

AGREEMENT FOR PROFESSIONAL SERVICES

This Agreement is made and entered into as of [date] by and between the City of Malibu (hereinafter referred to as the "City"), and _____ (hereinafter referred to as "Consultant").

The City and the Consultant agree as follows:

RECITALS

A. The City does not have the personnel able and/or available to perform the services required under this Agreement.

B. The City desires to contract out for consulting services for certain projects relating
_____.

C. The Consultant warrants to the City that it has the qualifications, experience and facilities to perform properly and timely the services under this Agreement.

D. The City desires to contract with the Consultant to perform the services as described in Exhibit A of this Agreement.

NOW, THEREFORE, the City and the Consultant agree as follows:

1.0 SCOPE OF THE CONSULTANT'S SERVICES. The Consultant agrees to provide the services and perform the tasks set forth in the Scope of Work, attached to and made part of this Agreement, except that, to the extent that any provision in Exhibit A conflicts with this Agreement, the provisions of this Agreement govern. The Scope of Work may be amended from time to time by way of a written directive from the City.

2.0 TERM OF AGREEMENT. This Agreement will become effective on [date], and will remain in effect for a period of ____ years from said date unless otherwise expressly extended and agreed to by both parties or terminated by either party as provided herein.

3.0 CITY AGENT. The City Manager, or her designee, for the purposes of this Agreement, is the agent for the City; whenever approval or authorization is required, Consultant understands that the City Manager, or her designee, has the authority to provide that approval or authorization.

4.0 COMPENSATION FOR SERVICES. The City shall pay the Consultant for its professional services rendered and costs incurred pursuant to this Agreement in accordance with the Scope of Work's fee and cost schedule. The cost of services shall be \$_____ per month, for a total amount not to exceed \$_____. No additional compensation shall be paid for any other expenses incurred, unless first approved by the City Manager, or her designee.

4.1 The Consultant shall submit to the City, by no later than the 10th day of each month, its bill for services itemizing the fees and costs incurred during the previous month. The City shall pay the Consultant all uncontested amounts set forth in the Consultant's bill within 30 days after it is received.

5.0 CONFLICT OF INTEREST. The Consultant represents that it presently has no interest and shall not acquire any interest, direct or indirect, in any real property located in the City which may be affected by the services to be performed by the Consultant under this Agreement. The Consultant further represents that in performance of this Agreement, no person having any such interest shall be employed by it.

5.1 The Consultant represents that no City employee or official has a material financial interest in the Consultant's business. During the term of this Agreement and/or as a result of being awarded this contract, the Consultant shall not offer, encourage or accept any financial interest in the Consultant's business by any City employee or official.

5.2 If a portion of the Consultant's services called for under this Agreement shall ultimately be paid for by reimbursement from and through an agreement with a developer of any land within the City or with a City franchisee, the Consultant warrants that it has not performed any work for such developer/franchisee within the last 12 months, and shall not negotiate, offer or accept any contract or request to perform services for that identified developer/franchisee during the term of this Agreement.

6.0 GENERAL TERMS AND CONDITIONS.

6.1 Termination. Either the City Manager or the Consultant may terminate this Agreement, without cause, by giving the other party ten (10) days written notice of such termination and the effective date thereof.

6.1.1 In the event of such termination, all finished or unfinished documents, reports, photographs, films, charts, data, studies, surveys, drawings, models, maps, or other documentation prepared by or in the possession of the Consultant under this Agreement shall be returned to the City. If the City terminates this Agreement without cause, the Consultant shall prepare and shall be entitled to receive compensation pursuant to a close-out bill for services rendered and fees incurred pursuant to this Agreement through the notice of termination. If the Consultant terminates this Agreement without cause, the Consultant shall be paid only for those services completed in a manner satisfactory to the City.

6.1.2 If the Consultant or the City fail to fulfill in a timely and proper manner its obligations under this Agreement, or if the Consultant or the City violate any of the covenants, agreements, or stipulations of this Agreement, the Consultant or the City shall have the right to terminate this Agreement by giving written notice to the other party of such termination and specifying the effective date of such termination. The Consultant shall be entitled to receive compensation in accordance with the terms of this Agreement for any work satisfactorily completed hereunder. Notwithstanding the foregoing, the Consultants shall not be relieved of liability for damage sustained by virtue of any breach of this Agreement and any payments due under this Agreement may be withheld to off-set anticipated damages.

6.2 Non-Assignability. The Consultant shall not assign or transfer any interest in this Agreement without the express prior written consent of the City.

6.3 Non-Discrimination. The Consultant shall not discriminate as to race, creed, gender, color, national origin or sexual orientation in the performance of its services and duties pursuant to this Agreement, and will comply with all applicable laws, ordinances and codes of the Federal, State, County and City governments.

6.4 Insurance. The Consultant shall submit to the City certificates indicating compliance with the following minimum insurance requirements no less than one (1) day prior to beginning of performance under this Agreement:

(a) Workers Compensation Insurance as required by law. The Consultant shall require all subcontractors similarly to provide such compensation insurance for their respective employees.

(b) Comprehensive general and automobile liability insurance protecting the Consultant in amounts not less than \$1,000,000 for personal injury to any one person, \$1,000,000 for injuries arising out of one occurrence, and \$500,000 for property damages or a combined single limit of \$1,000,000. Each such policy of insurance shall:

1) Be issued by a financially responsible insurance company or companies admitted and authorized to do business in the State of California or which is approved in writing by City.

2) Name and list as additional insured the City, its officers and employees.

3) Specify its acts as primary insurance.

4) Contain a clause substantially in the following words: "It is hereby understood and agreed that this policy shall not be canceled nor materially changed except upon thirty (30) days prior written notice to the City of such cancellation or material change."

5) Cover the operations of the Consultant pursuant to the terms of this Agreement.

6.5 Indemnification. Consultant shall indemnify, defend with counsel approved by City, and hold harmless City, its officers, officials, employees and volunteers from and against all liability, loss, damage, expense, cost (including without limitation reasonable attorneys fees, expert fees and all other costs and fees of litigation) of every nature arising out of or in connection with Consultant's performance of work hereunder or its failure to comply with any of its obligations contained in this Agreement, regardless of City's passive negligence, but excepting such loss or damage which is caused by the sole active negligence or willful misconduct of the City. Should City in its sole discretion find Consultant's legal counsel unacceptable, then Consultant shall reimburse the City its costs of defense, including without

limitation reasonable attorneys fees, expert fees and all other costs and fees of litigation. The Consultant shall promptly pay any final judgment rendered against the City (and its officers, officials, employees and volunteers) covered by this indemnity obligation. It is expressly understood and agreed that the foregoing provisions are intended to be as broad and inclusive as is permitted by the law of the State of California and will survive termination of this Agreement.

OR FOR AGREEMENTS WITH DESIGN PROFESSIONALS (architect, landscape architect, professional engineer, or land surveyor – See Civil Code Section 2782.8) USE THE FOLLOWING:

6.5 Indemnification. Consultant shall indemnify, defend with counsel approved by City, and hold harmless City, its officers, officials, employees and volunteers from and against all liability, loss, damage, expense, cost (including without limitation reasonable attorneys fees, expert fees and all other costs and fees of litigation) of every nature arising out of or in connection with Consultant's negligence, recklessness or willful misconduct in the performance of work hereunder or its failure to comply with any of its obligations contained in this Agreement, except such loss or damage which is caused by the sole active negligence or willful misconduct of the City. The Consultant shall promptly pay any final judgment rendered against the City (and its officers, officials, employees and volunteers) with respect to claims determined by a trier of fact to have been the result of the Consultant's negligent, reckless or willful misconduct. It is expressly understood and agreed that the foregoing provisions are intended to be as broad and inclusive as is permitted by the law of the State of California and will survive termination of this Agreement.

6.6 Compliance with Applicable Law. The Consultant and the City shall comply with all applicable laws, ordinances and codes of the federal, state, county and city governments, including, without limitation, Malibu Municipal Code Chapter 5.36 Minimum Wage.

6.7 Independent Contractor. This Agreement is by and between the City and the Consultant and is not intended, and shall not be construed, to create the relationship of agency, servant, employee, partnership, joint venture or association, as between the City and the Consultant.

6.7.1. The Consultant shall be an independent contractor, and shall have no power to incur any debt or obligation for or on behalf of the City. Neither the City nor any of its officers or employees shall have any control over the conduct of the Consultant, or any of the Consultant's employees, except as herein set forth, and the Consultant expressly warrants not to, at any time or in any manner, represent that it, or any of its agents, servants or employees are in any manner employees of the City, it being distinctly understood that the Consultant is and shall at all times remain to the City a wholly independent contractor and the Consultant's obligations to the City are solely such as are prescribed by this Agreement.

6.8 Copyright. No reports, maps or other documents produced in whole or in part under this Agreement shall be the subject of an application for copyright by or on behalf of the Consultant.

6.9 Legal Construction.

(a) This Agreement is made and entered into in the State of California and shall in all respects be interpreted, enforced and governed under the laws of the State of California.

(b) This Agreement shall be construed without regard to the identity of the persons who drafted its various provisions. Each and every provision of this Agreement shall be construed as though each of the parties participated equally in the drafting of same, and any rule of construction that a document is to be construed against the drafting party shall not be applicable to this Agreement.

(c) The article and section, captions and headings herein have been inserted for convenience only, and shall not be considered or referred to in resolving questions of interpretation or construction.

(d) Whenever in this Agreement the context may so require, the masculine gender shall be deemed to refer to and include the feminine and neuter, and the singular shall refer to and include the plural.

6.10 Counterparts. This Agreement may be executed in counterparts and as so executed shall constitute an agreement which shall be binding upon all parties hereto.

6.11 Final Payment Acceptance Constitutes Release. The acceptance by the Consultant of the final payment made under this Agreement shall operate as and be a release of the City from all claims and liabilities for compensation to the Consultant for anything done, furnished or relating to the Consultant's work or services. Acceptance of payment shall be any negotiation of the City's check or the failure to make a written extra compensation claim within ten (10) calendar days of the receipt of that check. However, approval or payment by the City shall not constitute, nor be deemed, a release of the responsibility and liability of the Consultant, its employees, sub-consultants and agents for the accuracy and competency of the information provided and/or work performed; nor shall such approval or payment be deemed to be an assumption of such responsibility or liability by the City for any defect or error in the work prepared by the Consultant, its employees, sub-consultants and agents.

6.12 Corrections. In addition to the above indemnification obligations, the Consultant shall correct, at its expense, all errors in the work which may be disclosed during the City's review of the Consultant's report or plans. Should the Consultant fail to make such correction in a reasonably timely manner, such correction shall be made by the City, and the cost thereof shall be charged to the Consultant.

6.13 Files. All files of the Consultant pertaining to the City shall be and remain the property of the City. The Consultant will control the physical location of such files during the term of this Agreement and shall be entitled to retain copies of such files upon termination of this Agreement.

6.14 Waiver; Remedies Cumulative. Failure by a party to insist upon the performance of any of the provisions of this Agreement by the other party, irrespective of the

length of time for which such failure continues, shall not constitute a waiver of such party's right to demand compliance by such other party in the future. No waiver by a party of a default or breach of the other party shall be effective or binding upon such party unless made in writing by such party, and no such waiver shall be implied from any omissions by a party to take any action with respect to such default or breach. No express written waiver of a specified default or breach shall affect any other default or breach, or cover any other period of time, other than any default or breach and/or period of time specified. All of the remedies permitted or available to a party under this Agreement, or at law or in equity, shall be cumulative and alternative, and invocation of any such right or remedy shall not constitute a waiver or election of remedies with respect to any other permitted or available right of remedy.

6.15 Mitigation of Damages. In all such situations arising out of this Agreement, the parties shall attempt to avoid and minimize the damages resulting from the conduct of the other party.

6.16 Partial Invalidity. If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force without being impaired or invalidated in any way.

6.17 Attorneys' Fees. The parties hereto acknowledge and agree that each will bear his/her or its own costs, expenses and attorneys' fees arising out of and/or connected with the negotiation, drafting and execution of the Agreement, and all matters arising out of or connected therewith except that, in the event any action is brought by any party hereto to enforce this Agreement, the prevailing party in such action shall be entitled to reasonable attorneys' fees and costs in addition to all other relief to which that party or those parties may be entitled.

6.18 Entire Agreement. This Agreement constitutes the whole agreement between the City and the Consultant, and neither party has made any representations to the other except as expressly contained herein. Neither party, in executing or performing this Agreement, is relying upon any statement or information not contained in this Agreement. Any changes or modifications to this Agreement must be made in writing appropriately executed by both the City and the Consultant.

6.19 Notices. Any notice required to be given hereunder shall be deemed to have been given by depositing said notice in the United States mail, postage prepaid, and addressed as follows:

CITY:	Reva Feldman City Manager City of Malibu 23825 Stuart Ranch Road Malibu, CA 90265-4861 TEL (310) 456-2489 x 224 FAX (310) 456-2760	CONSULTANT:
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6.20 Warranty of Authorized Signatories. Each of the signatories hereto warrants and represents that he or she is competent and authorized to enter into this Agreement on behalf of the party for whom he or she purports to sign.

7.0 GENERAL TERMS AND CONDITIONS. (City and Consultant initials required at EITHER 7.1 or 7.2)

7.1 Disclosure Required. By their respective initials next to this paragraph, City and Consultant hereby acknowledge that Consultant is a "consultant" for the purposes of the California Political Reform Act because Consultant's duties would require him or her to make one or more of the governmental decisions set forth in Fair Political Practices Commission Regulation 18700.3(a) or otherwise serves in a staff capacity for which disclosure would otherwise be required were Consultant employed by the City. Consultant hereby acknowledges his or her assuming-office, annual, and leaving-office financial reporting obligations under the California Political Reform Act and the City's Conflict of Interest Code and agrees to comply with those obligations at his or her expense. Prior to consultant commencing services hereunder, the City's Manager shall prepare and deliver to consultant a memorandum detailing the extent of

Consultant’s disclosure obligations in accordance with the City’s Conflict of Interest Code.

City Initials _____

Consultant Initials _____

7.2 Disclosure not Required. By their initials next to this paragraph, City and Consultant hereby acknowledge that Consultant is not a “consultant” for the purpose of the California Political Reform Act because Consultant’s duties and responsibilities are not within the scope of the definition of consultant in Fair Political Practice Commission Regulation 18700.3(a) and is otherwise not serving in staff capacity in accordance with the City’s Conflict of Interest Code.

City Initials _____

Consultant Initials _____

This Agreement is executed on _____, 2016, at Malibu, California, and effective as of [date].

CITY OF MALIBU:

REVA FELDMAN, City Manager

ATTEST:

HEATHER GLASER, City Clerk
(seal)

CONSULTANT:

By:

APPROVED AS TO FORM:

CHRISTI HOGIN, City Attorney

SCOPE OF WORK

The Contractor shall coordinate, manage, and control all necessary program activities which shall include operating the services, dispatch, vehicle maintenance and management personnel; providing driver and other personnel training; developing administrative procedures, performance statistics, and financial records; and developing methods to maximize service efficiency.

The Contractor shall not enter into agreement with any other party for use of equipment or personnel dedicated to this service without the approval of the City.

A. Contractor's Personnel

The Contractor shall be solely responsible for the satisfactory work performance of all employees as described by the RFP or any reasonable performance standard established by the City. The Contractor shall be solely responsible for payment of all employees' wages and benefits and subcontractors' costs. Without any additional expense to the City, the Contractor shall comply with the requirements of employee liability, worker's compensation, employment insurance, and Social Security. The Contractor shall hold the City harmless from any liability, damages, claims, costs, and expenses of any nature arising from alleged violations of personnel practices.

The City shall have the right to demand removal from the program, for reasonable cause, of any personnel furnished by the Contractor. The City must be notified promptly of new hires or reassignments of program personnel.

During the performance of this contract, the vendor/contractor warrants that it will provide equal opportunities, and that the vendor/contractor and each subcontractor will take affirmative action to ensure that its employment practices, persons are employed and employees are treated equally and without regard to, or because of race, creed, color, national origin, sex, age, physical handicap, or medical condition.

Proposers shall include résumés of personnel assigned to Malibu's program who will play critical roles in the provision of service. A responsible senior level employee of the Contractor must be available at all times, either by telephone or in person, to make decisions or provide coordination as necessary.

B. Vehicle Operators

Vehicle operators shall work on a schedule that will ensure a consistent and overall high quality of service. Vehicle operators must have all appropriate California Driver's Licenses and Certificates as well as any other licenses, certificates or training required by applicable Federal, State, and local regulations. Each operator shall maintain a valid Country of Los Angeles License as applicable. All vehicle operators must meet the

minimum standards listed below. Proposers shall indicate their hiring standards in their proposal including their background check policies and procedures. At a minimum, employee qualifications should include:

1. Not have been convicted of driving while intoxicated or under the influence of controlled substances within the preceding five years, or not have criminal charges pending for an offense for driving while intoxicated or under the influence of controlled substances.
2. Not be addicted to the use of alcohol or controlled substances.
3. Not be subject to outstanding warrants for arrest.
4. Able to read, write and speak English. Bilingual skills in Spanish are highly desirable.
5. Thorough knowledge of the service area street network.
6. Sensitivity to passengers' needs, including assisting passengers, upon their request.
7. Able to address complaints and problems as required.

Vehicle operators must be trained in all operational procedures relating to the system. Training must include customer service techniques for interacting with the public in a helpful and courteous manner, basic information about the route and the City of Malibu, and sensitivity and empathy training directed towards the needs of elderly and passengers with limited mobility, in compliance with the Americans with Disabilities Act. Contractor shall describe how it will maintain an ongoing employee safety and training program.

Vehicle operators shall be trained to operate all types of vehicles, wheelchair lifts, ramps, and securement systems, as well as, other equipment which they may be expected to use in the Dial-A-Ride services. This requirement pertains to all vehicle operators, both regularly assigned and relief vehicle operators.

While performing their duties, vehicle operators must maintain a clean and neat appearance. Operators shall wear nametags clearly displaying their names while performing their duties. If jackets are worn, they should display the drivers' nametag.

The Contractor shall conduct pre-employment Department of Motor Vehicles (DMV) checks of all personnel hired for service and shall join the California DMV Pull Notice Program, whereby the Contractor shall be notified of any activity on a vehicle operator's driving record. Any operator exceeding the California DMV point system or with a

revoked or suspended license will not be allowed to operate the City's service. Contractor shall notify the City of the results of these checks and whatever corrective actions taken, if any. Any voluntary drug testing and/or surveillance efforts on the part of the Contractor shall be described in the proposal and explained to vehicle operators.

Vehicle operators may not request or in any way solicit tips from customers. Tips may be accepted if offered; however, any operator receiving more than one complaint for solicitation of tips will be removed from the program.

C. Maintenance Staff

Contractor shall supply a sufficient number of properly qualified personnel to maintain and service all Contractor-provided equipment used for the City's service.

Contractor shall ensure all mechanics are properly trained in the operation and maintenance of the vehicles and equipment specified in the scope of the program. Contractor shall provide mechanics with ongoing training in order to keep abreast of new maintenance techniques and equipment. The total number of annual training hours required for each mechanic shall be specified in the proposal.

D. Dispatching and Service Information Personnel

Contractor shall have capable and courteous personnel who are responsible for taking Dial-A-Ride requests, accurately record appointments; properly manage complaints and customer service requests and responding to telephone inquiries regarding transportation services. Bilingual (Spanish) dispatchers are highly desirable.

The City has an existing phone number which is used by most clients to reserve trips. It will be the contractors' responsibility to maintain a number and incorporate it into their existing dispatch process. Contractor will be required to release this number upon the termination of the contract.

E. Vehicles/Equipment

All vehicles shall meet the requirements as established in the Project Description Section of this Request for Proposals. Proposals will be evaluated on the ability of the Contractor's fleet to service a large number of elderly and limited mobility clients. Proposers shall describe the proposed fleet in detail, showing how the fleet meets ADA requirements and the service needs of the City. Proposers who operate alternative-fuel vehicles are highly desirable and should indicate so in their proposals.

All vehicles and vehicle equipment required by this RFP shall be maintained by the Contractor in good repair and in a condition satisfactory to the City. Contractor shall assume all responsibility for the proper maintenance of the vehicles. It shall be the expressed responsibility of the Contractor to assume all coordination with the original manufacturer of the vehicles if necessary to keep the vehicles in safe and good operating condition. This shall include negotiating and processing all vehicle warranty claims through the manufacturer's own warranty department, and is responsible for collection of any monies, extended warranties, or credits as a result, for the length of time the warranty is in effect.

The extent of the proposed preventive maintenance program shall be an important consideration in the selection of the Contractor. Each vehicle must receive a daily pre-trip inspection by the operator prior to being placed in service. Daily pre-trip inspections must be supplemented by regular time and mileage maintenance inspections to ensure safe and proper operating condition of vehicles. A record of all such inspections shall be kept by Contractor and made available to the City.

For the Dial-A-Ride vehicles, preventive maintenance inspections and servicing shall occur not less than every 3,000 miles or thirty days, whichever is less. The Contractor shall specify the preventive maintenance program for all Dial-A-Ride vehicles used in this service.

Inspection of each vehicle shall be completed after its daily service to ensure all lights are functioning, all seating is secure and that all tires, wheels, lugs, air brake systems (if applicable), wheelchair lifts and exit doors are in proper operating condition.

F. Applicable Codes and Regulations

All vehicles used for Malibu services shall be safe for operation on public streets and meet all the appropriate requirements in the California Vehicle Code. All parts of the vehicle and all equipment mounted on or in the vehicle shall conform to the Federal Vehicle Safety Standards and the California Code of Regulation, Title 13. Particular attention shall be directed to the California Highway Patrol Motor Carrier Safety Regulations. The Contractor shall participate in and comply with the DMV Pull Notice Program. Contractor shall pay for all applicable license fees for drivers, other personnel, and vehicles.

Each vehicle, at minimum, must be inspected at the frequencies required by State law. The City may also inspect the vehicles. The City shall be notified of inspections performed by a governmental agency other than the City which meet or exceed the criteria for inspection established by the City. The results of those inspections shall be transmitted to the City.

G. Vehicle Maintenance

The Contractor shall provide and maintain appropriate vehicle storage and maintenance facilities for the garaging and servicing of the vehicles and vehicle equipment. The Contractor shall state the location of such facilities, which will be subject to inspection by the City. If the maintenance or storage facilities are to be acquired, the Contractor shall indicate what action will be taken to acquire those sites prior to the start of service.

At all times, the Contractor shall maintain all components of each vehicle including its body, frame, wheelchair lift, furnishing, mechanical, electrical, hydraulic or other operating systems in proper working condition free from damage and malfunction. The Contractor shall replace and repair immediately any vehicle damaged in any accident or otherwise damaged which impairs the proper and safe mechanical operation of the vehicle.

Recognizing that the safety of the passengers is paramount, the Contractor's maintenance staff shall not:

1. Install mismatched tires.
2. Perform partial brake relines without determining the cause of abnormal or premature wear.
3. Allow tires to wear more than 3/32 tread depth.
4. Replace a dead battery without testing charging system to ensure the battery will not go dead due to system malfunction.
5. Fail to ensure on a daily basis that each vehicle is in proper condition to pass all scheduled and unscheduled inspections.
6. Allow any reported wear item to go un-repaired that would not hold up until the next scheduled inspection. The emphasis must be on preventing breakdowns.

The Contractor, at its sole cost and expense, shall maintain a supply inventory and provide lubricants, repairs, parts and supplies required for the maintenance and operation of all vehicles utilized in providing services.

Vehicles must be kept clean including exterior washing at least once weekly and after every rain, with the vehicle interiors swept or vacuumed daily to remove all dirt and debris. All painted graffiti must be removed each day so that no vehicle leaves the storage facility with any graffiti. Etching on windows must be removed and replaced as soon as practical but no later than one month. Proposer shall track and record all

damages due to vandalism; records shall include vandalism type, date, time, location, when repaired/replaced, cost, etc.

Prospective contractors shall outline in detail their preventive maintenance program. This shall include how their present programs are operated as well as plans for inclusion of the vehicles required in this RFP. The City may desire to inspect vehicles currently operated by the proposer. Prospective contractors shall also propose a complete maintenance-monitoring program for this project to ensure that the vehicles are maintained at least according to the manufacturer's specifications.

Contractor shall maintain an individual file for each revenue vehicle to include date of action and all preventive maintenance functions including warranty work and any other pertinent maintenance data, including but not limited to fuel, lubricants and other fluid use.

The Contractor shall dispatch a spare vehicle in the event of a vehicle breakdown. The maximum allowable response time from the moment a trouble call is received until a substitute vehicle arrives will be established by the City. Proposals shall state the estimated time proposers will need to provide a substitute vehicle.

The Contractor shall maintain a two-way radio communications system for the Dial-A-Ride vehicles that will allow for the timely and efficient dispatching, coordinating and responding to service calls. The system may be of the Contractor's choice. The radio communication system must cover the routes of service, storage and maintenance facilities, and the dispatch location without dead spots. Each revenue service vehicle as well as each administrative vehicle shall have a receiver/transmitter installed and operational. Contractor shall be responsible for maintenance of the radio equipment to keep it in good operating condition, and must comply with all applicable federal statutes and regulations in connection with its use.

The Contractor shall notify the City of all accidents, both by telephone (within one hour) and in writing (by the close of the next business day).

H. Operational Emergencies

The Contractor shall be responsible for the enforcement of policies with regard to operational emergencies. The City may revise or establish additional policies. Contractor shall be responsible for the handling and resolution of all operational emergencies and contingencies including, but not limited to, the following:

1. Hazardous Conditions

Vehicle operators shall report all hazardous road conditions (i.e., downed trees, potholes and uneven road surfaces, malfunctioning signals, etc.) in the City to the Contractor's supervisor. Contractor, in turn, shall immediately notify the City of such conditions and shall take necessary precautions to safeguard passengers and personnel.

2. In-Service Vehicle Failures

Contractor shall require the vehicle operators to report any in-service vehicle failure to the Contractor's supervisor. The supervisor will attempt to ascertain the problem, use good judgment, and instruct the vehicle operator to take appropriate corrective action. If necessary, the supervisor will immediately send a spare vehicle to the location and the operator and passengers will change vehicle and continue in service. Contractor, if necessary, shall send a mechanic to the location in order to take corrective measures and/or supervise the towing of the vehicle. Contractor shall report any in-service vehicle failures to the City immediately and not later than the start of the next service day.

3. Wheelchair Lift Failure

Contractor shall be responsible for the proper operation and maintenance of all wheelchair lifts. Contractor shall require vehicle operators to report all in-service lift failures to the Contractor's supervisor. If the lift fails while attempting to board a wheelchair passenger, the supervisor shall promptly arrange for alternate transportation for the passenger in the wheelchair inconvenienced by the lift breakdown. If the lift fails while attempting discharge of a wheelchair passenger, the operator shall manually operate the lift and notify the supervisor. The supervisor shall arrange a vehicle change as quickly as reasonably possible following any lift failure. Contractor shall report all in-service lift failures to the City no later than the start of the next service day.

4. Passenger Disturbances

Contractor shall instruct vehicle operators to report nonpayment of fares; graffiti or other vandalism on the vehicles; pushing, shoving and other disturbing or dangerous conduct; and other serious passenger disturbances to the vehicle operator's supervisor or dispatcher. The supervisor shall use good judgment in managing the passenger disturbance by appraising the situation, discharge of appropriate instructions from the operator and request law enforcement assistance if necessary.

5. Medical Assistance to Passengers

Contractor's employees shall use good judgment in responding to passenger accidents, injuries, or illnesses occurring on the vehicles. In the event of a passenger requiring medical assistance, the vehicle operator shall immediately advise the Contractor's supervisor by radio of the situation and location of the vehicle and the supervisor shall notify the County Fire Department/Paramedics for assistance. An incident report shall be completed documenting the incident with a copy to the City no later than the start of the next service day.

6. Accidents

Contractor shall require all vehicle operators to report any accident or incident involving the vehicle to the Contractor's supervisor. The supervisor shall use good judgment in the situation, and shall immediately notify police or fire department if necessary. The supervisor shall report all accidents to City by telephone immediately. Both the operator and supervisor will complete an accident report approved by City with copy to the City no later than the start of the next service day. The Contractor shall submit all accident-related reports to the DMV as required.

I. Management

The Contractor shall be responsible for program management according to specified operating procedures. The City may establish additional requirements which are reasonable for operation of this service after consultation with the Contractor.

1. Operating Performance Standards

The Contractor shall operate vehicles with due regard for the safety, comfort and convenience of passengers and the public.

The City will set performance standards for its services. Contractor and the City shall meet periodically to evaluate performance of the system based upon these standards. If the standards are not fulfilling their intended purpose, they will be adjusted based upon recommendations made by Contractor with the concurrence and final decision by the City. Should it be found that the Contractor's performance has contributed to Contractor's failure to achieve these standards, Contractor shall take all reasonable actions requested by the City to correct deficiencies in performance. Should deficiencies persist, the City may assess liquidated damages.

All liquidated damages assessed against the Contractor will be deducted from the monthly invoices by the same amount. The City's Community Services Director shall maintain the right to assess liquidated damages against the Contractor, as set forth herein, based on the Contractor's failure to meet the established standards. Circumstances beyond the control of the Contractor, causing the Contractor to fail to comply with the stated performance requirement, will be considered as just cause on the part of the City not to assess liquidated damages against the Contractor.

Service should be provided as scheduled or according to any adjusted schedule established by the City, including route modifications required because of special events or a declared emergency. Contractor shall not be held responsible for the failure to provide on time service due to weather or traffic conditions, unavoidable vehicle malfunctions, and/or naturally occurring disasters.

Notwithstanding the above caveat, the City may impose liquidated damages on the following basis:

- a. Customer service is very important in building ridership and support for this service. Therefore, the fourth (and any additional) justified complaint about each service in any 30-day period shall result in the Contractor paying a penalty \$500 per substantiated complaint except late pick-ups or trip delays covered below.
- b. The Contractor shall maintain satisfactory California Highway Patrol (CHP) terminal inspection throughout the life of the contract (proof of CHP certification is required). If the Contractor receives an unsatisfactory rating from the CHP, the Contractor shall notify the City immediately and state what is being done to correct the deficiency. If the vehicle operating authority falls under the California Public Utilities Commission (PUC) and if the PUC revokes the permits to operate the vehicles in this service as a result of unsatisfactory inspection ratings by the CHP, the vehicles shall not operate and a \$500 per vehicle per day fine shall be assessed until a satisfactory inspection report is obtained and the vehicle is again available for service.
- c. The City reserves the right, at its sole discretion, to inspect and reject temporarily or permanently by notice to the Contractor, any vehicle the Contractor utilizes which the City deems unacceptable. In the event any revenue vehicle is rejected temporarily by the City because of deficient vehicle condition or appearance, \$500 per vehicle per day shall be assessed until the condition is corrected. In the event any revenue vehicle is rejected permanently by the City because of the vehicle's conditions, Contractor shall replace the vehicle and will be assessed \$500 per vehicle per day until the vehicle is replaced with one that is acceptable to the City.

- d. If any regulatory agency or funding source penalizes the City for late, incomplete or inaccurate data which was the Contractor's responsibility to collect and/or provide to the City, the liquidated damages shall be the amount of the penalty and any administrative costs incurred by the City.
- e. In the event the Contractor fails to commence service on December 1, 2018, the Contractor shall pay the City liquidated damages of \$1,000 for each service day of delay.
- f. If the wait time of any Dial-A-Ride trip has been verified to exceed 60 minutes, the liquidated damages shall be \$60 per incident plus \$1 for every minute thereafter.
- g. If the wait time of a pre-scheduled trip has been verified to exceed 30 minutes, the liquidated damages shall be \$50 per incident; if it exceeds 45 minutes, the liquidated damages shall be \$75 per incident; and, if it exceeds 60 minutes, the liquidated damages shall be \$100 per incident.
- h. If a trip request has been verified to be lost by dispatch and no vehicle was dispatched, the liquidated damages shall be \$100 per incident.

Contractor must have sufficient telephone lines to handle the additional calls from Malibu residents. Contractor shall provide a Customer Service telephone line which shall be a toll-free call from anywhere within the City of Malibu, to provide information and take Dial-A-Ride service requests. One TDD phone must also be provided for persons with hearing impairments. All personnel should be trained to respond accurately and professionally. All comments and complaints shall be received by the City and logged on a mutually agreed upon complaint form and referred to the Contractor who shall respond the next working day with a description of any follow-up action taken or anticipated. Contractor must have a facsimile machine compatible with the City's and email capabilities.

Proposers shall indicate in their proposals how they will provide telephone information to the public about services during operating hours. Proposers should describe their computerized scheduling/dispatching program in place. An answering machine may be used to provide information outside of service hours. Voicemail greetings/recorded information must be available also in Spanish.

1. Personnel Performance Standards

Regularly assigned drivers or a trained back up must be available and on time to ensure consistent and reliable service.

All personnel are responsible for knowledge of the service system design, the City of Malibu, and route destinations. Project personnel must maintain a courteous attitude, answering to the best of their ability any passenger questions regarding the provision of service. Personnel must also report all passenger-complaints, as well as, operational and maintenance problems promptly to the Project Manager who shall forward the information to the City.

2. Fare Collection and Accountability

The cash fare for the Dial-A-Ride service will be \$1.00, \$2.00, and \$4.00 as previously described. The City reserves the right to change the fare or to issue passes, discount coupons, or tickets to be used in lieu of cash fares. The Contractor will be responsible for collecting fares per trip unless the City agrees to a prepay fare system. The Contractor shall ensure that all drivers are aware of and adhere to the fare structure.

Total fare box revenues are to be retained by the contractor, reported to City of Malibu, and deducted from the monthly cost of the service. Fare collection training shall be conducted by the Contractor, and proper fare collection shall be enforced by all project personnel.

Vehicles used in the program represent the City and therefore, the City will reserve the right to refuse any advertising on program vehicles which it determines to be offensive or inappropriate.

3. Program Operational Records

Records and reports should be consistent with all National Transit Database (NTD) requirements, as well as, all other reporting required by the Los Angeles County Metropolitan Transportation Authority (Metro). In addition, the Contractor may be required to provide additional statistical information as requested in order to assist the City in complying with other grant and legislative requirements. The City will use the information requested in this section to monitor and evaluate the productivity of the service. Information must be submitted to the City according to the reporting schedule to be established by the City. All reports shall be submitted to the City in a format approved by the City. The Program Manager will prepare and submit to the City, with appropriate back up, no later than the sixth working day of each month, a summary report of operations for the service which will include at least:

- a. Daily totals of passenger counts, revenue hours, total hours, revenue miles, total miles, fare box revenue, passenger types any other operating data

collected, documenting any discrepancies in the reported number of passengers carried and the amount of fares collected by the operator.

- b. Passenger pick-up and drop-off times and locations for the Dial-A-Ride service.
- c. Operational problems, accidents, incidents, passenger complaints, and any actions taken regarding the aforementioned events. Passenger complaints related to safety or serious operational deficiencies shall be reported by phone to the City no later than the next working day following Contractor's receipt of complaint. Results of documentation may indicate the need for changes in the level of service or in operational or routing modifications. The provider shall cooperate with the City to improve the transportation operation and maintain flexibility so that service modifications may be implemented quickly.

4. City Access to Records

The City, or any of its duly authorized representatives, upon reasonable written notice, shall have access, for the purpose of audit and investigation, to all original books, documents, log sheets, and records of the Contractor which pertains to the contract. Said original books, documents, log sheets and records must be retained by the Contractor in the Southern California Region for four years following final payment under the contract.

5. Marketing/Public Outreach

The City shall be responsible for public relations as well as the production of schedules and marketing and other promotional materials, therefore, these costs should not be included in the proposal.

Contractor must refer all media requests to the City and may not provide any information without prior approval by the City. Contractor shall cause drivers and supervisors to cooperate and comply with reasonable requests by the City to distribute notices, schedules or other promotional materials to passengers in connection with the services provided. The City may also request the Contractor's personnel to collect data from passengers by handing out survey forms.

The Contractor shall participate in the City's special events as requested by the City. These events may require the Contractor to display service vehicles in addition to providing manpower for a display booth for distributing brochures regarding the City's transit services.

6. Operating During a Declared Emergency

Upon declaration of any emergency by the City Manager or his designated representative, the Contractor may be responsible for a number of transportation-related activities, including the development of emergency travel routes and the coordination with other agencies supplying common carrier services. In the event of a declared emergency, the Contractor shall make available all program vehicles to the City, report to a designated City parking area immediately, and deploy vehicles in a manner described by the Director of Public Works or his designee as part of the City's Emergency Response Plan.

The City shall be obligated to compensate the Contractor for services which significantly exceeds the normal expense of operating the service during such period of declared emergency. The Contractor shall be required to document and maintain all emergency-related services as requested by the City and provide these documents to the City at the declared conclusion of the emergency.