



Town of Winter Park
P.O. Box 3327, 50 Vasquez Road,
Winter Park, Colorado 80482
970.728.8081

REQUEST FOR PROPOSALS (RFP)

Contracted Public Transportation Services

The contract to be awarded will be subject to a federal financial assistance contract in place between Winter Park and the Colorado Department of Transportation. The successful contractor will be required to comply with all applicable state federal laws and regulations.

Key RFP Dates

Issued:	Tuesday, August 6th, 2021
Pre-Proposal Conference:	Tuesday, August 17th, 2021
Written Questions:	Friday, August 31st, 2021
Response to Questions:	Tuesday, September 10th, 2021
Proposals Due:	Tuesday, September 20th, 2021
Contractor Interviews, if needed:	Week of October 10th, 2021

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August 1, 2021

SUBJECT: NOTICE OF REQUEST FOR PORPOSALS – CONTRACTED TRANSPORTATION SERVICES

The Town of Winter Park (Winter Park) invites proposals from qualified Contractors to provide Contracted Public Transportation Services.

Proposals must be submitted at or before 4:00 p.m. local time on September 20th, 2021.

If proposals are delivered using the United States Postal Service, use the Post Office box specified below. If proposals are delivered in person or by courier, the I use the street address specified below.

**Town of Winter Park
P.O. Box 3327
50 Vasquez Road,
Winter Park, CO 80482
Attention: Transit Manager**

Proposals and amendments to proposals received after the date and time specified above will be returned to the proposer unopened.

A copy of the full RFP is available on the Town of Winter Park website at: www.wpgov.com

A pre-proposal conference will be held on Tuesday, August 17th, 2021 at 10 a.m. at the Town of Winter Park, 50 Vasquez Road, Winter Park, CO 80482. A tour of the existing facility will be included in addition to an overview of the new Transit Maintenance, Storage, and Administration facility.

The contract to be let will be subject to a federal financial assistance contract between the Town of Winter Park (the “Town”) and the Colorado Department of Transportation (“CDOT”). All proposers must be willing to comply with all applicable state and federal equal opportunity laws and regulations, to certify that they are not debarred, suspended, or otherwise excluded from participating in federally assisted projects, and to comply with all federal regulations.

Interviews are to be scheduled for the week of October 10th, 2021. Please keep these days open. Should further information or clarification be needed, please contact the undersigned at 970.726.8081 or at icompton@wpgov.com.

Sincerely,

Ivy Compton

Transit Manager

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SECTION I

INSTRUCTIONS TO PROPOSERS

A. PRE-PROPOSAL CONFERENCE

A pre-proposal conference will be held on August 17th, 2021 at 10:00 a.m. at the Town Hall, 50 Vasquez Road, Winter Park, CO 80482. A tour of the existing facility will be included in addition to an overview of the new Transit Maintenance, Storage, and Administration facility.

B. EXAMINATION OF PROPOSAL DOCUMENTS

By submitting a proposal, proposer represents that it has thoroughly examined and become familiar with the services required under this RFP and that it can perform quality services to achieve the Town's objectives. Failure to comply with all requirements of this RFP and any subsequent amendments issued may result in the proposer's proposal being excluded from further evaluation.

C. ADDENDA

Any changes to the requirements will be made by written addendum to this RFP. Any written addenda issued pertaining to this RFP shall be incorporated into the terms and conditions of any resulting contract. The Town will not be bound to any modifications to or deviations from the requirements set forth in this RFP as the result of oral instructions.

D. Clarifications

1. Examination of Documents

Should a proposer require clarifications of this RFP, the proposer shall notify the Town in writing in accordance with Section D.2. below. Should it be found that the point in question is not clearly and fully set forth, the Town will issue a written addendum clarifying the matter which will be sent to all persons who have requested the RFP.

2. Submitting Requests

- a. All questions, including questions that could not be specifically answered at the pre-proposal conference must be put in writing and must be received by the Town no later than 4:00 p.m. on August 31st, 2021.

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- b. Requests for clarifications, questions and comments must be clearly labeled, "Written Questions". The Town is not responsible for failure to respond to a request that has not been labeled as such.
- c. Any of the following methods of delivering written questions are acceptable as long as the questions are received no later than the date and time specified above:
 - 1. U.S. Mail: Town of Winter Park, P.O. Box 3327, Winter Park, CO 80482
 - 2. Courier: Town of Winter Park, 50 Vasquez Road, Winter Park, CO 80482
 - 3. E-Mail: icompton@wpgov.com

3. Winter Park Responses

Responses from the Town will be communicated in writing to all recipients of this RFP, and will be sent via email no later than Friday, October 22, 2021.

E. Submission of Proposals

1. Date and Time

Proposals must be submitted at or before 4:00 p.m. on September 20, 2021. Proposals received after the above-specified date and time will be returned to proposers unopened.

2. Address

Proposals delivered shall be submitted to the Town of Winter Park, ATTN Transit Manager, 50 Vasquez Road Winter Park, CO 80482

Proposals delivered by the U.S. Postal Service shall be submitted to the Town of Winter Park, ATTN Transit Manager, P.O. Box 3327 Winter Park, CO 80482

3. Identification/Submittal of Proposals

Proposals shall be submitted in two (2) separately sealed packages. Each package shall be marked as specified below:

Proposer shall submit Package No. 1 (Technical Proposal) as an original and two (2) copies of its proposal in a sealed package, addressed as shown above, bearing the proposer's name and address, and clearly marked as follows: **"RFP for Contracted Public Transportation Services – TECHNICAL PROPOSAL"**

Proposer shall submit Package No. 2 (Price Proposal) as an **original only** in a sealed package addressed as shown above, bearing the proposer's name and address, and

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clearly marked as follows: **“RFP for Contracted Public Transportation Services – PRICE PROPOSAL.”** This package should include all Exhibit B price forms and Exhibit D Required Forms. Please note that proposers need to submit two (2) copies each of the required procedures and policies documentation as set forth in Section II of this RFP; they may be included with Package No. 1 – Technical Proposal.

4. Acceptance of Proposals

- a. The Town reserves the right to accept or reject any and all proposals, or any item or part thereof, or to waive any informalities or irregularities in proposals.
- b. The Town reserves the right to withdraw this RFP at any time without prior notice and makes no representations that any contract will be awarded to any proposer responding to this RFP.
- c. The Town reserves the right to postpone proposal openings for its own convenience.
- d. The Town reserves the right to award portions of the Scope of Work as it deems necessary.

F. Pre-Contractual Expenses

Pre-contractual expenses are defined as expenses incurred by proposer in:

- (1) Preparing its Proposal in response to this RFP;
- (2) Submitting that proposal to the Town;
- (3) Negotiating with the Town any matter related to this proposal; or
- (4) Any other expenses incurred by proposer prior to date of award; if any.

The Town shall not, in any event, be liable for any pre-contractual expenses. Proposer shall not include any such expenses as part of its proposal.

G. Joint Offers

Where two (2) or more proposer's desire to submit a single proposal in response to this RFP, they should do so on a prime-subcontractor basis rather than as a joint venture. The Town intends to contract with a single firm and not with multiple firms doing business as a joint venture.

H. Taxes

The Town is exempt from the imposition of federal excise taxes on fuel. If the proposer obtains fuels from a source other than the Town, it will be responsible for tracking fuel use for public transit routes and claiming any available exemptions to the federal excise

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taxes, if any. The Town of Winter Park will pay only for the base amount of fuel less Federal Excise and Transportation Taxes.

I. Protest Procedures

1. Protests

Any person adversely affected by this solicitation shall file with Dani Jardee, Town Clerk, Town of Winter Park, P.O. Box 3327, 50 Vasquez Road, Winter Park, CO 80482, a Notice of Protest, in writing, at least 5 calendar days prior to the date on which proposals are to be received. Protests will be considered and responded to in writing prior to the proposal due date of September 20, 2021. If the protest is sustained, the proposal due date may be delayed, and an addendum issued to modify the due date or cancel the solicitation. If the protest is denied, the proposal due date is upheld, and submissions will be required as originally scheduled.

Any person adversely affected by a decision in connection with this solicitation shall file a Formal Written Protest, in writing, within 5 calendar days of receipt of the decision with the Town of Winter Park Transit Manager. The formal written protest shall state with particularity the facts and law upon which the protest is based.

Protesters may not challenge the evaluation criteria or the relative weight of the evaluation criteria or the formula for making an award determination.

Upon receipt of a formal written protest that has been timely filed, the Transit Manager shall stop the proposal solicitation process or the award process until the subject of the protest is resolved by mutual agreement or by final action of the Winter Park Town Council.

The Transit Manager shall provide an opportunity to resolve the protest by mutual agreement between the parties within 7 working days of receipt of a formal written protest. If the protest is not resolved by mutual agreement within 7 working days, the Transit Manager and/or the protester shall refer the protest to: Keith Riesberg, Town Manager, Town of Winter Park, P.O. Box 3327, 50 Vasquez Road, Winter Park, CO 80482.

The Winter Park Town Council will review the protest and the Transit Manager's decision, and either concur or reverse the decision in writing within seven working days.

J. Proposed Agreement

The successful proposer will be subject to the provisions contained in the Sample Agreement included in this RFP, except those changes may be made to reflect the terms of the successful proposer's proposal. The final Agreement shall incorporate the "Scope of Work" (see Section III

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of the RFP), the successful proposer’s proposal, and the successful proposer’s “Cost and Price Forms”. The final Agreement may also incorporate other pertinent terms and conditions set forth in the RFP. The proposer’s attention is directed particularly to Exhibit C, “Sample Contract”, Article 12 “Insurance”, which specifies the minimum insurance requirements that must be met by the successful proposer.

Should the proposer be unable to provide evidence of insurance within fourteen (14) days after notification of award by the Town, award may be made to the next qualified proposer.

The proposer’s inability or unwillingness to meet any requirements set forth in Exhibit C, Sample Contract, as a condition of contract award, must be stated as an exception in the proposal.

K. Contract Type

It is anticipated that the Agreement resulting from this solicitation, if awarded, will be a ‘Fixed Price’ contract, structured with a fixed price for overhead and fixed expenses and fixed price for each Revenue Service Hour operated for all variable expenses for all services set forth in the Scope of Work included this RFP as Section IV; see Exhibit B for further details.

This is the structure of the present contract and allows for costs to be paid by the Town when they are incurred. The Town will consider a straight fixed price for Revenue Service Hours if the Successful proposer would prefer this more standard method. However, all bids are to be submitted based on the current payment method.

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SECTION II

PROPOSAL CONTENT

A. Proposal Format and Content

1. Presentation

Proposals should be typed and not include any unnecessarily elaborate or promotional material. Lengthy narrative is discouraged, and presentations should be brief and concise; submittals shall be organized as set forth below.

2. Letter of Transmittal

The Letter of Transmittal shall be included in the technical proposal submittal and addressed to Name, Title, and must at a minimum, contain the following:

- a. Identification of proposer, include name, address, email address, facsimile, and telephone numbers.
- b. Proposed working relationship between proposer and subcontractors who supply or provide services that are 10% or greater of the total component costs. Provide subcontractors name, address, and telephone numbers.
- c. Acknowledgement or receipt of all RFP addenda, if any. Name, title, address, telephone number, and e-mail address of contact person during period of proposal evaluation.
- d. A statement to the effect that the proposal shall remain valid for a period of not less than 120 days from the date of submittal.
- e. Name and signature of a person authorized to bind proposer to the terms of the proposal and to negotiate contract price/terms on proposer's behalf.

3. Technical Proposal

a. Qualifications, Related Experience and References

This section of the proposal should establish the ability of proposer to satisfactorily perform the required work by reasons of experience in performing work of a similar nature; demonstrated competence in the services to be provided; strength and stability of the firm; staffing ability; ability to provide trained staff; work load; record of meeting schedules on similar projects; and supportive client references. Particular attention should be given to Section IV, Scope of Work. Proposer shall:

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1. Provide a brief profile of the firm, including the types of services offered; the year founded; form of the organization (corporation, partnership, sole proprietorship); number, size, and location of offices; and number of employees.
2. Provide a general description of the firm's financial condition and identify any conditions (e.g., bankruptcy, pending litigation, planned office closures, impending merger, potential labor disputes) that may impede proposer's ability to complete the project. Audited financial statements shall be submitted. This statement should clearly identify the financial status and condition of proposer's immediate business entity, as well as that of the overall company structure, if applicable; the date of this statement should cover a period of at least one (1) year and should be date no more than twelve (12) months prior to the date of the proposal submission.
3. Describe the firm's experience in performing a similar nature to that solicited in this RFP. Include at a minimum, name of the contracting agency, type of service(s) provided, contract period, scheduling system, annual revenue miles or hours, quantity, size, and fuel usage of vehicles used, and the name, address, and telephone number of a contact person.
4. Provide as a minimum three (3) references for the projects cited as related experience, and furnish the name, title, mailing and electronic message addresses and telephone number of the person(s) at the client organization who is most knowledgeable about the work performed.

b. Project Staffing and Project Organization

This section of the proposal should establish the method, which will be used by the proposer to manage the project, identify key personnel assigned, and provide adequate staff resources. Proposer shall:

1. Submit a project organization chart clearly indicating all communication/reporting relationships among the project staff and suppliers and assigned work tasks.
2. Provide name(s) and resumes of the proposed Project Manager and all key personnel that will be assigned to the Town project including the General Manager (also known as the Project Manager), Operations Manager, Maintenance Supervisor, and Safety/Training Supervisor. It is a requirement of this project that these specified key personnel can respond immediately to issues relating to the service herein. Proposer should demonstrate how this will be ensured and should indicate the percent of time everyone is dedicated to this project, by season, and other non-Town projects, as applicable.

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3. Include the statement that key personnel will be available to the extent proposed for the duration of the project and acknowledge that the General Manager shall not be removed or replaced without the prior written concurrence of the Town.
4. Indicate adequacy of labor resources utilizing a table projecting the labor-hour allocation to the project for each position category for the winter and summer seasons. Indicate the number of full-time and part-time employees for all operations (include number of hours for part-time employees). Include key personnel and line staff in this table. Identify the minimum staff that will be available by position in winter and summer. Wages and compensation details to be included for operators, maintenance, dispatch, and reservation personnel.
5. Describe how the proposer will approach staffing management to provide the flexibility needed for responsive and reliable services. To the extent that individuals will be cross trained for positions, describe this. Describe how office coverage will be provided and administrative functions carried out. Describe the process for filling core management and administrative positions.
6. Identify the office equipment, including computer software programs that will be provided and used in carrying out the contract. Computers shall be no more than five years old with current virus protection; software programs must have current updates installed. Describe the systems that will be used for storing both computer data and hard copy records (especially personnel and drug and alcohol testing records). Describe data back-up protocols that will be employed.
7. Identify the maintenance equipment that will be provided and used in carrying out the contract. Describe the equipment that will be used in the Winter Park facility and any which will be available at other proposer facilities.
8. Identify any maintenance or supervisory vehicles that will be provided.

c. Work Plan

Proposer shall provide a detailed narrative addressing the Section IV, Scope of Work requirements and demonstrating proposer's understanding of the Town's needs and requirements. Throughout the narrative, proposer will include references for each section in the Scope of Work that refers to the Town's requirements.

Proposer shall address the following in the Work Plan narrative:

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1. Service Operations

Provide a comprehensive detailed service operations plan to include a discussion of the following: personnel recruitment processes and procedures (including criteria for utilizing existing service employees and new employee hiring and retention); facility considerations; day-to-day operating approaches, considerations, and key issues; procedures for handling emergencies and unforeseen situations relative to transit operations (e.g., weather conditions, high ridership times, accidents).

Proposer shall address how they will maintain adequate staffing throughout the peak winter season. This shall address staff incentives, describe recruitment procedures, and identify the peak number of employees that will be hired. It shall identify the activities that will be undertaken to cover driver shortages at various levels of staffing.

Proposers should demonstrate their capability to complete service start-up activities in time to commence service operations on June 31, 2022 and should demonstrate their knowledge and experience with maintaining a smooth-running operation.

Proposers should provide a detailed implementation schedule that demonstrates how the start-up will be implemented.

2. Facilities and Equipment

The Town will provide the vehicles identified in Section IV, Scope of Services, item B(2) and is in the process of procuring additional vehicles. The existing vehicles will be available for inspection at the pre-proposal meeting. The additional used vehicles will be subject to operator inspection and will be brought up to satisfactory working condition prior to being leased to the successful proposer.

Please describe your firm’s ability to arrange for leased vehicles, including experience in doing this for clients and how you would approach a request to provide additional vehicles. Describe any access you may have to accessible vehicles other than the open market.

As a condition of the MOU that the Town has with the Resort, a facility is available for the provision of Town public transit services and Intrawest Resort park-and-reside shuttle and other Resort special services at no cost to the successful proposer. Proposers may bid based on using this facility, understanding that they will be a shared facility. If proposers bid

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based on using an alternate facility, the cost of the alternate facility must be included in the bid price.

The facility has two bays and is not suitable for heavy maintenance. Item (4) below includes a request to identify the maintenance that will be completed in this Town facility and maintenance that will be done elsewhere. Tell us the location of your other facilities and describe them and the available equipment.

3. Personnel Requirements, Training and Testing,

Proposers shall indicate their hiring standards in their proposal including their background check policies and procedures.

Proposers shall provide to the Town copies of all training protocols and a schedule demonstrating how personnel including drivers, mechanics, and other support personnel, as applicable, will be trained and tested prior to the start-up of service operations.

4. Recruitment and Retention

Maintaining a solid work force is a key aspect of providing reliable and high-quality service. Proposers shall describe their recruitment and retention plans for employees. Please address when various actions will be carried out. What will be done pre-winter season? What actions will be taken if driver staff drops below an identified level?

Proposers shall also describe their retention programs and any incentives provided to employees.

5. Maintenance Plan

Proposers shall develop a comprehensive vehicle and equipment Maintenance Plan that includes a discussion of the specific actions and work activities necessary to ensure that a high-level of vehicle maintenance is maintained throughout the duration of the Agreement.

Please include in your Maintenance Plan a description of the maintenance that will be accomplished in the Winter Park facility and how other maintenance will be carried out. Also describe the maintenance that will be done seasonally – off-peak rather than between December 15 and March 31 when all vehicles need to be available for peak services.

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The Maintenance Plan will also describe the procedures to assure that vehicles are maintained to manufacturer’s specifications and those that ensure warranty claims will be processed properly.

6. Written Policies and Procedures

Proposers must provide copies of all available written policies and procedures to be included as appendices to their Technical Proposal (two copies of each requested document should be provided and included with the original of Package No. 1 – Technical Proposal). These policies should include, but not be limited to the following:

- Drug and Alcohol Policy
- Injury and Illness Prevention Program
- Personnel Practices and Policies
- Vehicle Maintenance Procedures (include with Maintenance Plan)
- Emergency Protocols/Business Resumption Plan

7. Data Collection and Reporting

Proposers should discuss their process for collecting and reporting operational and maintenance data and demonstrate their understanding of various daily data collection activities and reporting requirements.

Proposer may also propose procedural or technical enhancements/innovations to the Scope of Work, which do not materially deviate from the objectives or required content of the project.

d. Exceptions/Deviations

State any exceptions to or deviations from the requirements of this RFP, segregating “technical” exceptions from “contractual” exceptions. Each exception must reference the section in the Scope of Work or Agreement Article that refers to the Town’s requirements. If your firm has no clarification, exception or deviation, a statement to that effect shall be included in the proposal.

4. Cost and Price Proposal

Proposer shall complete all “Cost and Price” forms included with this RFP (Exhibit B), and furnish any narrative required to explain the prices quoted in the schedules. All “Cost and Price” forms should be included in Package No. 2 of your proposal, as outlined in Section I, instructions to proposers, paragraph E(3) of this RFP.

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5. Performance Bond

The Town requires a performance bond based upon the review of the Company's financials and verification of records, as partial security against the selected proposer's failure to satisfactorily fulfill all its obligations under this Agreement. The performance bond shall be in the amount of ten percent (10%) of the average of the first three contract year amounts (and then each subsequent annual amount) and shall be executed by a corporate surety authorized to conduct business as a security in the state of Colorado. The cost of such a performance bond is to be identified in the proposal. The Town reserves the right to waive the performance bond if deemed appropriate.

6. Appendices

Information considered by proposer to be pertinent to this project and which has not been specifically solicited in any of the sections may be placed into a separate appendix section. However, proposers are cautioned that this does not constitute an invitation to submit large amounts of extraneous materials; appendices should be relevant and brief.

7. Federal Requirements

a. Federal Clauses and Certifications

The provision of the Town public transit services is partially funded by federal funds, so all applicable clauses will be included in the contract resulting from this procurement. (See Exhibit C: Sample Contract). Proposers should review the Sample Agreement for all applicable federal clauses. In addition, with the proposal, the Town will require submission of executed certifications listed below.

b. Certification of Debarment

As a recipient of federal funds, the Town is required to certify complaints with 49 CFR 29 for contracts of \$25,000 or more, unless otherwise permitted by law. Any person or firm that is debarred, suspended, or voluntarily excluded, as defined in 49 CFR 29, may not take part in any federally funded transaction, either as a participant or a principal, during the period of debarment, suspension, or voluntary exclusion. Accordingly, the Town may not enter into any transaction with such debarred, suspended, or voluntary exclusion. Accordingly, the Town may not enter into any transaction with such debarred, suspended, or voluntarily excluded persons or firms during such period.

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A certification process has been established by 49 CFR Part 29, as a means to ensure that debarred, suspended, or voluntarily excluded persons or firms do not participate in a federally assisted project. (See Exhibit D for form.) The inability to provide the required certification will not necessarily result in denial or participation in a covered transaction. A person or firm that is unable to provide a positive certification, as required by this solicitation, must submit a complete explanation attached to the certification. FTA will not consider the certification and any accompanying explanation in determining whether or not to provide assistance for the project. Failure to furnish a certification or an explanation may disqualify that person or firm from participating in the project.

Each proposer must provide to the Town a certification for a primary participant. Each potential subcontractor must provide to the Town a certification for a lower-tier participant if the subcontract meets the threshold of \$25,000 or more.

c. Restrictions on Lobbying

As a recipient of federal funds, the Town is required to certify compliance with the influencing restrictions and efforts of proposer to influence federal officials regarding specific procurements in excess of \$100,000 that must be disclosed pursuant to 31 U.S.C § 1352.

Each proposer is required to complete and submit the Certification of Restrictions on Lobbying, in Exhibit D, whether or not any lobbying efforts have taken place.

If the proposer did engage in lobbying activities, then OMB Standard Form LLL “Disclosure of Lobbying Activities” must also be completed and submitted to the Town.

Failure to complete this certification shall render a proposal nonresponsive to this RFP.

d. Disadvantaged Business Enterprise

This RFP does not have a specific DBE goal, but proposers are encouraged to use DBE and small business as suppliers in providing Transit Services to the Town. The Colorado State DBE goal is 2.88%. It is recognized that there are no local DBE firms and therefore the primary opportunities for DBE participation are for purchases made in the Front Range.

8. Public Records Policy

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Responses (proposals) to this RFP and the documents constituting any contract entered into thereafter become the exclusive property of the Town and shall be subject to the Colorado Open Records Act. The Town's use and disclosure of its records are governed by this Act.

Those elements in each proposal which proposer considers to be proprietary or otherwise exempt by law from disclosure, should be prominently marked as "PROPRIETARY" by proposer. The Town will use its best efforts to inform proposer of any request for disclosure of any such records including, without limitation; those so marked if disclosure is deemed to be required by law or by an order of the Court.

In the event of litigation concerning disclosure of information the proposer considers exempt from disclosure, the Town will act as a stakeholder only, holding the information until otherwise ordered by a court or other legal process. If the Town is required to defend an action arising out of a Public Records Act request for any of the contents of a proposer's proposal marked "Proprietary", proposer shall defend and indemnify the Town from all liability, damages, costs, and expense, including attorney's fees, in any action or proceeding arising under the Public Records Act.

To ensure confidentiality, proposers are instructed to enclose "Proprietary" data in separate sealed envelopes, which are then included with the proposal documents. Because the proposal documents are available for review by any person after award of a contract resulting from an RFP, the Town shall not in any way be held responsible for disclosure of any "Proprietary" documents, whether or not they are not contained in envelopes and prominently marked.

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SECTION III
EVALUATION AND AWARD

A. Evaluation Criteria

The Town will evaluate the offers received based on the following criteria:

1. Qualifications, Related Experience, and References (20%)

Technical experience in performing work of a closely similar nature; experience working with public agencies; strength and stability of the firm; strength, stability, experience, and technical competence of subcontractors; assessment by client references; references with demonstrated success in providing similar services.

2. Staffing and Project Organization (25%)

Qualifications of project staff, particularly key personnel and especially the Project Manager/General Manager; key personnel’s level of involvement in performing related work cited in “Qualifications of the Firm” section; logic of project organization; adequacy of labor commitment’ concurrence in the restrictions on changes in key personnel.

3. Work Plan (30%)

Depth of proposer’s understanding of the Town’s requirements as set for in Section IV- Scope of Work and within this RFP, overall quality of work plan’ logic, clarity and specificity of work plan; appropriateness of labor distribution among the activities; ability to meet all service start dates; reasonableness of service operations as proposed; utility of suggested technical or procedural innovations; and the overall quality of service that will result from the work plan.

4. Cost and Price (20%)

Reasonableness of the total price and competitiveness of this amount with other offers received; adequacy of data in support of figures quoted; reasonableness of unit price and overall pricing by year and for the entire Agreement.

5. Completeness of Response (5%)

Completeness of response in accordance with RFP instructions; exceptions to or deviations from the RFP requirements that the Town cannot or will not accommodate; and any other relevant factors not considered elsewhere.

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The Town will recommend the award to the responsible proposer whose proposal is most advantageous to the Town with price and other factors considered, based on the above evaluation criteria.

B. Evaluation Procedure

An Evaluation Committee composed of the Town Staff and Transit Advisory Committee members, in accordance with the above criteria, will evaluate all proposals received as specified. The evaluators in applying the major criteria to the proposals may consider additional sub-criteria beyond those listed. Furthermore, as a result of RFP changes or necessary proposal clarifications, a Best and Final Offer Request may be issued after the proposals are submitted but before contract award. During the evaluation period, the Town reserves the right to interview some or all the proposers.

C. Award

The Town will evaluate the proposals received and will submit the proposal considered to be the most competitive to the Town Council, for consideration and selection. Proposer the Town may also negotiate contract terms with the selected proposer prior to award, and expressly reserves the right to negotiate with several proposers simultaneously and, thereafter, to award a contract to the proposer offering the most favorable terms to the Town.

D. Notification of Award and Debriefing

Proposers who submit a proposal in response to this RFP shall be notified in writing regarding the firm who was awarded the contract. Such notification shall be made within three (3) days of the date the contract is awarded.

Proposers who were not awarded the contract may obtain a prompt explanation concerning the strengths and weaknesses of their proposal. Unsuccessful proposers who wish to be debriefed must request the debriefing in writing and the Town must receive it within three (3) days of notification of the contract award.

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SECTION IV

SCOPE OF WORK

A. Introduction/Overview

The Town is seeking a service contractor to operate a combination of fixed route, general public demand response, and ADA Paratransit services in Grand County, connecting the towns of Fraser and Winter Park and the Winter Park Resort, as well as commuter services to and from Granby.

For many years the Town Resort (the “Resort”) has operated winter season transit services. In 2015 the voters of Winter Park and the Town of Fraser (“Fraser”) voted to fund the provision of year-round public Transit Services in this area with a sales tax.

The transition of services from private sector to public sector and from seasonal to year-round is the result of the vision and willingness of voters in Winter Park and Fraser to fund the public transit services and a strong collaboration between elected officials, the Resort, and the current service contractor. This has resulted in year-round services for residents, employees, and visitors. Full transition is still taking place as we continue to replace the old fleet with a modern fleet of ADA compliant buses and future transition to zero-emission vehicles, the construction of a transit maintenance, storage and administration facility, and refine roles and responsibilities, agreements for services, and a range of funding agreements that will sustain the public transportation operation over time. During this time, it is critical that the selected service contractor continue to collaborate with Winter Park, Fraser, and the Resort as we work to build an effective public transit network in our region.

Key considerations as potential proposers prepare proposals are:

- As a resort community, service levels vary considerably between the peak winter services and the off-season.
- The ability to obtain and retain an adequate driver pool is a key challenge.
- The fleet is at present, a mix of new and 20+ year old vehicles. The successful proposer will need to be able to provide supplemental transit-vehicles should older vehicles break down.
- The current maintenance facility is provided by the Resort and is shared with the entity that operates Resort parking lot shuttle services and other special services for the resort. This facility is provided at no cost to the contractor. Proposers are free to propose operating out of another facility, but the cost of leasing another facility would then need to be included in the proposal. Construction on the new maintenance, storage and administration facility is set to begin in the Spring of 2022. Proposers should assume the existing facility will be used through the next 2-3 years of this contract.

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- At the present the same operator provides both Town and Resort services. This RFP for services is only for those public transit services provided by the Town. The Successful Proposer may also contract to provide services to the Resort, as long as the requirements of the Town’s contract are met.

The details of the services to be provided, the fleet, and recordkeeping requirements are found in the Town’s Transit Policy and Operating Manual (the “Manual”), which also documents a wide range of policies and procedures. Throughout the Manual and this RFP, the term “Transit Services” is defined as the public fixed route, demand response, and paratransit services operated by the Town within Winter Park, Fraser and its environs. These services operate under as “The Lift.”

The Town has been awarded Federal Transit Administration (“FTA”) grant funds by the Colorado Department of Transportation (“CDOT”) to support the provision of the Transit Services. All Transit Services must be operated in compliance with federal regulations.

It is the Town’s desire that the Transit Services be provided in the most efficient and cost-effective manner without compromising service quality. If there are requirements that are included in the Scope of Work that could be modified to reduce cost or improve quality, please identify those areas and not the potential savings as part of your proposal.

B. Service Description and Fleet Information

1. Types of Service

The Transit Services operated for the Town are typical of a resort community. The primary service is operated in the winter season, with different service levels for weekends and holidays and weekdays. Spring services are minimal with only two (2) vehicles operating. Summer and Fall services increase to three (3) buses. The number of days each level of service is operated is determined by the day of the week upon which holidays fall and snow conditions.

While the primary winter service is fixed route, demand response services are used in the evening and require active dispatching. Paratransit services are provided during all the hours that fixed route service is operated, and the Town has relatively high use of paratransit services as there is an active program for skiers with disabilities located in our community. The paratransit program carries many visitors as well as residents.

Spring and Summer services also include a significant amount of demand response services as this is the most efficient service model for these lower ridership times of the year. Proposer’s staffing plan needs to accommodate the dispatching requirements of demand response services.

The determination of service schedules, routes and public timetables are the responsibility of the Town and its partners. The Town shall provide the contractor with schedules and headways for each route, showing all trips, time points, stops, layovers, total scheduled revenue miles and

hours. Proposed route information in Exhibit A to RFP: Winter Park Policy and Operations Manual.

2. Fleet

The Town’s fleet roster is included as Table 1. Most of the vehicles in the fleet are well-used, purchased at the end of their useful life elsewhere. The Town has purchased these vehicles to provide a fleet that is accessible and is easier for customers to access than the school buses used previously. The Town has active grant applications underway, resulting in full-size transit coaches on order (Gillig coaches). Funding has been approved for additional full-size transit coaches. Funding for additional fleet replacements will be sought.

Fleet #	Vin #	Year	Make	Model	Mileage
WP-30	1VH5H3H22Y6500793	2000	Orion	RE 40	492,598
WP-32	1VH5H3H25Y6500819	2000	Orion	RE 40	92,018
WP-33	1VH5H3H21Y6500820	2000	Orion	RE 40	192,894
WP-34	1VH5H3H28Y6500832	2000	Orion	RE 40	1,226,714
WP-35	1VH5H3H29Y6500838	2000	Orion	RE 40	644,135
WP-36	1VH5H3H24Y6500844	2000	Orion	RE 40	357,179
WP-38	1VH5H4H22Y6500857	2000	Orion	RE 40	126,332
WP-39	1VH5H3H25Y6501386	2000	Orion	RE 40	324,082
WP-40	1VH5H3H20Y6501103	2000	Orion	RE 40	779,945
WP-43	1VH5H3H24Y6501122	2000	Orion	RE 40	199,961
WP-44	1VH5H3H28Y6501124	2000	Orion	RE 40	798,965
WP-45	1VH5H3H28Y6501138	2000	Orion	RE 40	729,829
WP-46	15GCA2117V1089007	1997	Gillig	Phantom	592,871
WP-52	1FD4E4FS0HDC57560	2017	Ford	E450	70,458
WP-53	1FD4E4FSXJDC02751	2018	Ford	E450	49,931
WP-54	1FD4E4FS4KDC55415	2019	Ford	E450	6,266
WP-55	1VH5H3H24Y6501153	2000	Orion	RE 40	757,338
WP-60	15GGB2716J3187675	2018	Gillig	Low Floor	169,044
WP-61	15GGB2718J3187676	2018	Gillig	Low Floor	169,589
WP-62	15GGB2716K3191677	2019	Gillig	Low Floor	120,290
WP-63	15GGB2718K3191678	2019	Gillig	Low Floor	113,740
WP-64	1FD4E4FS4KDC55415	2019	Gillig	Low Floor	43,826
WP-65	15GGB2710L3195676	2020	Gillig	Low Floor	35,123
WP-66	15GGB2719L3195675	2020	Gillig	Low Floor	33,037
WP-67		2021	Gillig	Low Floor	N/A
WP-68		2021	Gillig	Low Floor	N/A

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Note that no non-revenue vehicles are provided. Proposers will identify the non-revenue vehicles they will provide as part of the contract.

Please include in your Maintenance Plan a description of the maintenance that will be accomplished at the existing facility and how other maintenance will be carried out. Also, describe the maintenance that will be done seasonally – off-peak rather than between December 15 and March 31 when all vehicles need to be available for peak service.

All vehicles and vehicle equipment required by this RFP shall be maintained by the successful proposer in good repair, in a condition satisfactory to the Town, and in conformance with the Manual, Section 4.5 Maintenance Policy. It will be the expressed responsibility of the successful proposer to assume all coordination with the original manufacturer of the vehicles if necessary to keep the vehicles in safe and good operating condition. This includes negotiating and processing all vehicle warranty claims through the manufacturer’s own warranty department, and collection of any monies, extended warranties, or credits as a result, for the length of time the warranty is in effect.

Proposers shall provide a Maintenance Plan that details their preventive maintenance program. The Maintenance Plan shall also include a maintenance monitoring program for this project to ensure that the vehicles are maintained at least according to the manufacturer's specifications and always in a safe condition.

Each vehicle in the Town fleet is equipped with a radio. The system operates on the Intrawest Resort frequency and the successful proposer will be expected to comply with all Resort requirements for use of the radio network.

C. Levels of Service and Contract Terms

1. Term of the Contract

Services shall be initiated as a result of this RFP on June 30, 2022 and shall run through June 30, 2024 unless otherwise terminated pursuant to terms of the Agreement between the Town and the contractor. The Town shall have the option of exercising two one-year option years as follows:

Base Year 1: June 30, 2022

Base Year 2: June 30, 2023

Base Year 3: June 30, 2024

Option Year 4: June 30, 2025

Option Year 5: June 30, 2026

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2. Levels of Service

a. Service Plan

The Town operates weekday (base) and weekend/holiday (peak) services (reflecting the level of visitors in the area) and different levels of service in winter, spring, summer, and fall. In addition, there is flexibility at either end of the winter season as to when each season begins and ends. This is based on the days on which holidays fall and level of snowfall as these affect the daily service needs. Determining the service level requires some flexibility on the part of all partners, including the contractor. Because the service level is not as firm as in most traditional transit operations, proposers are asked to bid a “base” and “variable” hourly rate. The base rate will cover fixed costs, including non-driver staff, while the variable rate will reflect those costs that change with each hour or service operated.

Hour and mile estimates for typical contract year, by season and type of service are included below. The information also estimates the service hours in the first contract year as it will be somewhat shorter due to re-aligning the contract to an annual transition date of July 1.

Proposers are requested to bid on the following levels of service, understanding that this may change by five percent in any year based on the dates on which each seasonal schedule is initiated.

2019 Annual Service Hours: 32,457.50

2019 Annual Service Miles: 501,137

2020 Annual Service Hours: 26,776.00

2020 Annual Service Miles: 84,037

Note that the hours identified by season are somewhat higher than would be calculated based on the scheduled hours of daily service. In the winter season, a combination of additional service hours and active dispatching are used to assure that schedules are maintained, and passengers moved as needed. The spring/summer/fall services are operated as route deviation and in the Town’s first 5 years of operation it was found that the mileage varies considerably from day-to-day. The estimates are based on experience in 2019-2021. Note too that transit services are provided to transport riders to and from special events, such as concerts in the summer. While these typically fall within normal service hours, the passenger loads require additional buses in operation.

Finally, the Town system is developing, and services may expand or change over the course of the contract. There are continuing discussions about the need for additional services in the County area and on how best to service developments in and around Winter Park and Fraser. The Town is anticipating an additional 3,700 – 4,000 hours over the next two years. Please include a plan to address service expansion.

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Any routine service changes or additions would be on top of the hours and miles listed above and the 5% annual variance.

Table 2 – Hour & Mileage Estimate

b. Staffing Plan

The nature of the service requires a staff that is cross-trained and can provide the following skills and staffing levels:

- A manager (General Manager or Operations Manager) must be available 8 hours a day, 7 days/week in the winter season, during daytime operations. During peak times the manager may be needed in the field, but a minimum of four hours in the office daily is required to manage the system. To the extent the Operations Manager fills this role, he or she is expected to be knowledgeable of all systems, the status of activities, and be able to respond to inquiries and carry-out routine business.
- Dispatch coverage is required during all hours of operation, to answer customer calls, support drivers, and respond to driver’s needs (e.g., exchanging a bus, dealing with a difficult passenger). With 21 hours of operation in the winter season (147 hours per week) a minimum of 4 individuals are needed to have one person in the office at all times.
- Providing training each season for new drivers, back-up for when staff are sick or drivers no show, and the ability to investigate accidents or respond to the challenges posed by weather and road conditions, calls for staff that are cross-trained and can handle more than one duty.
- Operational staff requirements drop from 24 FTE drivers in the winter to 5-6 FTE drivers the rest of the year.
- Maintenance staff requirements are impacted by the demand for a peak fleet from December through March. Generally, the focus in the winter is on preventive maintenance and repairs and the annual vehicle inspections and all major maintenance can be scheduled to occur in April through November.

c. Pricing

Pricing forms are included as Exhibit B. A base form is included along with supplementary information on staffing. Note that fuel is a pass-through expense and will not be included in the cost.

Because of the seasonal nature of service, the costs incurred by the successful proposer may not align will with the provision of revenue hours. For example, the costs of training will occur in November and the first half of December, and the costs of maintenance staff will be higher in the off-season relative to service hours. For this reason, proposers should identify the costs that will vary by hour, and the costs they will allocate to a monthly base fee. In addition, proposers are asked to identify the amount of the fixed price they will charge on a monthly basis.

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D. Fares

The Lift is a fare-free system. Although fares may be considered in the future on regional services, it is not anticipated that they will be implemented during the initial term of this contract.

E. Transitioning Contracts

When applicable, the incumbent contractor must cooperatively participate in the transition of this service to a new contractor. No less than forty-five (45) days prior to a new contract starting, participation is necessary in:

- Meetings
- Transfer of records
- Access to property
- Access to vehicles

The above noted access shall be granted during normal hours of operation and with a reasonable amount of notice. A transition period is defined as the 30–45-day period of time prior to the contract termination or expiration date. Incumbent contractors shall participate in the smooth transition of service to a new provider in such a manner as to ensure the transition results in minimum service disruption to operations.

During the transition phase Town staff will conduct several meetings with the incumbent contractor and new contractor to discuss specific operations, records and vehicle transition events and the time frame in which they must occur. As requested by the Town, incumbent contractor must make pertinent records accessible to both the Town and new contractor within two (2) days of the Town’s request.

Town-owned vehicles will be subject to a transition inspection and acceptance; any needed repairs (as determined by the Town’s Transit Manager) will be completed before transfer of the vehicles to the new contractor. If repairs are not completed before the time of transfer, the cost of the repairs will be deducted from the incumbent contractor’s final invoice.

F. Operating Policies

The successful proposer is expected to abide by and enforce the Town’s operating policies as described in the Manual, Section 4.4.

G. Maintenance Policies

The proposer is expected to carry out the Town’s Maintenance Plan and the maintenance policies described in the Manual, Section 4.4.5.

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Exhibit A to RFP: Winter Park Policy and Operating Manual

Exhibit B to RFP: Pricing Forms

Name of Offeror:		Regional Office and Contact Information			
Home Office Address					
Services to be Performed:		TOTAL AMOUNT PROPOSED			
DETAILS OF COST BY YEAR					
Annual Operating Cost	Projected Revenue Hours	Fixed Price	Revenue Hour Variable Rate	Total Annual Cost	
Year 1 - All services (Base term)					
Year 2 - All services (Base term)					
Year 3 - All services (Base term)					
Year 4 - All services (Option 1)					
Year 5 - All services (Option 2)					
DETAILS OF COST AND PROJECT STAFFING BY MONTH					
Month	Est. % of Monthly Fixed Costs Charged	Estimated % of FTE Equivalent Charged to Project			
		Project/General Manager	Operations Manager	Safety/Training Supervisor	Maintenance Supervisor
July					
August					
September					
October					
November					
December					
January					
February					
March					
April					
May					
June					
Total	100%				
Annual FTE Charged to Project					

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SUPPLEMENTARY PRICING DETAIL

SUPPLEMENT A

Costs	Year 1 Wage	Year 1 FTE	Monthly Fixed Price	Variable Hourly Price	Base Year 1 (Partial -11 mo.)	Base Year 2 (12 mo.)	Base Year 3 (12 mo.)	Option Year 4 (12 mo.)	Option Year 5 (12 mo.)
Description					\$	\$	\$	\$	\$
A. Direct Labor (List positions, FTE and wage rates for each)									
Subtotal Labor Wages									
B. Fringe Benefits									
Subtotal Fringe Benefits									
C. Materials and Supplies (List line items)									
Subtotal Materials & Supplies									
D. Training Driver training Maintenance training Other training (specify) Recruiting costs Management & Staff Development									
Subtotal Training									
E. Maintenance Oil and Lubricants Parts Taxes Contract Services Other (specify)									
Subtotal Maintenance									
F. Casualty/Liability Insurance Casualty/Liability Insurance Property Damage Insurance Workers' Compensation Insurance									
Subtotal Casualty/Liability Insurance									
G. Other Insurance Performance Bond Other (specify)									

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Subtotal Other Insurance

H. Facility Costs

- Utilities (Electric, Gas, Water)
- Maintenance & Repair
- Environmental
- Other (specify)

Subtotal Facility Costs

I. Taxes, Permits, Licenses (specify)

- Corporate Taxes
- Vehicle Registration
- Interest
- Other

Subtotal Taxes, Permits, Licenses

J. Non-revenue Vehicle Costs

- Vehicles (specify)

Other

Subtotal Non-revenue Vehicle Costs

K. Telecommunications/Information

Systems

- Telecommunication Equipment
- Computer Hardware
- Computer Software
- Other (specify)

Subtotal Telecommunications/Information

Systems

L. Subtotal Costs (A – K)

M. Management Fee/Profit (Includes overhead)

N. Start-up Costs (specify)

Subtotal Start-up Costs

O. Total Costs (L+M+N)

O - 1 Amount of Total Cost Allocated to Annual Fixed Cost

O - 2 Amount of Total Cost Allocated to Revenue Hour Cost

P. Variable Revenue Hour Cost (O-2 /32,072)

Q. Total Cost per Revenue Hour (O /32,072)

The above prices include all direct costs, indirect costs, and profits. ^(SEP) Proposer commits it can perform the requirements of this RFP for the above pricing. The Town's intention is to award a firm-fixed price contract.

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Please denote any exceptions to the requirements specified in RFP # _____ and associated addenda. If there are no exceptions, state "No exceptions to RFP requirements".

1. I acknowledge receipt of RFP 17-_____ and Addenda Nos._____.
2. This proposal shall remain firm for _____ days from the date of proposal.

COMPANY NAME _____

ADDRESS _____

TELEPHONE _____

SIGNATURE OF PERSON AUTHORIZED TO BIND OFFEROR _____

SIGNATURE'S NAME/TITLE DATE SIGNED _____

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Exhibit C to RFP: Sample Contract

TRANSIT SERVICE AGREEMENT

THIS TRANSIT SERVICE AGREEMENT the ("Agreement") is entered into this ____ day of _____, 2021 (the "Effective Date"), by and between the Town of Winter Park, a Colorado home rule municipality (the "Town"), and _____ a corporation authorized and existing under the laws of the State of _____ and authorized to do business in the state of Colorado ("Contractor") (each individually a "Party" and collectively the "Parties").

WHEREAS, the Town desires to enter into an agreement for the operation of the Town's public transportation system;

WHEREAS, Contractor desires to perform transit services in accordance with the terms and conditions set forth herein; and

WHEREAS, Contractor has the requisite experience and knowledge to provide the services herein described.

NOW THEREFORE, for the consideration hereinafter set forth, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Term. The term of this Agreement shall be from the Effective Date through _____.

2. Funding. Activities under this Agreement are primarily funded by monies from the Town and the Federal Transit Administration ("FTA"), by and through the Colorado Department of Transportation ("CDOT"), up to annually allocated levels, and may be supplemented by either grants or monies from other sources. This Agreement is expressly contingent upon availability of funds, budget and appropriation by the Town and the FTA and receipt of financing and revenues to the Town on an annual basis, or as otherwise set forth in this Agreement. Consistent with Article X, § 20 of the Colorado Constitution, any financial obligation of the Town not performed during the current fiscal year is subject to annual appropriation, shall extend only to monies currently appropriated, and shall not constitute a mandatory charge, requirement, debt or liability beyond the current fiscal year.

3. Compensation.

a. The Town shall pay Contractor on a monthly fixed and hourly variable cost basis. An hour of service is defined as a vehicle operator in service and shall begin when the vehicle operator starts the route and ends after the completion of the route. Fixed monthly costs are invoiced monthly based on the schedule in **Exhibit A**, which includes the budget and assumptions for the first contract year. The schedule may be modified by the Parties pursuant to the

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procedures for such changes outlined in the Transit Operating Manual, attached hereto as **Exhibit B** and incorporated herein by this reference.

b. Fuel expenses shall be paid by the Town. Contractor shall either fuel Town-owned vehicles at Town fueling facilities and the fuel expense shall be paid directly by the Town, or Contractor shall fuel Town-owned vehicles and Contractor provided vehicles in service to the Town at the existing bus facility and pass through actual expenses of fuel on a monthly invoice by calculating actual fuel pumped into Town-owned vehicles multiplied by actual price per gallon, which excludes federal excise tax.

c. Contractor shall bill the Town monthly for reimbursement of actual service costs incurred. Invoices for payment shall be marked to specify the service period covered, detailed according to the FTA Approved Program of Projects Budget and as agreed upon by the Town and Contractor, and shall be accompanied by supporting documentation. The Town will evaluate and pay all undisputed billings within 30 days from receipt.

4. Service.

a. Contractor shall provide the services outlined in the Transit Operating Manual, in full compliance with this Agreement and the Transit Operating Manual.

b. The primary service area for this program is the map attached hereto as **Exhibit C**, as defined by the Town. However, trips to and from the Town to other municipalities and unincorporated areas of Grand County may also be provided within the scope of this Agreement upon the determination of the Town and the operating capacity of Contractor.

c. Contractor is responsible for securing all appropriate licenses for the services provided under this Agreement, at Contractor's own cost. Contractor is liable for all taxes due as a result of this Agreement.

d. Contractor agrees to comply with 49 U.S.C. § 5323(d) and 49 C.F.R. 604, which provides that recipients and subrecipients of FTA assistance are prohibited from providing charter services using federally funded equipment or facilities if there is at least one private charter operator willing and able to provide the service, except under one of the exceptions at 49 C.F.R. 604.9. Any charter services provided under one of the exceptions must be "incidental" (it must not interfere with or detract from the provision of mass transportation).

e. Pursuant to 69 U.S.C. § 5323(f) and 49 C.F.R. 605, Contractor may not engage in school bus operations exclusively for the 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 may not use federally funded equipment, vehicles, or facilities.

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f. Contractor shall provide accessible services in compliance with the Americans with Disabilities Act of 1990 ("ADA") as described in 49 C.F.R. Parts 27, 37, 38 and 39. This includes, at a minimum, paratransit services as a complement to fixed route transit service; acquisition of ADA-accessible vehicles and maintenance of ADA-accessible features; provision of ADA-accessible transportation facilities; provision of service in an ADA-accessible manner (such as making announcements of major bus stops and transfer points, priority seating for persons with disabilities, wheelchair transport, allowing sufficient boarding time, maintaining accessible features in good working order, and providing accessible information about the Transit Services); and, general practices to assure non-discrimination for individuals with disabilities through the training of employees, monitoring of service, and the tracking and investigation of ADA-related complaints. The Town shall monitor Contractor's compliance with the ADA, recognizing that Contractor "stands in the shoes" of the Town in meeting the requirements of the ADA. Contractor shall maintain a list of ADA eligible riders, updated regularly when new rider applications are received. All ADA trips shall be logged in a separate ADA dispatch log, which shall be maintained separately from the general dispatch or call log. The ADA log and ADA eligible riders list shall be available for review upon Town request.

5. Fares. There shall be no fares charged for transit services provided under this Agreement.

6. Maintenance. The Town will make available a basic facility for Contractor to use in providing Transit Services with two maintenance bays and an area for vehicle parking. This facility is a shared facility with Intrawest Resort. Intrawest Resort shares the facility with the Town and uses the facility for parking lot shuttles and charter services. Contractor is obligated to provide maintenance, office, and telecommunications equipment and to maintain the facility, so it provides a safe working environment.

a. During its occupancy of the Maintenance Facility, Contractor shall properly maintain the Maintenance Facility and all conduct at the Maintenance Facility, including maintenance, servicing and storage of the vehicles, shall be as required by this Agreement.

b. Contractor shall provide and maintain during the term of this Agreement adequate insurance for the Maintenance Facility, as determined by the Town, naming the Town and Winter Park Resorts as additional insureds under the policy or policies.

c. At a minimum, Contractor shall provide and maintain the following dedicated equipment at the Maintenance Facility in good repair for exclusive use during the term of this Agreement: 1 Panasonic Lap top with Noregon JPRO Professional Commercial Vehicle Diagnostic software, current edition; 1 Gray, 1-ton transmission jack; 1 new Lincoln stick welder; 1 4 post bus lift; 2 Gray 20,000 pound capacity wheel jacks; and 2 Gray 30,000 pound capacity wheel jacks.

7. Vehicles. The Town will lease revenue vehicles to Contractor for operation of Transit Services, as provided for in **Exhibit D** of this Agreement.

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a. Contractor shall maintain and service vehicles as necessary at its own cost, including without limitation, preventive and normal repair and parts replacement for brakes, rims, tires, hoses and pumps. The Town shall reimburse Contractor for Contractor's actual cost to replace any single major component in excess of \$1,500, provided that, prior to any such replacement, Contractor shall obtain Town approval.

b. Contractor shall ensure buses are clean at the end of each day, and shall document such cleaning in a format available for review and inspection by the Town upon request.

8. Insurance.

a. Contractor shall maintain in force during the term of this Agreement the following insurance:

i. General Liability including Garage Liability: \$5,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage.

ii. Commercial Automobile Liability: \$5,000,000 combined single limit per accident for bodily injury and property damage (excluding property damage to Town vehicles, which Contractor shall self-insure such losses), including passenger liability.

iii. Umbrella Liability: \$5,000,000 per occurrence for bodily injury, personal injury and property damage in excess of limits required under one or two above.

iv. Workers' Compensation as required by Colorado law.

v. All Risk Fire and Extended Coverage for actual replacement cost on all service or operating facilities including equipment and contents whether owned or leased by Contractor or the Town, including coverage for extra expense and loss of income coverage.

vi. Automobile Physical Damage Coverage, including Collision Coverage and Comprehensive Coverage, each equal to actual replacement value of the vehicle for the transit buses. Contractor has the option to self-insure for this coverage.

b. Certificates of insurance shall be supplied to the Town within 7 days of the Effective Date, endorsed as follows: "Winter Park, Colorado, and the State of Colorado, and their officers, officials, employees and volunteers are covered as Additional Insureds as respects liability on behalf of the Insured arising out of this Agreement."

c. Each policy shall be endorsed to state that coverage shall not be suspended, voided, canceled (by either Party), reduced in coverage or in limits, without 30 days prior written notice to the Town. No later than 15 days prior to the expiration date of any such insurance, Contractor shall deliver to the Town certificates of insurance evidencing renewals thereof.

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d. The insurance shall contain no special limitations on the scope of protection afforded to the Town, the State of Colorado, or their officers, officials, employees, agents or volunteers. The insurance shall be primary insurance, as respects the Town and all the parties mentioned above. The insurance shall insure Contractor and all its subcontractors, and sub-subcontractors, as their interests may appear.

e. Each policy shall include a clause stating that each carrier shall waive all rights of recovery, under subrogation or otherwise, against the Town or the State, their agencies, institutions, organizations, officers, agents, employees, and volunteers.

f. Within 10 days of a request by the Town or the State for a certificate or full copy of any policy, Contractor shall provide such documentation.

9. Compliance with Law.

a. Contractor shall be fully responsible for its own and its subcontractors' oversight with its compliance with all FTA rules, orders, regulations and directives, including the collection and compilation of ridership surveillance data. Contractor shall include these requirements in any subcontract as required by this Agreement.

b. Contractor shall provide the Town, the FTA, the U.S. Comptroller General or their authorized representatives access to any books, documents, papers and records which are pertinent to this Agreement for the purposes of making audits, examinations, excerpts and transcriptions. Contractor shall also, pursuant to 49 C.F.R. 633.17, provide authorized FTA representatives access to Contractor's records and construction sites pertaining to a capital project, defined in 49 U.S.C. § 5302(a)1, which is receiving FTA assistance through the programs described in 49 U.S.C. §§ 5307, 5309 or 5311. Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed. Contractor shall maintain all books, records, accounts and reports required under this Agreement for a period of not less than 3 years after the date of termination or expiration of this Agreement, except in the event of litigation or settlement of claims arising from the performance of this Agreement, in which case Contractor agrees to maintain same until the Town, the FTA Administrator, the U.S. Comptroller General or any of their authorized representatives have disposed of all such litigation, appeals, claims or exceptions related thereto.

c. By the act of accepting federal funding, in any amount, Contractor is bound by, and agrees to comply with, all regulations, requirements, terms, and conditions as set forth in the United States Department of Transportation, FTA Master Agreement (dated July 1, 2021), and any revisions thereto, insofar as these regulations, requirements, terms and conditions apply to a "Third Party Contractor" as defined in the FTA Master Agreement dated July 1, 2021, attached hereto as **Exhibit D** and incorporated herein by this reference. Contractor shall bind all subcontractors to these same conditions. Contractor shall be subject to and bind any

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subcontractors to requirements of any future grants used in this program, where the Town is the recipient or designee.

d. The services covered by this Agreement shall be operated according to the directives contained in the applicable FTA Program Guidance Circulars. The Town shall deliver pertinent procedural manuals, books, documents, and new publications regarding the FTA grant to Contractor for its use during the term of this Agreement, as requested.

e. Contractor shall recognize mandatory standards and policies relating to energy efficiency which are contained in the State Energy Conservation Plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. § 6321, *et seq.*).

f. Contractor shall comply with all applicable standards, orders, or requirements, issued pursuant to the Federal Water Pollution Control Act, as amended, (33 U.S.C. § 1251, *et seq.*). Contractor shall report each violation to the Town and understands and agrees that the Town will, in turn, report each violation as required to assure notification to the FTA and the appropriate Environmental Protection Agency Regional Office. Contractor also agrees to include these requirements in each subcontract financed in whole or in part with the federal assistance provided by the FTA.

g. Contractor shall comply with all applicable standards, orders, or requirements issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401, *et seq.* Contractor shall report violations to the FTA and to the EPA Assistant Administrator for Enforcement (EN0829).

h. Contractor shall comply with applicable "Buy America" requirements set forth in 49 U.S.C. § 5323(j), and the applicable regulations thereto, published at 49 C.F.R. 663, as amended. Contractor also agrees to include these requirements in each subcontract financed in whole or in part with the federal assistance provided by the FTA.

i. In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, § 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, § 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and 49 U.S.C. § 5332, Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. Contractor shall comply with applicable federal implementing regulations. Contractor also agrees to include these requirements in each subcontract financed in whole or in part with federal assistance provided by the FTA, modified only if necessary to identify the affected parties.

j. Pursuant to Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and 49 U.S.C. § 5332, Contractor shall comply with all applicable equal employment opportunity requirements of U.S. Department of Labor regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. 60, *et seq.* (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by

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Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e, note), and with any applicable federal statutes, executive orders, regulations, and policies that may in the future affect activities under this Agreement. 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, including without limitation: 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. Contractor shall comply with any federal implementing requirements. Contractor shall include these requirements in each subcontract financed in whole or in part with federal assistance provided by the FTA, modified only if necessary to identify the affected parties.

k. In accordance with § 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623 and federal transit law in 49 U.S.C. § 5332, Contractor shall refrain from discrimination against present and prospective employees for reason of age. Contractor shall comply with any federal implementing requirements. Contractor shall also include these requirements in each subcontract financed in whole or in part with federal assistance provided by the FTA, modified only if necessary to identify the affected parties.

l. In accordance with § 102 of the Americans with Disabilities Act, 42 U.S.C. § 12112, as amended, Contractor shall comply with the requirements of the United States Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. 1630, pertaining to employment of persons with disabilities. Contractor shall comply with any federal implementing requirements. Contractor shall also include these requirements in each subcontract financed in whole or in part with federal assistance provided by the FTA, modified only if necessary to identify the affected parties.

m. Contractor shall not use 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. Contractor agrees to include these requirements and certification in each subcontract financed in whole or in part with federal assistance provide by the FTA.

n. Contractor shall comply with all the requirements of § 6002 of the Resource Conservation and Recovery Act ("RCRA"), as amended (42 U.S.C. § 6962), including without limitation the regulatory provisions of 40 C.F.R. 247 and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 C.F.R. 247.

o. Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. §§ 3801, *et seq.*, and United States Department of

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Transportation regulations, "Program Fraud Civil Remedies," 49 C.F.R. 31, apply to its actions pertaining to this Agreement. Upon execution of this Agreement, 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 this Agreement for which this 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 U.S. Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act (1986) on Contractor to the extent the U.S. Government deems appropriate. If Contractor makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submittal, or certification to the U.S. Government under this Agreement, the U.S. Government reserves the right to impose the penalties in 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on Contractor to the extent the U.S. Government deems appropriate. Contractor shall include the above clause 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.

p. Contractor shall not require or permit any laborer or mechanic in any workweek in which he or she is employed on such work to work more than 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than 1½ times the basic rate of pay for all hours worked more than 40 hours in such workweek.

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

ii. Withholding for unpaid wages and liquidated damages. The Town may, upon its own action or upon written request of U.S. Department of Labor, withhold or cause to be withheld from any moneys payable on account of work performed by Contractor or subcontractor under this Agreement, such sums as may be determined to be necessary to satisfy any liabilities of Contractor or such subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in subsection (i) of this subsection (p).

iii. Contractor and any subcontractor shall insert in any subcontracts the clauses set forth in this subsection (p) and a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. Contractor shall be responsible for compliance by any subcontractor with this section.

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q. This Agreement is a covered transaction for purposes of 49 C.F.R. Part 29. As such, Contractor is required to verify that Contractor, its principals, as defined at 49 C.F.R. 29.995, or affiliates, as defined in 49 C.F.R. 29.905, are not excluded or disqualified as defined at 49 C.F.R. 29.940 and 29.945. Contractor is required to comply with 49 C.F.R. 29, Subpart C and must include the requirement to comply with 49 C.F.R. 29, Subpart C in any lower tier covered transaction.

r. Contractor shall review the U.S. General Services Administration "System for Award Management," <https://www.sam.gov>, if required by the United States Department of Transportation Regulations, 2 C.F.R 1200, and shall include, and require each of its subcontractors to include, a similar provision in each lower tier covered contract, ensuring that each lower tier Third Party Participant will comply with federal debarment and suspension requirements, and review the "System for Award Management" at <https://www.sam.gov>, if necessary to comply with United State Department of Transportation Regulations, 2 C.F.R. 1200.

s. To the extent authorized by federal law, Contractor agrees to facilitate participation by Disadvantaged Business Enterprises ("DBEs") in the work performed under this Agreement and assures that each subsequent subcontractor will facilitate participation by DBEs in the project to the extent applicable as follows:

i. Contractor shall comply with § 1101(b) of SAFETEA-LU, 23 U.S.C. § 101, note, and United States Department of Transportation regulations, "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs," 49 C.F.R. 26.

ii. Contractor shall abide by the following clause and ensure that it is included in each United States Department of Transportation-assisted contract: Contractor and any subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. Contractor shall carry out applicable requirements of 49 C.F.R. 26 in the award and administration of United States Department of Transportation-assisted procurement and contracts of products and services contracts. Failure by Contractor to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as the Town deems appropriate.

iii. CDOT's DBEs program, which has been approved by the United States Department of Transportation, is incorporated by reference, and made part of this Agreement and all projects administered in accordance therewith.

t. Contractor shall comply with Transit Employee Protective Requirements for Projects Authorized by 49 U.S.C. § 5311 in Nonurbanized Areas and the terms and conditions of the Special Warranty for the Nonurbanized Area Program that is most current, and any

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alternative comparable arrangement specified by United States Department of Labor for application to the project, in accordance with United States Department of Labor guidelines.

u. Contractor agrees to pay each subcontractor under this Agreement for satisfactory performance of its contract no later than 30 days from the receipt of each payment Contractor receives from the Town. Contractor agrees to return retainage payments to each subcontractor within 30 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced timeframe may occur only for good cause following written approval of the Town.

v. Contractor acknowledges and agrees that, notwithstanding any concurrence by the U.S. Government in or approval of the solicitation or award of the underlying grant, absent the express written consent by the U.S. Government, the U.S. Government is not a party to this Agreement and shall not be subject to any obligations or liabilities to Contractor, or any other party (whether a party to that contract or not) pertaining to any matter resulting from the underlying grant. Contractor agrees to include the above clause in each subcontract financed in whole or in part with FTA assistance. Contractor agrees that the above clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

w. Contractor shall establish and implement a drug and alcohol testing program that complies with 49 C.F.R. 653 and 654, produce any documentation necessary to establish its compliance with 49 C.F.R. 653 and 654, and permit any authorized representative of the United States Department of Transportation or its operating administrations, CDOT or the Town, to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 C.F.R. 653 and 654 and review the testing process. Contractor shall certify annually its compliance with 49 C.F.R. 653 and 654 before January 15 and to submit the Management Information System ("MIS") reports before March 1 to the Town. To certify compliance, Contractor shall use the "Substance Abuse Certifications" in the "Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements," which is published annually in the Federal Register.

9. Confidentiality. Information regarding any individual served by Contractor under this Agreement shall be considered confidential, shall not be required to be disclosed pursuant to the Colorado Open Records Act, C.R.S. § 24-72-201.1, *et seq.*, and shall be handled according to federal and state law, and the FTA regulations and guidelines. Contractor understands that the requirements of the Privacy Act, 5 U.S.C. § 552a, 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 this Agreement. 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. Contractor agrees to include these requirements in each subcontract to administer any system of records on behalf of the U.S. Government financed in whole or in part with federal assistance provided by the FTA.

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10. Personnel. Contractor is solely responsible for the provision of, and satisfactory work performance of, all employees required to carry out the terms of this Agreement. All employees of Contractor shall comply with the Transit Operating Manual while performing services under this Agreement.

11. Workers Without Authorization.

a. Certification. By entering into this Agreement, Contractor hereby certifies that, at the time of this certification, it does not knowingly employ or contract with a worker without authorization who will perform work under this Agreement and that Contractor will participate in either the E-Verify Program administered by the United States Department of Homeland Security and Social Security Administration or the Department Program administered by the Colorado Department of Labor and Employment to confirm the employment eligibility of all employees who are newly hired to perform work under this Agreement.

b. Prohibited Acts. Contractor shall not knowingly employ or contract with a worker without authorization to perform work under this Agreement or enter into a contract with a subcontractor that fails to certify to Contractor that the subcontractor shall not knowingly employ or contract with a worker without authorization to perform work under this Agreement.

c. Verification.

i. If Contractor has employees, Contractor has confirmed the employment eligibility of all employees who are newly hired to perform work under this Agreement through participation in either the E-Verify Program or the Department Program.

ii. Contractor shall not use the E-Verify Program or Department Program procedures to undertake pre-employment screening of job applicants while this Agreement is being performed.

iii. If Contractor obtains actual knowledge that a subcontractor performing work under this Agreement knowingly employs or contracts with a worker without authorization who is performing work under this Agreement, Contractor shall: notify the subcontractor and the Town within 3 days that Contractor has actual knowledge that the subcontractor is employing or contracting with a worker without authorization who is performing work under this Agreement; and terminate the subcontract with the subcontractor if within 3 days of receiving the notice required pursuant to subsection i hereof, the subcontractor does not stop employing or contracting with the worker without authorization who is performing work under this Agreement; except that Contractor shall not terminate the subcontract if during such 3 days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with a worker without authorization who is performing work under this Agreement.

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iv. Duty to Comply with Investigations. Contractor shall comply with any reasonable request by the Colorado Department of Labor and Employment made during an investigation conducted pursuant to C.R.S. § 8-17.5-102(5)(a) to ensure that Contractor is complying with the terms of this Agreement.

v. Affidavits. If Contractor does not have employees, Contractor shall sign the "No Employee Affidavit" attached hereto. If Contractor wishes to verify the lawful presence of newly hired employees who perform work under the Agreement via the Department Program, Contractor shall sign the "Department Program Affidavit" attached hereto.

12. Termination.

a. By the Town. The Town may terminate this Agreement, under the following circumstances:

i. For convenience. In whole or in part, at any time by 10 days written notice to Contractor if such termination is in the best interest of the Town.

ii. For cause. In whole or in part, at any time by 10 days written notice to Contractor, if Contractor does not perform or provide services pursuant to the terms of this Agreement. The Town shall provide in its written notice the basis for the default. The Town shall allow Contractor a time frame in which to cure the default, with written notice providing the time period for the cure. If Contractor fails to cure within the time period set by the Town, the Town may in its sole discretion extend the time to cure. If the Town does not extend the time to cure, this Agreement shall be deemed terminated effective upon the date of the original written notice. The Town shall not be liable for payment to Contractor for the costs of any efforts by Contractor or subcontractor to cure the breach.

b. By Contractor. Contractor may terminate this Agreement, upon 60 days prior written notice to the Town, only for the following reasons:

i. For non-payment by the Town, excluding disputed amounts, unless the Town cures such non-payment prior to the expiration of the notice period, or

ii. If material changes are proposed to the scope of services to be performed by Contractor, and Contractor and the Town are unable to reach a mutual agreement on such modifications.

iii. For convenience. At any time by 60 days written notice to the Town.

c. Town Property. If this Agreement is terminated while Contractor has possession of property belonging to the Town, Contractor shall, upon direction of the Town, protect and preserve the property until surrendered to the Town or its agent.

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13. Indemnification. Contractor agrees to protect, defend, indemnify, and hold harmless the Town, its officers, officials, employees, and agents free and harmless from and against any and all losses, penalties, damages, settlements, costs, charges, professional fees, or other expenses or liabilities of every kind and character arising out of, or relating to, any and all claims, liens, demands, obligations, actions, proceedings, or causes of actions of every kind and character, in connection with, or arising directly or indirectly, out of Contractor's performance under the terms of this Agreement, except to the extent that such claim or demand arises from or is caused by the negligence or willful misconduct of the Town, its officers, officials, employees or agents. . Without limiting the generality of this Section, any and all such claims or actions relating to personal injury, or of any other tangible or intangible personal or property right, or actual or alleged violation of any other applicable statute, ordinance, administrative order, rule or regulation, or decree of court, shall be included in the indemnity hereunder. Contractor agrees to respond to and defend any such claims or actions at its sole expense and agrees to bear all other costs and expense related thereto, even if such claim is groundless, false, or fraudulent. Contractor's obligations under this Paragraph shall not apply to those losses or liabilities related to Town's negligence.

14. Notice. All notices pursuant to this Agreement shall be deemed to be delivered when in writing and sent by prepaid certified U.S. Mail, return receipt requested, to:

TOWN

Town Manager
Town of Winter Park
P.O. Box 3327 / 50 Vasquez Road
Winter Park, CO 80482

With a copy to the Town Attorney:
Kendra L. Carberry, Esq.
Hoffmann, Parker, Wilson & Carberry, P.C.
511 16th Street, Suite 610
Denver, CO 80210

CONTRACTOR

Title
Company
Address 1
Address 2

With a copy to General Counsel:
Company
Address 1
Address 2

15. Certifications. By signing this Agreement, Contractor agrees to provide, comply with and execute the following certifications: Certification of Compliance with the Requirements of the Federal Drug-Free Workplace Act of 1988; Certification and Restrictions on Lobbying and Certification of Debarment and Suspension.

16. Rights in Data, Documents and Software. Contractor and its employees, agents and subcontractors are expressly prohibited from pursuing the exclusivity of protection of Federal and State patent, copyright, and trademark law on the Town's logo. Contractor may, at its own expense, keep copies of all its writings for its personal files. Contractor shall not use, willingly

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allow, or cause to have such materials used for any purpose other than the performance of Contractor's obligations under this Agreement. The ownership rights described herein shall include, but not be limited to, the right to copy, publish, display, transfer, prepare derivative works, or otherwise use the works. The official website for the Town shall be operated by Town, and Contractor shall not operate any website for the Town.

17. Miscellaneous.

a. Binding Effect; Assignment. This Agreement shall be binding upon the Parties and their officers, employees, agents and assigns. Contractor may assign all or a portion of its rights and obligations under this Agreement to any third party, provided that the third party expressly assumes Contractor's rights and obligations under this Agreement. Upon closing any such conveyance and assignment, Contractor shall provide the Town with a copy of the fully-executed assignment and assumption agreement evidencing compliance with this Section.

b. Incorporated Terms. This Agreement includes in part, certain provisions required by United States Department of Transportation, whether or not expressly stated in the preceding provisions. All United States Department of Transportation 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. 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.

c. Severability. If any term, provision, covenant or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of this Agreement will, unless amended or modified by mutual consent of the Parties, continue in full force and effect so long as enforcement of the remaining provisions would not be inequitable to the Party against whom they are being enforced under the facts and circumstances then pertaining.

d. No Third Party Beneficiaries. No third parties are intended to benefit by the covenants, agreements, representations, warranties or any other terms or conditions of this Agreement. It is the express intent of the Parties that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, will be strictly reserved to the Parties and their lawful successors and assigns.

e. Governing Law and Venue. This Agreement shall be governed by the laws of the State of Colorado, and any legal action concerning the provisions hereof shall be brought in Grand County, Colorado.

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f. No Joint Venture. Notwithstanding any provision hereof, the Town shall never be a joint venture in any private entity or activity which participates in this Agreement, and the Town shall never be liable or responsible for any debt or obligation of any private entity.

g. Governmental Immunity. The Town and its officers, attorneys and employees are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*, as amended, or otherwise available to the Town and its officers, attorneys or employees. Notwithstanding any other provision of this Agreement, Contractor is not a public entity, and no employee of Contractor shall be deemed a public employee.

h. Rights and Remedies. The rights and remedies of the Parties under this Agreement are in addition to any other rights and remedies provided by law. The expiration of this Agreement shall in no way limit the Parties' legal or equitable remedies, or the period in which such remedies may be asserted for work negligently or defectively performed.

i. Amendment. This Agreement may be amended or terminated only by mutual written consent in writing of the Parties.

j. Waivers. A waiver of any provision of this Agreement shall be written. A waiver of any term or provision shall not be construed as a waiver of any other term or provision.

k. Entire Agreement. This Agreement constitutes the entire understanding and agreement of the Parties and supersedes all negotiations or previous agreements between the Parties with respect to all or any part of the subject matter hereof. However, the Parties hereby acknowledge that the following documents have been identified in this Agreement, and are incorporated by reference into this Agreement, and these collateral documents are necessary because of the nature of the programs and services contemplated by the Parties under the FTA and the United States Department of Transportation:

i. FTA Program Guidance Circulars.

ii. United States Department of Transportation FTA Master Agreement dated October 1, 2016.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

**TOWN OF WINTER PARK,
COLORADO**

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Nick Kutrumbos, Mayor

ATTEST:

Daniel Jardee, Town Clerk

COMPANY

By: _____

Title: _____

STATE OF COLORADO)

) ss.

COUNTY OF _____)

The foregoing instrument was subscribed, sworn to and acknowledged before me this ____ day of _____, 2021, by _____ as _____ of _____.

My commission expires:

(S E A L)

Notary Public

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Exhibit A to Sample Contract
Monthly Costs and Invoicing Schedule

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Exhibit B to Sample Contract
Transit Operating Manual

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Exhibit C to Sample Contract

Service Area Map

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Exhibit D to Sample Contract
Federal Transit Administration Master Agreement

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Exhibit D to RFP: Required Forms

NO EMPLOYEE AFFIDAVIT

[To be completed only if Contractor has no employees]

1. Check and complete one:

I, _____, am a sole proprietor doing business as _____. I do not currently employ any individuals. Should I employ any employees during the term of my Agreement with the Town of Winter Park (the "Town"), I certify that I will comply with the lawful presence verification requirements outlined in that Agreement.

OR

I, _____, am the sole owner/member/shareholder of _____, a _____ [specify type of entity – i.e., corporation, limited liability company], that does not currently employ any individuals. Should I employ any individuals during the term of my Agreement with the Town, I certify that I will comply with the lawful presence verification requirements outlined in that Agreement.

2. Check one.

I am a United States citizen or legal permanent resident.

The Town must verify this statement by reviewing one of the following items:

- *A valid Colorado driver's license or a Colorado identification card;*
- *A United States military card or a military dependent's identification card;*
- *A United States Coast Guard Merchant Mariner card;*
- *A Native American tribal document;*
- *In the case of a resident of another state, the driver's license or state-issued identification card from the state of residence, if that state requires the applicant to prove lawful presence prior to the issuance of the identification card; or*
- *Any other documents or combination of documents listed in the Town's "Acceptable Documents for Lawful Presence Verification" chart that prove both Contractor's citizenship/lawful presence and identity.*

OR

I am otherwise lawfully present in the United States pursuant to federal law.

Contractor must verify this statement through the federal Systematic Alien Verification of Entitlement ("SAVE") program, and provide such verification to the Town.

Signature

Date

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DEPARTMENT PROGRAM AFFIDAVIT

***[To be completed only if Contractor participates in the
Department of Labor Lawful Presence Verification Program]***

I, _____, as a public contractor under contract with the Town of Winter Park (the "Town"), hereby affirm that:

1. I have examined or will examine the legal work status of all employees who are newly hired for employment to perform work under this public contract for services ("Agreement") with the Town within 20 days after such hiring date;

2. I have retained or will retain file copies of all documents required by 8 U.S.C. § 1324a, which verify the employment eligibility and identity of newly hired employees who perform work under this Agreement; and

3. I have not and will not alter or falsify the identification documents for my newly hired employees who perform work under this Agreement.

Signature

Date

STATE OF COLORADO)

) ss.

COUNTY OF)

The foregoing instrument was subscribed, sworn to and acknowledged before me this ___ day of _____, 2021, by _____ as _____ of _____.

My commission expires:

(S E A L)

Notary Public

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CERTIFICATION OF RESTRICTIONS ON LOBBYING

I, _____, hereby certify on behalf of
 (name of proposer)

_____ that:
 (name of company)

- (1) 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, an 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.
- (2) If any funds, other than Federal appropriated funds, have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in all subcontracts, and that all subcontractors shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance is 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 section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Executed this _____ Day of _____, 20____

By: _____

(signature of authorized official)

 (title of authorized official)

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CERTIFICATION OF PRIMARY PARTICIPANT

Regarding Debarment, Suspension and Other Responsibility Matters

For use by prime contractors submitting a proposal in an amount equal to or greater than \$25,000.

The _____ certifies to the best of its knowledge

(firm name/principal)

and belief, that it and its principals:

- Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
- Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (2) of this certification; and
- Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

If unable to certify to any of the statements in this certification, the participant shall attach an explanation to this certification.

The primary participant, certifies or

(firm name/principal)

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. sections 3801 et seq. are applicable thereto.

Signature and Title of Authorized Official

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CERTIFICATION OF LOWER-TIER PARTICIPANTS

Regarding Debarment, Suspension and Other Ineligibility and Voluntary Exclusion

For use by sub-contractors who submitted proposals to the prime contractor in an amount equal to or greater than \$25,000.

The _____ certifies by submission of this proposal,
(firm name/principal)

that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participant in this transaction by any Federal department or agency.

If unable to certify to any of the statements in this certification, such participant shall attach an explanation to this proposal.

The _____ certifies or affirms the truthfulness

(firm name/principal)

and accuracy of the contents of the statements submitted on or with this certification and understands that the provisions of 31 U.S.C. sections 3801 et seq. are applicable thereto.

Signature and Title of Authorized Official