATIVE  Jim Watson/JSC 
--	--

## **Federal Clauses**

### **Charter Bus Requirements**

These requirements do not apply to micro-purchases (\$3,000 or less, except for construction contracts over \$2,000).

Contractor shall comply with 49 USC 5323(d) and (g) and 49 CFR 604, which state that recipients and subrecipients of FTA assistance may provide charter service for transportation projects that uses equipment or facilities acquired with Federal assistance authorized under the Federal transit laws (except as permitted by 49 CFR 604.2), or under 23 U.S.C. 133 or 142, only in compliance with those laws and FTA regulations, "Charter Service," 49 CFR part 604, the terms and conditions of which are incorporated herein by reference.

### **School Bus Requirements**

These requirements do not apply to micro-purchases (\$3,000 or less, except for construction contracts over \$2,000).

Pursuant to 69 USC 5323(f) and 49 CFR 605, recipients and subrecipients of FTA assistance shall not engage in school bus operations exclusively for transportation of students and school personnel in competition with private school bus operators unless qualified under specified exemptions. When operating exclusive school bus service under an allowable exemption, recipients and subrecipients shall not use federally funded equipment, vehicles or facilities.

### **Energy Conservation**

All Contracts except micro-purchases (\$3,000 or less, except for construction contracts over \$2,000)

Contractor shall comply with mandatory standards and policies relating to energy efficiency, stated in the state energy conservation plan issued in compliance with the Energy Policy & Conservation Act.

### **Clean Water**

All Contracts and Subcontracts over \$100,000

Contractor shall comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 USC 1251 et seq. Contractor shall report each violation to the recipient and understands and agrees that the recipient shall, in turn, report each violation as required to FTA and the appropriate EPA Regional Office. Contractor shall include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with FTA assistance.

### **Lobbying**

Construction/Architectural and Engineering/Acquisition of Rolling Stock/Professional Service Contract/Operational Service Contract/Turnkey contracts over \$100,000

Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, et seq.] - Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.

### **Access to Records and Reports**

Applicability – As shown below. These requirements do not apply to micro-purchases (\$3,000 or less, except for construction contracts over \$2,000)

The following access to records requirements apply to this Contract:

1. Where the purchaser is not a State but a local government and is an FTA recipient or a subgrantee of FTA

recipient in accordance with 49 CFR 18.36(i), contractor shall provide the purchaser, the FTA, the US Comptroller General or their authorized representatives access to any books, documents, papers and contractor records which are pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor shall also, pursuant to 49 CFR 633.17, provide authorized FTA representatives, including any PMO contractor, access to contractor's records and construction sites pertaining to a capital project, defined at 49 USC 5302(a)1, which is receiving FTA assistance through the programs described at 49 USC 5307, 5309 or 5311.

2. Where the purchaser is a State and is an FTA recipient or a subgrantee of FTA recipient in accordance with 49 CFR 633.17, contractor shall provide the purchaser, authorized FTA representatives, including any PMO Contractor, access to contractor's records and construction sites pertaining to a capital project, defined at 49 USC 5302(a)1, which receives FTA assistance through the programs described at 49 USC 5307, 5309 or 5311. By definition, a capital project excludes contracts of less than the simplified acquisition threshold currently set at \$100,000.

3. Where the purchaser enters into a negotiated contract for other than a small purchase or under the simplified acquisition threshold and is an institution of higher education, a hospital or other non-profit organization and is an FTA recipient or a subgrantee of FTA recipient in accordance with 49 CFR 19.48, contractor shall provide the purchaser, the FTA, the US Comptroller General or their authorized representatives, access to any books, documents, papers and record of the contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.

4. Where a purchaser which is an FTA recipient or a subgrantee of FTA recipient in accordance with 49 USC 5325(a) enters into a contract for a capital project or improvement (defined at 49 USC 5302(a)1) through other than competitive bidding, contractor shall make available records related to the contract to the purchaser, the Secretary of USDOT and the US Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.

5. Contractor shall permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

6. Contractor shall maintain all books, records, accounts and reports required under this contract for a period of not less than three (3) years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case contractor agrees to maintain same until the recipient, FTA Administrator, US Comptroller General, or any of their authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Re: 49 CFR 18.39(i)(11).

FTA does not require the inclusion of these requirements in subcontracts.

### **Federal Changes**

All Contracts except micro-purchases (\$3,000 or less, except for construction contracts over \$2,000)

Contractor shall comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between the purchaser and FTA, as they may be amended or promulgated from time to time during the term of the contract. Contractor's failure to comply shall constitute a material breach of the contract.

### **Clean Air**

1) Contractor shall comply with all applicable standards, orders or regulations pursuant to the Clean Air Act, 42 USC 7401 et seq. Contractor shall report each violation to the recipient and understands and agrees that the recipient will, in turn, report each violation as required to FTA and the appropriate EPA Regional Office.

2) Contractor shall include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with FTA assistance.

### **Recycled Products**

All contracts for items designated by the EPA, when the purchaser or contractor procures \$10,000 or more of one of these items during the current or previous fiscal year using Federal funds. The contractor agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962), including but not limited to the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247.

### **Contract Work Hours & Safety Standards Act**

Applicability – Contracts over \$100,000

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

(2) Violation; liability for unpaid wages; liquidated damages - In the event of any violation of the clause set forth in para. (1) of this section, contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable 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 para. (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the clause set forth in para. (1) of this section.

(3) Withholding for unpaid wages and liquidated damages - the recipient shall upon its own action or upon written request of USDOL withhold or cause to be withheld, from any moneys payable on account of work performed by contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours & Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in para. (2) of this section.

(4) Subcontracts - Contractor or subcontractor shall insert in any subcontracts the clauses set forth in this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. Prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this section.

### **No Government Obligation to Third Parties**

Applicability – All contracts except micro-purchases (\$3,000 or less, except for construction contracts over \$2,000)

(1) The recipient and contractor acknowledge and agree that, notwithstanding any concurrence by the US Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the US Government, the US Government is not a party to this contract and shall not be subject to any obligations or liabilities to the recipient, the contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

(2) Contractor agrees to include the above clause in each subcontract financed in whole or in part with FTA assistance. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will

be subject to its provisions.

### **Program Fraud and False or Fraudulent Statements or Related Acts**

Applicability – All contracts except micro-purchases (\$3,000 or less, except for construction contracts over \$2,000)

(1) Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 USC 3801 et seq. and USDOT regulations, "Program Fraud Civil Remedies," 49 CFR 31, apply to its actions pertaining to this project. Upon execution of the underlying contract, contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submittal, or certification, the US Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act (1986) on contractor to the extent the US Government deems appropriate.

(2) If contractor makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submittal, or certification to the US Government under a contract connected with a project that is financed in whole or in part with FTA assistance under the authority of 49 USC 5307, the Government reserves the right to impose the penalties of 18 USC 1001 and 49 USC 5307(n)(1) on contractor, to the extent the US Government deems appropriate.

(3) Contractor shall include the above two clauses in each subcontract financed in whole or in part with FTA assistance. The clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

### **Termination**

Applicability – All Contracts over \$10,000, except contracts with nonprofit organizations and institutions of higher learning, where the threshold is \$100,000

a. Termination for Convenience (General Provision) the recipient may terminate this contract, in whole or in part, at any time by written notice to contractor when it is in the recipient's best interest. Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. Contractor shall promptly submit its termination claim to the recipient. If contractor is in possession of any of the recipient's property, contractor shall account for same, and dispose of it as the recipient directs.

b. Termination for Default [Breach or Cause] (General Provision) If contractor does not deliver items in accordance with the contract delivery schedule, or, if the contract is for services, and contractor fails to perform in the manner called for in the contract, or if contractor fails to comply with any other provisions of the contract, the recipient may terminate this contract for default. Termination shall be effected by serving a notice of termination to contractor setting forth the manner in which contractor is in default. Contractor shall only be paid the contract price for supplies delivered and accepted, or for services performed in accordance with the manner of performance set forth in the contract.

If it is later determined by the recipient that contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of contractor, the recipient, after setting up a new delivery or performance schedule, may allow contractor to continue work, or treat the termination as a termination for convenience.

c. Opportunity to Cure (General Provision) the recipient in its sole discretion may, in the case of a termination for breach or default, allow contractor an appropriately short period of time in which to cure the defect. In such case, the notice of termination shall state the time period in which cure is permitted and other appropriate conditions. If contractor fails to remedy to the recipient's satisfaction the breach or default or any of the terms, covenants, or conditions of this Contract within ten (10) days after receipt by contractor or written notice from the recipient setting forth the nature of said breach or default, the recipient shall have the right to terminate the Contract without any further obligation to contractor. Any such termination for default shall not in any way operate to preclude the

recipient from also pursuing all available remedies against contractor and its sureties for said breach or default.

d. Waiver of Remedies for any Breach In the event that the recipient elects to waive its remedies for any breach by contractor of any covenant, term or condition of this Contract, such waiver by the recipient shall not limit its remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.

e. Termination for Convenience (Professional or Transit Service Contracts) the recipient, by written notice, may terminate this contract, in whole or in part, when it is in the recipient's interest. If the contract is terminated, the recipient shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.

f. Termination for Default (Supplies and Service) If contractor fails to deliver supplies or to perform the services within the time specified in this contract or any extension or if the contractor fails to comply with any other provisions of this contract, the recipient may terminate this contract for default. The recipient shall terminate by delivering to contractor a notice of termination specifying the nature of default. Contractor shall only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner or performance set forth in this contract.

If, after termination for failure to fulfill contract obligations, it is determined that contractor was not in default, the rights and obligations of the parties shall be the same as if termination had been issued for the recipient's convenience.

g. Termination for Default (Transportation Services) If contractor fails to pick up the commodities or to perform the services, including delivery services, within the time specified in this contract or any extension or if contractor fails to comply with any other provisions of this contract, the recipient may terminate this contract for default. The recipient shall terminate by delivering to contractor a notice of termination specifying the nature of default. Contractor shall only be paid the contract price for services performed in accordance with the manner of performance set forth in this contract.

If this contract is terminated while contractor has possession of the recipient goods, contractor shall, as directed by the recipient, protect and preserve the goods until surrendered to the recipient or its agent. Contractor and the recipient shall agree on payment for the preservation and protection of goods. Failure to agree on an amount shall be resolved under the Dispute clause. If, after termination for failure to fulfill contract obligations, it is determined that contractor was not in default, the rights and obligations of the parties shall be the same as if termination had been issued for the recipient's convenience.

h. Termination for Default (Construction) If contractor refuses or fails to prosecute the work or any separable part, with the diligence that will insure its completion within the time specified, or any extension, or fails to complete the work within this time, or if contractor fails to comply with any other provisions of this contract, the recipient may terminate this contract for default. the recipient shall terminate by delivering to contractor a notice of termination specifying the nature of default. In this event, the recipient may take over the work and complete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work. Contractor and its sureties shall be liable for any damage to the recipient resulting from contractor's refusal or failure to complete the work within specified time, whether or not contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the recipient in completing the work.

Contractor's right to proceed shall not be terminated nor shall contractor be charged with damages under this clause if:

1. Delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of contractor. Examples of such causes include: acts of God, acts of the recipient, acts of another contractor in the performance of a contract with the recipient, epidemics, quarantine restrictions, strikes, freight embargoes; and

2. Contractor, within 10 days from the beginning of any delay, notifies the recipient in writing of the causes of delay. If in the recipient's judgment, delay is excusable, the time for completing the work shall be extended. The recipient's judgment shall be final and conclusive on the parties, but subject to appeal under the Disputes clauses.

If, after termination of contractor's right to proceed, it is determined that contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if termination had been issued for the recipient's convenience.

i. Termination for Convenience or Default (Architect & Engineering) the recipient may terminate this contract in whole or in part, for the recipient's convenience or because of contractor's failure to fulfill contract obligations. The recipient shall terminate by delivering to contractor a notice of termination specifying the nature, extent, and effective date of termination. Upon receipt of the notice, contractor shall (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the recipient all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this contract, whether completed or in process. If termination is for the recipient's convenience, it shall make an equitable adjustment in the contract price but shall allow no anticipated profit on unperformed services. If termination is for contractor's failure to fulfill contract obligations, the recipient may complete the work by contract or otherwise and contractor shall be liable for any additional cost incurred by the recipient.

If, after termination for failure to fulfill contract obligations, it is determined that contractor was not in default, the rights and obligations of the parties shall be the same as if termination had been issued for the recipient's convenience.

j. Termination for Convenience or Default (Cost-Type Contracts) the recipient may terminate this contract, or any portion of it, by serving a notice of termination on contractor. The notice shall state whether termination is for convenience of the recipient or for default of contractor. If termination is for default, the notice shall state the manner in which contractor has failed to perform the requirements of the contract. Contractor shall account for any property in its possession paid for from funds received from the recipient, or property supplied to contractor by the recipient. If termination is for default, the recipient may fix the fee, if the contract provides for a fee, to be paid to contractor in proportion to the value, if any, of work performed up to the time of termination. Contractor shall promptly submit its termination claim to the recipient and the parties shall negotiate the termination settlement to be paid to contractor. If termination is for the recipient's convenience, contractor shall be paid its contract close-out costs, and a fee, if the contract provided for payment of a fee, in proportion to the work performed up to the time of termination.

If, after serving a notice of termination for default, the recipient determines that contractor has an excusable reason for not performing, such as strike, fire, flood, events which are not the fault of and are beyond the control of contractor, the recipient, after setting up a new work schedule, may allow contractor to continue work, or treat the termination as a termination for convenience.

### **Government Wide Debarment and Suspension (Non Procurement)**

Applicability – Contracts over \$25,000

This contract is a covered transaction for purposes of 49 CFR Part 29. As such, the contractor is required to verify that none of the contractors, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

The contractor is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into.

By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by the recipient. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to the recipient, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The

bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

### **Contracts Involving Federal Privacy Act Requirements**

When a grantee maintains files on drug and alcohol enforcement activities for FTA, and those files are organized so that information could be retrieved by personal identifier, the Privacy Act requirements apply to all contracts except micro-purchases (\$3,000 or less, except for construction contracts over \$2,000)

The following requirements apply to the Contractor and its employees that administer any system of records on behalf of the Federal Government under any contract:

(1) The Contractor agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C. § 552a. Among other things, the Contractor agrees to obtain the express consent of the Federal Government before the Contractor or its employees operate a system of records on behalf of the Federal Government. The Contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract.

(2) The Contractor also agrees to include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.

### **Civil Rights Requirements**

All contracts except micro-purchases (\$3,000 or less, except for construction contracts over \$2,000)

The following requirements apply to the underlying contract:

(1) Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 USC 2000d, Sec. 303 of the Age Discrimination Act (1975), as amended, 42 USC 6102, Sec. 202 of the Americans with Disabilities Act (1990), 42 USC 12132, and 49 USC 5332, contractor shall not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age or disability. Contractor shall also comply with applicable Federal implementing regulations and other requirements FTA may issue.

(2) Equal Employment Opportunity - The following equal employment opportunity requirements apply to the underlying contract:

(a) Race, Color, Creed, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 USC 2000e, and 49 USC 5332, contractor shall comply with all applicable equal employment opportunity requirements of USDOL, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, USDOL," 41 CFR 60 et seq., (implementing Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 USC 2000e), and any applicable Federal statutes, executive orders, regulations, and policies that may in the future affect construction activities undertaken in the course of the project. Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, contractor shall comply with any implementing requirements FTA may issue.

(b) Age - In accordance with Sec. 4 of the Age Discrimination in Employment Act (1967), as amended, 29 USC

623 and 49 USC 5332, contractor shall refrain from discrimination against present and prospective employees for reason of age. Contractor shall also comply with any implementing requirements FTA may issue.

(c) Disabilities - In accordance with Sec. 102 of the Americans with Disabilities Act (ADA), as amended, 42 USC 12112, contractor shall comply with the requirements of US Equal Employment Opportunity Commission (EEOC), Regulations to Implement Equal Employment Provisions of the Americans with Disabilities Act, 29 CFR 1630, pertaining to employment of persons with disabilities. Contractor shall also comply with any implementing requirements FTA may issue.

(3) Contractor shall include these requirements in each subcontract financed in whole or in part with FTA assistance, modified only if necessary to identify the affected parties.

### **Breaches and Dispute Resolution**

All contracts over \$100,000

Disputes arising in the performance of this contract which are not resolved by agreement of the parties shall be decided in writing by the recipient's authorized representative. This decision shall be final and conclusive unless within ten (10) days from the date of receipt of its copy, contractor mails or otherwise furnishes a written appeal to the recipient's CEO. In connection with such appeal, contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the recipient's CEO shall be binding upon contractor and contractor shall abide by the decision.

Performance During Dispute - Unless otherwise directed by the recipient, contractor shall continue performance under this contract while matters in dispute are being resolved.

Claims for Damages - Should either party to the contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts he is legally liable, a claim for damages therefore shall be made in writing to such other party within ten days after the first observance of such injury or damage.

Remedies - Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the recipient and contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the residing State.

Rights and Remedies - Duties and obligations imposed by the contract documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the recipient or contractor shall constitute a waiver of any right or duty afforded any of them under the contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

### **Transit Employee Protective Provisions**

Contracts for transit operations except micro-purchases (\$3,000 or less, except for construction contracts over \$2,000)

(1) Contractor shall comply with applicable transit employee protective requirements as follows:

(a) Transit Employee Protective Requirements for Projects Authorized by 49 USC 5311 in Nonurbanized Areas - If the contract involves transit operations financed in whole or in part with FTA assistance authorized by 49 USC 5311, the contractor shall comply with the terms and conditions of the Special Warranty for the Nonurbanized Area Program that is most current, and any alternative comparable arrangement specified by U.S. DOL for application to the project, in accordance with U.S. DOL guidelines, "Section 5333(b), Federal Transit Law," 29 C.F.R. Part 215, and any revision thereto. [New amendments to U.S. DOL guidelines, "Section 5333(b), Federal Transit Law," 29 C.F.R. Part 215, were published at 73 Fed. Reg. 47046 et. Seq., August 13, 2008.]

(2) Contractor shall also include any applicable requirements in each subcontract involving transit operations financed in whole or in part with FTA assistance.

### **Disadvantaged Business Enterprise**

Contracts over \$3,000 awarded on the basis of a bid or proposal offering to use DBEs

a. This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. The recipient's overall goal for DBE participation is listed elsewhere. If a separate contract goal for DBE participation has been established for this procurement, it is listed elsewhere.

b. The contractor shall not discriminate on the basis of race, color, national origin or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this contract. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the municipal corporation deems appropriate. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).

c. If a separate contract goal has been established, Bidders/offerors are required to document sufficient DBE participation to meet these goals or, alternatively, document adequate good faith efforts to do so, as provided for in 49 CFR 26.53.

d. If no separate contract goal has been established, the successful bidder/offeror will be required to report its DBE participation obtained through race-neutral means throughout the period of performance.

e. The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that work from the recipient. In addition, the contractor may not hold retainage from its subcontractors or must return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to this contract is satisfactorily completed or must return any retainage payments to those subcontractors within 30 days after incremental acceptance of the subcontractor's work by the recipient and contractor's receipt of the partial retainage payment related to the subcontractor's work.

f. The contractor must promptly notify the recipient whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of the recipient.

### **Incorporation of Federal Transit Administration (FTA) Terms**

All contracts except micro-purchases (\$3,000 or less, except for construction contracts over \$2,000)

The preceding provisions include, in part, certain Standard Terms & Conditions required by USDOT, whether or not expressly stated in the preceding contract provisions. All USDOT-required contractual provisions, as stated in FTA Circular 4220.1F, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The contractor shall not perform any act, fail to perform any act, or refuse to comply with any request that would cause the recipient to be in violation of FTA terms and conditions.

## **Drug and Alcohol Abuse and Testing**

Operational service contracts except micro-purchases (\$3,000 or less, except for construction contracts over \$2,000)

The Contractor agrees to comply with the following Federal substance abuse regulations: a. Drug-Free Workplace. U.S. DOT regulations, "Drug-Free Workplace Requirements (Grants)," 49 C.F.R. Part 32, that implements the Drug-Free Workplace Act of 1988, 41 U.S.C. §§ 701 et seq. b. Alcohol Misuse and Prohibited Drug Use. FTA Regulations, "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations," 49 CFR Part 655, to the extent applicable.

## **Full and Open Competition**

In accordance with 49 U.S.C. § 5325(a) all procurement transactions shall be conducted in a manner that provides full and open competition.

## **Prohibition Against Exclusionary or Discriminatory Specifications**

Apart from inconsistent requirements imposed by Federal statute or regulations, the contractor shall comply with the requirements of 49 USC 5323(h)(2) by refraining from using any FTA assistance to support procurements using exclusionary or discriminatory specifications.

## **Conformance with ITS National Architecture**

Contractor shall conform, to the extent applicable, to the National Intelligent Transportation Standards architecture as required by SAFETEA-LU Section 5307(c), 23 U.S.C. Section 512 note and follow the provisions of FTA Notice, "FTA National Architecture Policy on Transit Projects," 66 Fed. Reg. 1455 et seq., January 8, 2001, and any other implementing directives FTA may issue at a later date, except to the extent FTA determines otherwise in writing.

## **Access Requirements for Persons with Disabilities**

Contractor shall comply with 49 USC 5301(d), stating Federal policy that the elderly and persons with disabilities have the same rights as other persons to use mass transportation services and facilities and that special efforts shall be made in planning and designing those services and facilities to implement that policy. Contractor shall also comply with all applicable requirements of Sec. 504 of the Rehabilitation Act (1973), as amended, 29 USC 794, which prohibits discrimination on the basis of handicaps, and the Americans with Disabilities Act of 1990 (ADA), as amended, 42 USC 12101 et seq., which requires that accessible facilities and services be made available to persons with disabilities, including any subsequent amendments thereto.

## **Notification of Federal Participation**

To the extent required by law, in the announcement of any third party contract award for goods and services (including construction services) having an aggregate value of \$500,000 or more, contractor shall specify the amount of Federal assistance to be used in financing that acquisition of goods and services and to express that amount of Federal assistance as a percentage of the total cost of the third party contract.

## **Interest of Members or Delegates to Congress**

No members of, or delegates to, the US Congress shall be admitted to any share or part of this contract nor to any benefit arising therefrom.

## **Ineligible Contractors and Subcontractors**

Any name appearing upon the Comptroller General's list of ineligible contractors for federally-assisted contracts shall be ineligible to act as a subcontractor for contractor pursuant to this contract. If contractor is on the Comptroller General's list of ineligible contractors for federally financed or assisted construction, the recipient shall cancel, terminate or suspend this contract.

### **Other Contract Requirements**

To the extent not inconsistent with foregoing Federal requirements, this contract shall also include those standard clauses attached hereto, and shall comply with the recipient's Procurement Guidelines, available upon request from the recipient.

### **Compliance with Federal Regulations**

Any contract entered pursuant to this solicitation shall contain the following provisions: All USDOT-required contractual provisions, as set forth in FTA Circular 4220.1F, are incorporated by reference. Anything to the contrary herein notwithstanding, FTA mandated terms shall control in the event of a conflict with other provisions contained in this Agreement. Contractor shall not perform any act, fail to perform any act, or refuse to comply with any grantee request that would cause the recipient to be in violation of FTA terms and conditions. Contractor shall comply with all applicable FTA regulations, policies, procedures and directives, including, without limitation, those listed directly or incorporated by reference in the Master Agreement between the recipient and FTA, as may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

### **Real Property**

Any contract entered into shall contain the following provisions: Contractor shall at all times comply with all applicable statutes and USDOT regulations, policies, procedures and directives governing the acquisition, use and disposal of real property, including, but not limited to, 29 CFR 18.31, 49 CFR 24 Subpart B, FTA Circular 5010.1D, and FTA Master Agreement, as they may be amended or promulgated during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

### **Access to Services for Persons with Limited English Proficiency**

To the extent applicable and except to the extent that FTA determines otherwise in writing, the Recipient agrees to comply with the policies of Executive Order No. 13166, "Improving Access to Services for Persons with Limited English Proficiency," 42 U.S.C. § 2000d 1 note, and with the provisions of U.S. DOT Notice, "DOT Guidance to Recipients on Special Language Services to Limited English Proficient (LEP) Beneficiaries," 70 Fed. Reg. 74087, December 14, 2005.

### **Environmental Justice**

The Recipient agrees to comply with the policies of Executive Order No. 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations," 42 U.S.C. § 4321 note, except to the extent that the Federal Government determines otherwise in writing.

### **Environmental Protections**

Compliance is required with any applicable Federal laws imposing environmental and resource conservation requirements for the project. Some, but not all, of the major Federal laws that may affect the project include: the National Environmental Policy Act of 1969; the Clean Air Act; the Resource Conservation and Recovery Act; the comprehensive Environmental response, Compensation and Liability Act; as well as environmental provisions with Title 23 U.S.C., and 49 U.C. chapter 53. The U.S. EPA, FHWA and other federal agencies may issue other federal regulations and directives that may affect the project. Compliance is required with any applicable Federal laws and regulations in effect now or that become effective in the future.

### **Geographic Information and Related Spatial Data**

Any project activities involving spatial data or geographic information systems activities financed with Federal assistance are required to be consistent with the National Spatial Data Infrastructure promulgated by the Federal Geographic Data Committee, except to the extent that FTA determines otherwise in writing.

### **Federal Single Audit Requirements for State Administered Federally Aid Funded Projects Only**

Non Federal entities that expend \$500,000 or more in a year in Federal awards from all sources are required to comply with the Federal Single Audit Act provisions contained in U.S. Office of Management and Budget (OMB) Circular No. A 133, Audits of States, Local Governments, and Non Profit Organizations. Non Federal entities that expend Federal awards from a single source may provide a program specific audit, as defined in the Circular. Non Federal entities that expend less than \$500,000 in a year in Federal awards from all sources are exempt from Federal audit requirements for that year, except as noted in '3052.215(a), but records must be available for review or audit by appropriate officials of the Federal and State agencies.

### **Catalog of Federal Domestic Assistance (CFDA) Identification Number**

The municipal project sponsor is required to identify in its accounts all Federal awards received and expended, and the Federal programs under which they were received. Federal program and award identification shall include, as applicable, the CFDA title and number, award number and year, name of the Federal agency, and name of the pass through entity.

### **CFDA number for the Federal Transportation Administration**

A Recipient covered by the Single Audit Act Amendments of 1996 and OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations," agrees to separately identify the expenditures for Federal awards under the Recovery Act on the Schedule of Expenditures of Federal Awards (SEFA) and the Data Collection Form (SF-SAC) required by OMB Circular A-133. The Recipient agrees to accomplish this by identifying expenditures for Federal awards made under Recovery Act separately on the SEFA, and as separate rows under Item 9 of Part III on the SF-SAC by CFDA number, and inclusion of the prefix "ARRA" in identifying the name of the Federal program on the SEFA and as the first characters in Item 9d of Part III on the SF-SAC.



CERTIFICATION AND RESTRICTIONS ON LOBBYING

I, James Dowd President, hereby certify  
(Name and title of official)

On behalf of Flight Line Inc that:  
(Name of Bidder/Company Name)

- No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- If any funds other than federal appropriated funds have been paid or will be paid to any person influencing or attempting to influence an officer or employee of any agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with the federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form – LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including sub-contracts, sub-grants and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

*This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.*

*The undersigned certifies or affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certification and understands that the provisions of 31 U.S.C. Section 3801, et seq., are applicable thereto.*

Name of Bidder/Company Name Flight Line Inc

Type or print name JAMES R DOWD

Signature of authorized representative James Dowd Date 10/11/12

Signature of notary and SEAL James M. Brown

**GOVERNMENT-WIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)**

49 CFR Part 29, Executive Orders 12549, 12689, and 31 U.S.C. 6101 (Contracts over \$25,000)

**Background and Applicability**

In conjunction with the Office of Management and Budget and other affected Federal agencies, DOT published an update to 49 CFR Part 29 on November 26, 2003. This government-wide regulation implements Executive Order 12549, Debarment and Suspension, Executive Order 12689, Debarment and Suspension, and 31 U.S.C. 6101 note (Section 2455, Public Law 103-355, 108 Stat. 3327).

The provisions of Part 29 apply to all grantee contracts and subcontracts at any level expected to equal or exceed \$25,000 as well as any contract or subcontract (at any level) for Federally required auditing services. 49 CFR 29.220(b). This represents a change from prior practice in that the dollar threshold for application of these rules has been lowered from \$100,000 to \$25,000. These are contracts and subcontracts referred to in the regulation as "covered transactions."

Grantees, contractors, and subcontractors (at any level) that enter into covered transactions are required to verify that the entity (as well as its principals and affiliates) they propose to contract or subcontract with is not excluded or disqualified. They do this by (a) Checking the Excluded Parties List System, (b) Collecting a certification from that person, or (c) Adding a clause or condition to the contract or subcontract. This represents a change from prior practice in that certification is still acceptable but is no longer required. 49 CFR 29.300.

Grantees, contractors, and subcontractors who enter into covered transactions also must require the entities they contract with to comply with 49 CFR 29, subpart C and include this requirement in their own subsequent covered transactions (i.e., the requirement flows down to subcontracts at all levels).

Instructions for Certification: By signing and submitting this bid or proposal, the prospective lower tier participant is providing the signed certification set out below.

**Suspension and Debarment**

This contract is a covered transaction for purposes of 49 CFR Part 29. As such, the contractor is required to verify that none of the contractor, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

The contractor is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into. By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by the recipient. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to the recipient, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

Contractor Flight Line Inc  
Signature of Authorized Official James Dowl Date 10/1/12  
Name and Title of Contractor's Authorized Official JAMES DOWL President

**By signing below the Contractor agrees to comply with the applicable Federal Clauses.**

Date: 10-1-12

Company Name: Flight Line Inc

Authorized Name: JAMES DOWD

Signature: James Dowd

Title: President



**UNIFIED PROTECTIVE ARRANGEMENT**  
For Application to Capital and Operating Assistance Projects  
PURSUANT TO SECTION 5333(b) OF  
TITLE 49 OF THE U.S. CODE, CHAPTER 53  
*January 3, 2011*

The following language shall be made part of the Department of Transportation's contract of assistance with the Grantee, by reference;

The terms and conditions set forth below shall apply for the protection of the transportation related employees in the transportation service area of the Project. As a precondition of the release of assistance by the Grantee to any additional Recipient under the grant, the Grantee shall incorporate this arrangement into the contract of assistance between the Grantee and the Recipient, by reference, binding the Recipient to these arrangements.

These protective arrangements are intended for the benefit of transit employees in the service area of the project, who are considered as third-party beneficiaries to the employee protective arrangements incorporated by reference in the grant contract between the U.S. Department of Transportation and the Grantee, and the parties to the contract so signify by executing that contract. Transit employees are also third-party beneficiaries to the protective arrangements incorporated in subsequent contracts of assistance, pursuant to the Department's certification, between the Grantee and any Recipient. Employees may assert claims through their representative with respect to the protective arrangements under this provision. This clause creates no independent cause of action against the United States Government.

The term "service area," as used herein, includes the geographic area over which the Project is operated and the area whose population is served by the Project, including adjacent areas affected by the Project. The term "Union," as used herein, refers to any labor organization representing employees providing public transportation services in the service area of a Project assisted under the grant, including both employees of the Recipient and employees of other public transportation providers. The term "Recipient," as used herein, shall refer to any employer(s) receiving transportation assistance under the grant. The term "Grantee," as used herein, shall refer to the applicant for assistance; a Grantee which receives assistance is also a Recipient.

(1) The Project shall be carried out in such a manner and upon such terms and conditions as will not adversely affect employees of the Recipient and of any other surface public transportation provider in the transportation service

area of the Project. It shall be an obligation of the Recipient to assure that any and all transportation services assisted by the Project are contracted for and operated in such a manner that they do not impair the rights and interests of affected employees. The term "Project," as used herein, shall not be limited to the particular facility, service, or operation assisted by Federal funds, but shall include any changes, whether organizational, operational, technological, or otherwise, which are a result of the assistance provided. The phrase "as a result of the Project," shall, when used in this arrangement, include events related to the Project occurring in anticipation of, during, and subsequent to the Project and any program of efficiencies or economies related thereto; provided, however, that volume rises and falls of business, or changes in volume and character of employment brought about solely by causes other than the Project (including any economies or efficiencies unrelated to the Project) are not within the purview of this arrangement.

An employee covered by this arrangement, who is not dismissed, displaced or otherwise worsened in his/her position with regard to employment as a result of the Project, but who is dismissed, displaced or otherwise worsened solely because of the total or partial termination of the Project or exhaustion of Project funding shall not be deemed eligible for a dismissal or displacement allowance within the meaning of paragraphs (6) and (7) of this arrangement.

(2) Where employees of a Recipient are represented for collective bargaining purposes, all Project services provided by that Recipient shall be provided under and in accordance with any collective bargaining agreement applicable to such employees which is then in effect. This Arrangement does not create any collective bargaining relationship where one does not already exist or between any Recipient and the employees of another employer. Where the Recipient has no collective bargaining relationship with the Unions representing employees in the service area, the Recipient will not take any action which impairs or interferes with the rights, privileges, and benefits and/or the preservation or continuation of the collective bargaining rights of such employees.

(3) All rights, privileges, and benefits (including pension rights and benefits) of employees covered by this arrangement (including employees having already retired) under existing collective bargaining agreements or otherwise, or under any revision or renewal thereof, shall be preserved and continued; provided, however, that such rights, privileges and benefits which are not foreclosed from further bargaining under applicable law or contract may be modified by collective bargaining and agreement by the Recipient and the Union involved to substitute other rights, privileges and benefits. Unless otherwise provided, nothing in this arrangement shall be deemed to restrict any rights the

Recipient may otherwise have to direct the working forces and manage its business as it deems best, in accordance with the applicable collective bargaining agreement.

(4) The collective bargaining rights of employees covered by this arrangement, including the right to arbitrate labor disputes and to maintain union security and checkoff arrangements, as provided by applicable laws, policies and/or existing collective bargaining agreements, shall be preserved and continued. Provided, however, that this provision shall not be interpreted so as to require the Recipient to retain any such rights which exist by virtue of a collective bargaining agreement after such agreement is no longer in effect.

The Recipient agrees that it will bargain collectively with the Union or otherwise arrange for the continuation of collective bargaining, and that it will enter into agreements with the Union or arrange for such agreements to be entered into, relative to all subjects which are or may be proper subjects of collective bargaining. If, at any time, applicable law or contracts permit or grant to employees covered by this arrangement the right to utilize any economic measures, nothing in this arrangement shall be deemed to foreclose the exercise of such right.

(5)(a) The Recipient shall provide to all affected employees sixty (60) days' notice of intended actions which may result in displacements or dismissals or rearrangements of the working forces as a result of the Project. In the case of employees represented by a Union, such notice shall be provided by certified mail through their representatives. The notice shall contain a full and adequate statement of the proposed changes, and an estimate of the number of employees affected by the intended changes, and the number and classifications of any jobs within the jurisdiction and control of the Recipient, including those in the employment of any entity bound by this arrangement pursuant to paragraph (21), available to be filled by such affected employees.

(5)(b) The procedures of this subparagraph shall apply to cases where notices, provided under subparagraph 5(a), involve employees represented by a Union for collective bargaining purposes. At the request of either the Recipient or the representatives of such employees, negotiations for the purposes of reaching agreement with respect to the application of the terms and conditions of this arrangement shall commence immediately. These negotiations shall include determining the selection of forces from among the mass transportation employees who may be affected as a result of the Project, to establish which such employees shall be offered employment for which they are qualified or can be trained. If no agreement is reached within twenty (20) days from the commencement of negotiations, any party to the dispute may submit the

matter to dispute settlement procedures in accordance with paragraph (15) of this arrangement. Unless the parties otherwise mutually agree in writing, no change in operations, services, facilities or equipment within the purview of this paragraph (5) shall occur until after either: 1) an agreement with respect to the application of the terms and conditions of this arrangement to the intended change(s) is reached; 2) the decision has been rendered pursuant to the dispute resolution procedures in accordance with paragraph (15) of this arrangement; or 3) an arbitrator selected pursuant to Paragraph (15) of this arrangement determines that the intended change(s) may be instituted prior to the finalization of implementing arrangements.

(5)(c) In the event of a dispute as to whether an intended change within the purview of this paragraph (5) may be instituted at the end of the 60-day notice period and before an implementing agreement is reached or a final dispute resolution determination is rendered pursuant to subparagraph (b), any involved party may immediately submit that issue to the dispute resolution process under paragraph (15) of this arrangement. In any such dispute resolution procedure, the neutral shall rely upon the standards and criteria utilized by the Surface Transportation Board (and its predecessor agency, the Interstate Commerce Commission) to address the "preconsummation" issue in cases involving employee protections pursuant to 49 U.S.C. Section 11326 (or its predecessor, Section 5(2)(f) of the Interstate Commerce Act, as amended). If the Recipient demonstrates, as a threshold matter in any such dispute resolution process, that the intended action is a trackage rights, lease proceeding or similar transaction, and not a merger, acquisition, consolidation, or other similar transaction, the burden shall then shift to the involved labor organization(s) to prove that under the standards and criteria referenced above, the intended action should not be permitted to be instituted prior to the effective date of a negotiated or arbitrated implementing agreement. If the Recipient fails to demonstrate that the intended action is a trackage rights, lease proceeding, or similar transaction, it shall be the burden of the Recipient to prove that under the standards and criteria referenced above, the intended action should be permitted to be instituted prior to the effective date of a negotiated or arbitrated implementing agreement. For purposes of any such dispute resolution procedure, the time period within which the parties are to respond to the list of potential neutrals submitted by the American Arbitration Association shall be five (5) days, the notice of hearing may be given orally or by facsimile, the hearing will be held promptly, and the award of the neutral shall be rendered promptly and, unless otherwise agreed to by the parties, no later than fourteen (14) days from the date of closing the hearings, with five (5) additional days if post hearing briefs are submitted by either party. The intended change shall not be instituted during the pendency of any dispute resolution proceedings under this subparagraph (c).

(5)(d) If an intended change within the purview of this paragraph (5) is instituted before an implementing agreement is reached or a final decision is rendered pursuant to subparagraph (b), all employees affected shall be kept financially whole, as if the noticed and implemented action has not taken place, from the time they are affected until the effective date of an implementing agreement or final decision. This protection shall be in addition to the protective period defined in paragraph (14) of this arrangement, which period shall begin on the effective date of the implementing agreement or final dispute resolution determination rendered pursuant to subparagraph (b).

An employee selecting, bidding on, or hired to fill any position established as a result of a noticed and implemented action prior to the consummation of an implementing agreement or final dispute resolution determination shall accumulate no benefits under this arrangement as a result thereof during that period prior to the consummation of an implementing agreement or final decision pursuant to subparagraph (b).

(6)(a) Whenever an employee retained in service, recalled to service, or employed by the Recipient pursuant to paragraphs (5), (7)(e), or (18) hereof is placed in a worse position with respect to compensation as a result of the Project, the employee shall be considered a "displaced employee", and shall be paid a monthly "displacement allowance" to be determined in accordance with this paragraph. Said displacement allowance shall be paid to each displaced employee during the protective period so long as the employee is unable, in the exercise of his/her seniority rights, to obtain a position producing compensation equal to or exceeding the compensation the employee received in the position from which the employee was displaced, adjusted to reflect subsequent general wage adjustments, including cost of living adjustments where provided for.

(6)(b) The displacement allowance shall be a monthly allowance determined by computing the total compensation received by the employee, including vacation allowances and monthly compensation guarantees, and his/her total time paid for during the last twelve (12) months in which the employee performed compensated service more than fifty per centum of each such months, based upon the employee's normal work schedule, immediately preceding the date of his/her displacement as a result of the Project, and by dividing separately the total compensation and the total time paid for by twelve, thereby producing the average monthly compensation and the average monthly time paid for. Such allowance shall be adjusted to reflect subsequent general wage adjustments, including cost of living adjustments where provided for. If the displaced employee's compensation in his/her current position is less in any month

during his/her protective period than the aforesaid average compensation (adjusted to reflect subsequent general wage adjustments, including cost of living adjustments where provided for), the employee shall be paid the difference, less compensation for any time lost on account of voluntary absences to the extent that the employee is not available for service equivalent to his/her average monthly time, but the employee shall be compensated in addition thereto at the rate of the current position for any time worked in excess of the average monthly time paid for. If a displaced employee fails to exercise his/her seniority rights to secure another position to which the employee is entitled under the then existing collective bargaining agreement, and which carries a wage rate and compensation exceeding that of the position which the employee elects to retain, the employee shall thereafter be treated, for the purposes of this paragraph, as occupying the position the employee elects to decline.

(6)(c) The displacement allowance shall cease prior to the expiration of the protective period in the event of the displaced employee's resignation, death, retirement, or dismissal for cause in accordance with any labor agreement applicable to his/her employment.

(7)(a) Whenever any employee is laid off or otherwise deprived of employment as a result of the Project, in accordance with any collective bargaining agreement applicable to his/her employment, the employee shall be considered a "dismissed employee" and shall be paid a monthly dismissal allowance to be determined in accordance with this paragraph. Said dismissal allowance shall first be paid to each dismissed employee on the thirtieth (30th) day following the day on which the employee is "dismissed" and shall continue during the protective period, as follow:

Employee's length of service <u>prior to adverse effect</u>	<u>Period of protection</u>
1 day to 6 years	equivalent period
6 years or more	6 years

The monthly dismissal allowance shall be equivalent to one-twelfth (1/12th) of the total compensation received by the employee in the last twelve (12) months of his/her employment in which the employee performed compensation service more than fifty per centum of each such month based on the employee's normal work schedule to the date on which the employee was first deprived of employment as a result of the Project. Such allowance shall be adjusted to reflect subsequent general wage adjustments, including cost of living adjustments where provided for.

(7)(b) An employee shall be regarded as deprived of employment and entitled to a dismissal allowance when the position the employee holds is abolished as a result of the Project, or when the position the employee holds is not abolished but the employee loses that position as a result of the exercise of seniority rights by an employee whose position is abolished as a result of the Project or as a result of the exercise of seniority rights by other employees brought about as a result of the Project, and the employee is unable to obtain another position, either by the exercise of the employee's seniority rights, or through the Recipient, in accordance with subparagraph (e). In the absence of proper notice followed by an agreement or decision pursuant to paragraph (5) hereof, no employee who has been deprived of employment as a result of the Project shall be required to exercise his/her seniority rights to secure another position in order to qualify for a dismissal allowance hereunder.

(7)(c) Each employee receiving a dismissal allowance shall keep the Recipient informed as to his/her current address and the current name and address of any other person by whom the employee may be regularly employed, or if the employee is self-employed.

(7)(d) The dismissal allowance shall be paid to the regularly assigned incumbent of the position abolished. If the position of an employee is abolished when the employee is absent from service, the employee will be entitled to the dismissal allowance when the employee is available for service. The employee temporarily filling said position at the time it was abolished will be given a dismissal allowance on the basis of that position, until the regular employee is available for service, and thereafter shall revert to the employee's previous status and will be given the protections of the agreement in said position, if any are due him/her.

(7)(e) An employee receiving a dismissal allowance shall be subject to call to return to service by the employee's former employer, after being notified in accordance with the terms of the then-existing collective bargaining agreement. Prior to such call to return to work by his/her employer, the employee may be required by the Recipient to accept reasonably comparable employment for which the employee is physically and mentally qualified, or for which the employee can become qualified after a reasonable training or retraining period, provided it does not require a change in residence or infringe upon the employment rights of other employees under then-existing collective bargaining agreements.

(7)(f) When an employee who is receiving a dismissal allowance again commences employment in accordance with subparagraph (e) above, said allowance shall cease while the employee is so reemployed, and the period of

time during which the employee is so reemployed shall be deducted from the total period for which the employee is entitled to receive a dismissal allowance. During the time of such reemployment, the employee shall be entitled to the protections of this arrangement to the extent they are applicable.

(7)(g) The dismissal allowance of any employee who is otherwise employed shall be reduced to the extent that the employee's combined monthly earnings from such other employment or self-employment, any benefits received from any unemployment insurance law, and his/her dismissal allowance exceed the amount upon which the employee's dismissal allowance is based. Such employee, or his/her union representative, and the Recipient shall agree upon a procedure by which the Recipient shall be kept currently informed of the earnings of such employee in employment other than with the employee's former employer, including self-employment, and the benefits received.

(7)(h) The dismissal allowance shall cease prior to the expiration of the protective period in the event of the failure of the employee without good cause to return to service in accordance with the applicable labor agreement, or to accept employment as provided under subparagraph (e) above, or in the event of the employee's resignation, death, retirement, or dismissal for cause in accordance with any labor agreement applicable to his/her employment.

(7)(i) A dismissed employee receiving a dismissal allowance shall actively seek and not refuse other reasonably comparable employment offered him/her for which the employee is physically and mentally qualified and does not require a change in the employee's place of residence. Failure of the dismissed employee to comply with this obligation shall be grounds for discontinuance of the employee's allowance; provided that said dismissal allowance shall not be discontinued until final determination is made either by agreement between the Recipient and the employee or his/her representative, or by final and binding dispute resolution determination rendered in accordance with paragraph (15) of this arrangement that such employee did not comply with this obligation.

(8) In determining length of service of a displaced or dismissed employee for purposes of this arrangement, such employee shall be given full service credits in accordance with the records and labor agreements applicable to him/her and the employee shall be given additional service credits for each month in which the employee receives a dismissal or displacement allowance as if the employee were continuing to perform services in his/her former position.

(9) No employee shall be entitled to either a displacement or dismissal allowance under paragraphs (6) or (7) hereof because of the abolishment of a

position to which, at some future time, the employee could have bid, been transferred, or promoted.

(10) No employee receiving a dismissal or displacement allowance shall be deprived, during the employee's protected period, of any rights, privileges, or benefits attaching to his/her employment, including, without limitation, group life insurance, hospitalization and medical care, free transportation for the employee and the employee's family, sick leave, continued status and participation under any disability or retirement program, and such other employee benefits as Railroad Retirement, Social Security, Workmen's Compensation, and unemployment compensation, as well as any other benefits to which the employee may be entitled under the same conditions and so long as such benefits continue to be accorded to other employees of the bargaining unit, in active service or furloughed as the case may be.

(11)(a) Any employee covered by this arrangement who is retained in the service of his/her employer, or who is later restored to service after being entitled to receive a dismissal allowance, and who is required to change the point of his/her employment in order to retain or secure active employment with the Recipient in accordance with this arrangement, and who is required to move his/her place of residence, shall be reimbursed for all expenses of moving his/her household and other personal effects, for the traveling expenses for the employee and members of the employee's immediate family, including living expenses for the employee and the employee's immediate family, and for his/her own actual wage loss during the time necessary for such transfer and for a reasonable time thereafter, not to exceed five (5) working days. The exact extent of the responsibility of the Recipient under this paragraph, and the ways and means of transportation, shall be agreed upon in advance between the Recipient and the affected employee or the employee's representatives.

(11)(b) If any such employee is laid off within three (3) years after changing his/her point of employment in accordance with paragraph (a) hereof, and elects to move his/her place of residence back to the original point of employment, the Recipient shall assume the expenses, losses and costs of moving to the same extent provided in subparagraph (a) of this paragraph (11) and paragraph (12)(a) hereof.

(11)(c) No claim for reimbursement shall be paid under the provisions of this paragraph unless such claim is presented to the Recipient in writing within ninety (90) days after the date on which the expenses were incurred.

(11)(d) Except as otherwise provided in subparagraph (b), changes in place of residence, subsequent to the initial changes as a result of the Project, which

are not a result of the Project but grow out of the normal exercise of seniority rights, shall not be considered within the purview of this paragraph.

(12)(a) The following conditions shall apply to the extent they are applicable in each instance to any employee who is retained in the service of the employer (or who is later restored to service after being entitled to receive a dismissal allowance), who is required to change the point of his/her employment as a result of the Project, and is thereby required to move his/her place of residence.

If the employee owns his/her own home in the locality from which the employee is required to move, the employee shall, at the employee's option, be reimbursed by the Recipient for any loss suffered in the sale of the employee's home for less than its fair market value, plus conventional fees and closing costs, such loss to be paid within thirty (30) days of settlement or closing on the sale of the home. In each case, the fair market value of the home in question shall be determined, as of a date sufficiently prior to the date of the Project, so as to be unaffected thereby. The Recipient shall, in each instance, be afforded an opportunity to purchase the home at such fair market value before it is sold by the employee to any other person and to reimburse the seller for his/her conventional fees and closing costs.

If the employee is under a contract to purchase his/her home, the Recipient shall protect the employee against loss under such contract, and in addition, shall relieve the employee from any further obligation thereunder.

If the employee holds an unexpired lease of a dwelling occupied as the employee's home, the Recipient shall protect the employee from all loss and cost in securing the cancellation of said lease.

(12)(b) No claim for loss shall be paid under the provisions of this paragraph unless such claim is presented to the Recipient in writing within one year after the effective date of the change in residence.

(12)(c) Should a controversy arise in respect to the value of the home, the loss sustained in its sale, the loss under a contract for purchase, loss and cost in securing termination of a lease, or any other question in connection with these matters, it shall be decided through a joint conference between the employee, or his/her union, and the Recipient. In the event they are unable to agree, the dispute or controversy may be referred by the Recipient or the union to a board of competent real estate appraisers selected in the following manner: one (1) to be selected by the representatives of the employee, and one (1) by the Recipient, and these two, if unable to agree within thirty (30) days upon the

valuation, shall endeavor by agreement with ten (10) days thereafter to select a third appraiser, or to agree to a method by which a third appraiser shall be selected, and failing such agreement, either party may request the State and local Board of Real Estate Commissioners to designate within ten (10) days a third appraiser, whose designation will be binding upon the parties and whose jurisdiction shall be limited to determination of the issues raised in this paragraph only. A decision of a majority of the appraisers shall be required and said decision shall be final, binding, and conclusive. The compensation and expenses of the neutral appraiser including expenses of the appraisal board, shall be borne equally by the parties to the proceedings. All other expenses shall be paid by the party incurring them, including the compensation of the appraiser selected by such party.

(12)(d) Except as otherwise provided in paragraph (11)(b) hereof, changes in place of residence, subsequent to the initial changes as a result of the Project, which are not a result of the Project but grow out of the normal exercise of seniority rights, shall not be considered within the purview of this paragraph.

(12)(e) "Change in residence" means transfer to a work location which is either (A) outside a radius of twenty (20) miles of the employee's former work location and farther from the employee's residence than was his/her former work location, or (B) is more than thirty (30) normal highway route miles from the employee's residence and also farther from his/her residence than was the employee's former work location.

(13)(a) A dismissed employee entitled to protection under this arrangement may, at the employee's option within twenty-one (21) days of his/her dismissal, resign and (in lieu of all other benefits and protections provided in this arrangement) accept a lump sum payment computed in accordance with section (9) of the Washington Job Protection Agreement of May 1936:

<u>Length of Service</u>				<u>Separation Allowance</u>		
1	year	and	less than 2 years	3 months' pay		
2	"	"	" " 3 "	6	"	"
3	"	"	" " 5 "	9	"	"
5	"	"	" " 10 "	12	"	"
10	"	"	" " 15 "	12	"	"
15	"	"	over	12	"	"

In the case of an employee with less than one year's service, five days' pay, computed by multiplying by 5 the normal daily earnings (including regularly scheduled overtime, but excluding other overtime payments) received by the

employee in the position last occupied, for each month in which the employee performed service, will be paid as the lump sum.

Length of service shall be computed as provided in Section 7(b) of the Washington Job Protection Agreement, as follows:

For the purposes of this arrangement, the length of service of the employee shall be determined from the date the employee last acquired an employment status with the employing carrier and the employee shall be given credit for one month's service for each month in which the employee performed any service (in any capacity whatsoever) and twelve (12) such months shall be credited as one year's service. The employment status of an employee shall not be interrupted by furlough in instances where the employee has a right to and does return to service when called. In determining length of service of an employee acting as an officer or other official representative of an employee organization, the employee will be given credit for performing service while so engaged on leave of absence from the service of a carrier.

(13)(b) One month's pay shall be computed by multiplying by 30 the normal daily earnings (including regularly scheduled overtime, but excluding other overtime payments) received by the employee in the position last occupied prior to time of the employee's dismissal as a result of the Project.

(14) Whenever used herein, unless the context requires otherwise, the term "protective period" means that period of time during which a displaced or dismissed employee is to be provided protection hereunder and extends from the date on which an employee is displaced or dismissed to the expiration of six (6) years therefrom, provided, however, that the protective period for any particular employee during which the employee is entitled to receive the benefits of these provisions shall not continue for a longer period following the date the employee was displaced or dismissed than the employee's length of service, as shown by the records and labor agreements applicable to his/her employment prior to the date of the employee's displacement or dismissal.

(15) Any dispute, claim, or grievance arising from or relating to the interpretation, application or enforcement of the provisions of this arrangement, not otherwise governed by paragraph 12(c) of this arrangement, the Labor-Management Relations Act, as amended, the Railway Labor Act, as amended, or by impasse resolution provisions in a collective bargaining or protective arrangement involving the Recipient(s) and the Union(s), which cannot be settled by the parties thereto within thirty (30) days after the dispute or controversy arises, may be submitted at the written request of the Recipient(s) or the Union(s) in accordance with a final and binding resolution

procedure mutually acceptable to the parties. Failing agreement within ten (10) days on the selection of such a procedure, any party to the dispute may request the American Arbitration Association to furnish an arbitrator and administer a final and binding arbitration under its Labor Arbitration Rules. The parties further agree to accept the arbitrator's award as final and binding.

The compensation and expenses of the neutral arbitrator, and any other jointly incurred expenses, shall be borne equally by the Union(s) and Recipient(s), and all other expenses shall be paid by the party incurring them.

In the event of any dispute as to whether or not a particular employee was affected by the Project, it shall be the employee's obligation to identify the Project and specify the pertinent facts of the Project relied upon. It shall then be the burden of the Recipient to prove that factors other than the Project affected the employee. The claiming employee shall prevail if it is established that the Project had an effect upon the employee even if other factors may also have affected the employee (See Hodgson's Affidavit in Civil Action No. 825-71).

(16) The Recipient will be financially responsible for the application of these conditions and will make the necessary arrangements so that any employee affected, as a result of the project, may file a written claim through his/her Union representative with the Recipient within sixty (60) days of the date the employee is terminated or laid off as a result of the Project, or within eighteen (18) months of the date the employee's position with respect to his/her employment is otherwise worsened as a result of the Project. In the latter case, if the events giving rise to the claim have occurred over an extended period, the 18-month limitation shall be measured from the last such event. No benefits shall be payable for any period prior to six (6) months from the date of the filing of any claim. Unless the claim is filed with the Recipient within said time limitations, the Recipient shall thereafter be relieved of all liabilities and obligations related to the claims.

The Recipient will fully honor the claim, making appropriate payments, or will give written notice to the claimant and his/her representative of the basis for denying or modifying such claim, giving reasons therefore. In the event the Recipient fails to honor such claim, the Union may invoke the following procedures for further joint investigation of the claim by giving notice in writing of its desire to pursue such procedures. Within ten (10) days from the receipt of such notice, the parties shall exchange such factual material as may be requested of them relevant to the disposition of the claim and shall jointly take such steps as may be necessary or desirable to obtain from any third party such additional factual materials as may be relevant. In the event the claim is

so rejected by the Recipient, the claim may be processed in accordance with the final and binding resolution procedures described in paragraph (15).

(17) Nothing in this arrangement shall be construed as depriving any employee of any rights or benefits which such employee may have under existing employment or collective bargaining agreements or otherwise; provided that there shall be no duplication of benefits to any employee, and, provided further, that any benefit under this arrangement shall be construed to include the conditions, responsibilities, and obligations accompanying such benefit. This arrangement shall not be deemed a waiver of any rights derived from any other agreement or provision of federal, state or local law.

(18) During the employee's protective period, a dismissed employee shall, if the employee so requests, in writing, be granted priority of employment or reemployment to fill any vacant position within the jurisdiction and control of the Recipient reasonably comparable to that which the employee held when dismissed, including those in the employment of any entity bound by this arrangement pursuant to paragraph (21) hereof, for which the employee is, or by training or retraining can become, qualified; not, however, in contravention of collective bargaining agreements related thereto. In the event such employee requests such training or re-training to fill such vacant position, the Recipient shall provide for such training or re-training at no cost to the employee. The employee shall be paid the salary or hourly rate provided for in the applicable collective bargaining agreement for such position, plus any displacement allowance to which the employee may be otherwise entitled. If such dismissed employee who has made such request fails, without good cause, within ten (10) days to accept an offer of a position comparable to that which the employee held when dismissed for which the employee is qualified, or for which the employee has satisfactorily completed such training, the employee shall, effective at the expiration of such ten-day period, forfeit all rights and benefits under this arrangement.

As between employees who request employment pursuant to this paragraph, the following order where applicable shall prevail in hiring such employees:

(a) Employees in the craft or class of the vacancy shall be given priority over employees without seniority in such craft or class;

(b) As between employees having seniority in the craft or class of the vacancy, the senior employees, based upon their service in that craft or class, as shown on the appropriate seniority roster, shall prevail over junior employees;

(c) As between employees not having seniority in the craft or class of the vacancy, the senior employees, based upon their service in the crafts or classes in which they do have seniority as shown on the appropriate seniority rosters, shall prevail over junior employees.

(19) The Recipient will post, in a prominent and accessible place, a notice stating that the Recipient has received federal assistance under the Federal Transit statute and has agreed to comply with the provisions of 49 U.S.C., Section 5333(b). This notice shall also specify the terms and conditions set forth herein for the protection of employees. The Recipient shall maintain and keep on file all relevant books and records in sufficient detail as to provide the basic information necessary to the proper application, administration, and enforcement of this arrangement and to the proper determination of any claims arising thereunder.

(20) In the event the Project is approved for assistance under the statute, the foregoing terms and conditions shall be made part of the contract of assistance between the federal government and the Grantee and between the Grantee and any Recipient; provided, however, that this arrangement shall not merge into the contract of assistance, but shall be independently binding and enforceable by and upon the parties thereto, and by any covered employee or his/her representative, in accordance with its terms, nor shall any other employee protective agreement merge into this arrangement, but each shall be independently binding and enforceable by and upon the parties thereto, in accordance with its terms.

(21) This arrangement shall be binding upon the successors and assigns of the parties hereto, and no provisions, terms, or obligations herein contained shall be affected, modified, altered, or changed in any respect whatsoever by reason of the arrangements made by or for the Recipient to manage and operate the system.

Any person, enterprise, body, or agency, whether publicly or privately owned, which shall undertake the management, provision and/or operation of the Project services or the Recipient's transit system, or any part or portion thereof, under contractual arrangements of any form with the Recipient, its successors or assigns, shall agree to be bound by the terms of this arrangement and accept the responsibility with the Recipient for full performance of these conditions. As a condition precedent to any such contractual arrangements, the Recipient shall require such person, enterprise, body or agency to so agree in writing. Transit employees in the service area of the

project are third-party beneficiaries to the terms of this protective arrangement, as incorporated by reference in the contractual agreement.

(22) In the event of the acquisition, assisted with Federal funds, of any transportation system or services, or any part or portion thereof, the employees of the acquired entity shall be assured employment, in comparable positions, within the jurisdiction and control of the acquiring entity, including positions in the employment of any entity bound by this arrangement pursuant to paragraph (21). All persons employed under the provisions of this paragraph shall be appointed to such comparable positions without examination, other than that required by applicable federal, state or local law or collective bargaining agreement, and shall be credited with their years of service for purposes of seniority, vacations, and pensions in accordance with the records of their former employer and/or any applicable collective bargaining agreements.

(23) The employees covered by this arrangement shall continue to receive any applicable coverage under Social Security, Railroad Retirement, Workmen's Compensation, unemployment compensation, and the like. In no event shall these benefits be worsened as a result of the Project.

(24) In the event any provision of this arrangement is held to be invalid, or otherwise unenforceable under federal, state, or local law, in the context of a particular Project, the remaining provisions of this arrangement shall not be affected and the invalid or unenforceable provision shall be renegotiated by the Recipient and the interested Union representatives of the employees involved for purpose of adequate replacement under Section 5333(b). If such negotiation shall not result in mutually satisfactory agreement any party may invoke the jurisdiction of the Secretary of Labor to determine substitute fair and equitable employee protective arrangements for application only to the particular Project, which shall be incorporated in this arrangement only as applied to that Project, and any other appropriate action, remedy, or relief.

(25) If any employer of the employees covered by this arrangement shall have rearranged or adjusted its work force(s) in anticipation of the Project, with the effect of depriving an employee of benefits to which the employee should be entitled under this arrangement, the provisions of this arrangement shall apply to such employee as of the date when the employee was so affected.

 Digitally signed by Ann  
Comer  
DN: cn=Ann Comer, o=U.S.  
DOL, ou=ESA/OLMS/OFR,  
email=ccomer@nrd.dol.gov,  
c=US  
Date: 2019.12.30 10:50:01  
+0500

**QUARTERLY MONITORING REPORT**

AGENCY:  
FISCAL YEAR:

Vehicle Number:

Reports under:

	JULY	AUGUST	SEPT	OCT	NOV	DEC	JAN	FEB	MARCH	APRIL	MAY	JUNE	TOTAL
MAXIMUM SERVICE DAYS													0
VEHICLE HOURS													0
REVENUE VEHICLE HOURS													0
VEHICLE MILES													0
REVENUE VEHICLE MILES													0
# RIDES													0

COSTS MEASURES	JULY	AUGUST	SEPT	OCT	NOV	DEC	JAN	FEB	MARCH	APRIL	MAY	JUNE	TOTAL
TOTAL COST													\$0
COST PER MILE													
COST PER HOUR													
COST PER PASSENGER													

RIDERSHIP MEASURES	JULY	AUGUST	SEPT	OCT	NOV	DEC	JAN	FEB	MARCH	APRIL	MAY	JUNE	TOTAL
# RIDES	0	0	0	0	0	0	0	0	0	0	0	0	0
RIDERS PER VEHICLE HOUR													
RIDERS PER VEHICLE MILE													
RIDERS PER SERVICE DAY													

FARES COLLECTED	JULY	AUGUST	SEPT	OCT	NOV	DEC	JAN	FEB	MARCH	APRIL	MAY	JUNE	TOTAL
FARE BOX/TOTAL COST													\$0
FARE PER PASSENGER													

MILES/SERVICE DAY	JULY	AUGUST	SEPT	OCT	NOV	DEC	JAN	FEB	MARCH	APRIL	MAY	JUNE	TOTAL
HOURS/SVC DAY													

PERCENT REVENUE HOURS	JULY	AUGUST	SEPT	OCT	NOV	DEC	JAN	FEB	MARCH	APRIL	MAY	JUNE	TOTAL
PERCENT REVENUE MILES													

CUMULATIVE SERVICE DAYS	JULY	AUGUST	SEPT	OCT	NOV	DEC	JAN	FEB	MARCH	APRIL	MAY	JUNE	TOTAL
													0

NOTE: Estimates shown in Italics







# EAST- WEST EXPRESS (SCHEDULE)9-28-12

<u>(PTC) Grafton Road</u>	<u>Epping Park &amp; Ride</u>	<u>MHT Airport</u>	<u>(MTC) Canal Street</u>	Driver
4:00AM	4:30AM	5:00AM		1
5:00AM	5:30AM	6:00AM	6:20AM	2
6:00AM	6:30AM	7:00AM	7:20AM	3
7:00AM	7:35AM	8:00AM	8:20AM	4
8:00AM	8:30AM	9:00AM		1
9:00AM	9:30AM	10:00AM	10:20AM	2
10:00AM	10:30AM	11:00AM		3
11:00AM	11:30AM	12:00PM	12:20PM	4
12:00AM	12:30PM	1:00PM		1
1:00PM	1:30PM	2:00PM	2:20PM	2
2:00PM	2:30PM	3:00PM		3
3:00PM	3:30PM	4:00PM	4:20PM	4
4:00PM	4:30PM	5:00PM	5:20PM	1
5:00PM	5:30PM	6:00PM	6:20PM	2
6:00PM	6:30PM	7:00PM	7:20PM	3
7:00PM	7:30PM	8:00PM		4
8:00PM	8:30PM	9:00PM	9:20PM	1
9:00PM	9:30PM	10:00PM		2
10:00PM	10:30PM	11:00PM	11:20PM	3
11:00PM	11:30PM	12:00PM		4

<u>(MTC) Canal Street</u>	<u>MHT Airport</u>	<u>Epping Park &amp; Ride</u>	<u>(PTC) Grafton Road</u>	Driver
5:45AM	6:00AM	6:30AM	7:00AM	1
6:45AM	7:00AM	7:30AM	8:00AM	2
7:45AM	8:00AM	8:30AM	9:00AM	3
	9:00AM	9:30AM	10:00AM	4
9:45AM	10:00AM	10:30AM	11:00AM	1
	11:00AM	11:30AM	12:00PM	2
11:45AM	12:00PM	12:30PM	1:00PM	3
	1:00PM	1:30PM	2:00PM	4
1:45PM	2:00PM	2:30PM	3:00PM	1
2:45PM	3:00PM	3:30PM	4:00PM	2
3:45PM	4:00PM	4:30PM	5:00PM	3
4:45PM	5:00PM	5:30PM	6:00PM	4
	6:00PM	6:30PM	7:00PM	1
6:45PM	7:00PM	7:30PM	8:00PM	2
	8:00PM	8:30PM	9:00PM	3
8:45PM	9:00PM	9:30PM	10:00PM	4
	10:00PM	10:30PM	11:00PM	1
10:45PM	11:00PM	11:30PM	12:00AM	2
	12:00am	12:30AM	1:00AM	3

**DRIVER / AM**

START	FINISH	TOTAL	DOWN TIME
2:30AM	9:30AM	7	
3:30AM	12:00PM	8.5	
4:30AM	1:00PM	8.5	
5:30AM	1:00PM	7.5	

**DRIVER / PM**

8:45AM	6:00PM	9.25
10:00AM	7:00PM	9
10:45AM	8:00PM	9.25
12:00PM	8:30PM	8.5

**LATE PM CLOSERS**

5:00PM	12:00PM	7
5:45PM	2:00AM	7.25
7:45PM	12:30PM	4.5