

**COUNCIL MEETING AGENDA
TUESDAY, DECEMBER 3, 2013
AMENDED**

Members may attend in person or by telephone

Ed Foster, Mayor
Michael Jewitt, Vice Mayor

Carol Kelley
Mark Orgeron
Monica Timberlake

Norma Crooks
Mary Scott

**Quartzsite Town Hall
Council Chambers
465 North Plymouth Avenue
Quartzsite, Arizona**

**Special Meeting
1:30 p.m.**

SPEAKING TO THE COUNCIL

If you are interested in speaking to the Council during Public Hearings, Communications from Citizens, or other designated agenda items, you must fill out a speaker card (located on the table inside the front entrance to the Council Chambers) and deliver it to the Town Clerk prior to the convening of the meeting. Each individual will be limited to three (3) minutes for their remarks.

All persons attending the Council meeting, whether speaking to the Council or not, are expected to observe the Council Rules, as well as the rules of politeness, propriety, decorum and good conduct. Any person interfering with the meeting in any way, or acting rudely or loudly, will be asked to leave.

CELL PHONES AND RECORDING DEVICES

As a courtesy to others please turn off or silence all cell phones or pagers. Reporters or others with recording devices need to be staged at the back of the public seating area.

***The times listed for agenda items are estimated.
Items may be discussed earlier or in a different sequence.***

Est. Time	AGENDA ITEM	COUNCIL ACTION
1:30	CALL TO ORDER OF SPECIAL MEETING	
1:30 – 1:35	INVOCATION AND PLEDGE OF ALLEGIANCE <i>The invocation may be offered by a person of any religion, faith, belief or non-belief. Interested persons should contact the Clerk for further information.</i>	
1:35	ROLL CALL	
1:35 – 1:36	APPROVAL/AMENDMENT OF AGENDA	Discussion, possible action by MOTION.

		ADMINISTRATIVE ITEMS <i>Administrative items are for Council discussion and action. It is at the discretion of the majority of the Council regarding public input requests on any Administrative Item. Persons wishing to speak on an Administrative Item should complete a Request to Speak Form and indicate the Item they wish to address. Council may or may not accept public comment.</i>	
1:36 - 1:45	1.	TROLLEY RESOLUTION – Consider approval of a contract with Parking Concepts, Inc. to provide transportation services for the Quartzsite Trolley for general public fixed-route and paratransit services.	Discussion and Possible Action by MOTION.
1:45 - 1:55	2.	INDEMNIFICATION ORDINANCE – Consider approval of an ordinance amending Town Code, Chapter 3 Administration, by adding new Article 3-7 relating to the indemnification and defense of officers and employees acting within the scope of their duties.	Discussion and Possible Action by MOTION.
1:55 - 2:30	3.	EXECUTIVE SESSION <ul style="list-style-type: none"> • An executive session pursuant to A.R.S. § 38-431.03(A)(1) for discussion or consideration of employment of a town manager, including review of resumes to establish a final list of candidates to interview. 	
2:30		ADJOURN	MOTION to adjourn.

Certification of Posting

The undersigned hereby certifies that a copy of the attached notice was duly posted at the following locations: Quartzsite Town Hall, 465 N. Plymouth Ave, Quartzsite, AZ, U.S. Post Office, 80 W. Main Street, Quartzsite, AZ and The Senior Center, 40 Moon Mountain Ave, Quartzsite, AZ, on the ____ day of _____, 2013, at ____ a.m./p.m. in accordance with the statement filed by the Town of Quartzsite with the Town Clerk, Town of Quartzsite.

By: _____, Town Clerk's Office.



TOWN OF QUARTZSITE

SPECIAL COUNCIL MEETING

Tuesday, December 3, 2013

Agenda Item #1 Consider approval of a contract with Parking Concepts, Inc. to provide transportation services for the Quartzsite Trolley for general public fixed-route and paratransit services.

Summary: The Town proposes to operate a shuttle (Trolley) transit service within the Town of Quartzsite connecting general public passengers from the seasonal area to various related businesses on Main Street and US 95 for the period beginning December 4, 2013 through February 2, 2014, with the option to continue service to February 23, 2014.

The Yuma County Intergovernmental Public Transportation Authority has made the trolley vehicle available to the Town of Quartzsite for \$1 per year. An outside bus contractor will provide certified bus operators, insurance, maintenance services, training, transit program compliance, shared dispatcher from a remote location and customer assistance. The Town will provide gas and oil, cellular phones, printing and advertising services.

The outside bus contractor, Parking Concepts, Inc. is the provider of transit services for the cities of Yuma and Blythe. By using an outside service provider, the Town will realize savings on vehicle liability insurance, administrative staff requirements, and training costs. The proposed contract provides for a maximum obligation of \$22,219.73 which is supported by advertising sales and ridership fees.

Pending approval of this contract, a ribbon cutting for the Quartzsite Trolley service will be held Wednesday, December 4th at 1:00 pm at the Quartzsite Town Hall.

Responsible Person: Laura Bruno, Town Manager

Attachment: Proposed Independent Contractor Contract with Parking Concepts, Inc.

Action Requested: **Motion to approve a contract with Parking Concepts, Inc. to provide transportation services for the Quartzsite Trolley for general public fixed-route and paratransit services, and authorize the Town Manager to execute the contract.**

INDEPENDENT CONTRACTOR CONTRACT

A. The Town of Quartzsite, Arizona ("Quartzsite" or "TOWN") contracts with Parking Concepts, Inc as an Independent Contractor ("Contractor") for the performance of certain tasks as described in this contract.

B. Contractor's principal place of business is located at the following address: 12 Mauchly, Building I, Irvine, CA 92618

C. Contractor declares that Contractor is engaged in an independent business and has complied with all laws governing the said business and the tasks to be performed under this Contract.

D. Contractor declares that Contractor holds services out to the public as a separate business entity from Quartzsite and is not in business for the purpose of providing services solely to Quartzsite.

Therefore, in consideration of the foregoing representations and the following terms and conditions, the parties agree:

1. **SERVICES.** Quartzsite engages Contractor to perform the services described in EXHIBIT A.

2. **PAYMENT.** Quartzsite shall pay Contractor the compensation set forth in EXHIBIT B. Contractor shall submit payment requests within thirty (30) days of providing services under this Contract. Each payment request shall be for all services completed. Quartzsite shall pay Contractor for services satisfactorily completed within thirty (30) days from submittal of a payment request.

3. **INSTRUMENTALITIES.** Contractor shall supply all equipment, tools, materials and supplies to accomplish the designated tasks except as described in EXHIBIT A.

4. **CONTROL.** Contractor retains the sole and exclusive right to choose his/her assistants and control or direct the manner or means by which the work described herein is to be performed.

5. **PAYROLL OR EMPLOYMENT TAXES.** No payroll or employment taxes of any kind shall be withheld or paid with respect to payments to Contractor. The payroll or employment taxes that are the subject of this paragraph include but are not limited to FICA, FUTA, federal personal income tax, state personal income tax, state disability insurance tax, and state unemployment insurance tax. Contractor shall be responsible for any payroll or employment taxes of Contractor's employees, if any.

6. **OTHER TAXES.** Contractor shall be responsible for payment of all taxes related to the provisions of the services described in EXHIBIT A.

7. **WORKERS' COMPENSATION.** No workers' compensation insurance has been or will be obtained by Quartzsite on account of Contractor or Contractor's employees. Contractor will comply with the workers' compensation laws with respect to Contractor and Contractor's employees.

8. INDEMNIFICATION. Contractor agrees to indemnify, defend and hold harmless Quartzsite and all of its officers, agents and employees for all demands, claims, proceedings, suits, damages, losses and expenses (including but not limited to, attorneys fees and court costs), including demands, claims, proceedings, suits, damages, losses and expenses of members of the general public using the services described in Exhibit A, relating to, arising out of or alleged to have resulted from acts, errors, mistakes, omissions of any kind caused by Contractor, its officers, agents or employees or any subcontractor of Contractor. Contractor's duty to indemnify, defend and hold harmless Quartzsite, its officers, agents and employees shall include but is not limited to the application of the Fair Labor Standards Act, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the Internal Revenue Code, the Immigration and Naturalization Act, Arizona revenue and taxation laws, Arizona Workers' Compensation Law, and Arizona Unemployment Insurance Law. Insurance provisions set forth in this contract are separate and independent from the indemnity provisions of this paragraph and shall not be construed in any way to limit the scope and magnitude of the indemnity provisions.

9. INSURANCE. If Quartzsite requires insurance for this contract, Contractor shall provide a certificate of insurance evidencing insurance policies satisfactory to Quartzsite prior to commencement of services as defined in Exhibit A.

10. IMMIGRATION LAW COMPLIANCE WARRANTY. Contractor warrants its compliance with all federal immigration laws and regulations that relate to its employees and A.R.S. § 23-214(A). Contractor further warrants that after hiring an employee, Contractor verifies the employment eligibility of the employee through the E-Verify program. A breach of this warranty shall be deemed a material breach of the Contract that is subject to penalties up to and including termination of the Contract. Quartzsite shall have the right to conduct an audit to ensure that the Contractor is complying with the warranty.

11. ADMINISTRATIVE CONFLICT OF INTEREST. This Contract may be terminated pursuant to the provisions of A.R.S. § 38-511.

12. TERM: TERMINATION. The term of this Contract is one year, commencing December 1, 2013 ending on June 30, 2014. There are no extensions associated with this Contract. Either party may terminate this Contract if the other party fails to perform the duties required by this Contract. Notice of termination shall be given at the address set forth in Paragraph 13. If TOWN gives notice of termination for failure of CONTRACTOR to perform any duties required by this Contract, CONTRACTOR shall immediately cease its services unless the notice states otherwise.

13. NOTICES. Any notice to be given under this Contract shall be in writing, shall be deemed to have been given when personally served or when mailed by certified or registered mail, addressed as follows:

QUARTZSITE:

Town Manager
Town of Quartzsite
PO Box 2812
Quartzsite, AZ 85346

CONTRACTOR:

Chief Operating Officer
Parking Concepts, Inc
12 Mauchly, Building I,
Irvine, CA 92618

The address may be changed from time to time by either party by serving notices as provided above.

14. CONTROLLING LAW. This Contract is to be governed by the laws of the State of Arizona

Agreed to this 3rd Day of December, 2013,

TOWN OF QUARTZSITE

CONTRACTOR

Town Manager

Chief Operating Officer

Approved as to Form:

Curtis, Goodwin, Sullivan, Udall & Schwab, PLC

By:

Attest:

Town Clerk

EXHIBIT A
SCOPE OF WORK

1. Service Provided. CONTRACTOR shall provide an annual total of 550 vehicle revenue hours. CONTRACTOR shall provide sufficient supervisory and dispatching personnel to adequately handle transit services described in this scope of work herein. CONTRACTOR shall provide office space and maintenance facility. TOWN shall provide fuel and parking for the TOWN's transit fleet at the TOWN Hall located at 465 North Plymouth Avenue in Quartzsite or other designated locations as approved by the TOWN. Fueling would be conducted at the TOWN's fueling station.

Quartzsite Trolley services are generally provided between 8:20 a.m. and 5:20 p.m., excluding New Year's Day and Christmas Day. This service will operate every 45 minutes and between December 4, 2013 and February 2, 2014 with a possible extension to February 28, 2014.

Additional details are shown in the Quartzsite Trolley Rider's Guide which is attached as EXHIBIT D.

2. Fare and Pass Schedule. A copy of the Quartzsite Trolley Rider's Guide is attached as EXHIBIT D with the present fare structure. CONTRACTOR must operate service in accordance with the established fare structure.

These fares are subject to change and the CONTRACTOR will be advised if the fares are changed. TOWN shall have the sole responsibility in setting the fare structure.

3. DBE/EEO: CONTRACTOR shall submit a signed affidavit certifying compliance with the Disadvantaged Business Enterprise (DBE) and Equal Employment Opportunity (EEO) requirements as specified in Contract, if applicable.
4. On-site Management: CONTRACTOR shall at all times provide a qualified Project Manager for this Contract. The CONTRACTOR shall have the necessary certifications to train bus operators as defined in Section H.1. TOWN may request a change in Project Manager at any time for any reason, if determined by TOWN that Project Manager is not meeting the needs of the TOWN. CONTRACTOR's Project Manager may be shared with another CONTRACTOR operation with the time allocated for the Project Manager being equally charged to the TOWN.
5. Training and Retraining. CONTRACTOR shall provide ongoing training, retraining, and safety education for all vehicle operators, maintenance personnel and supervisory personnel which conform to applicable regulatory requirements, e.g., Federal and State Departments of Transportation, Arizona Highway Patrol and other applicable agencies.
6. Drug and Alcohol Testing. CONTRACTOR shall provide pre-employment, post-accident, just-cause, and random drug and alcohol testing of its employees in "safety-sensitive" positions, pursuant to the requirements of the Federal Transit Administration (FTA) and/or the Arizona Highway Patrol.

7. Tickets, Passes and Transfers. CONTRACTOR shall accept transfers and other fare instruments from other transit systems that interact with Quartzsite Trolley as directed by TOWN.
8. Telephone Information and Reservations. TOWN shall be responsible for providing information regarding Quartzsite Trolley services.
9. Dispatching and Radios. CONTRACTOR shall provide an adequate number of persons to staff the vehicle dispatch functions. There must be a dispatcher on duty at all times that service is operating. After office business hours, the dispatcher must be available via cellular telephone or radio. Dispatchers shall be responsible for maintaining communication (radio, cell phone or other methods) with all vehicles in service, and for maintaining the daily dispatch log to be proposed by CONTRACTOR. Scheduling and dispatching personnel shall be trained in professional techniques in the areas of: radio protocol, telephone etiquette, handling of difficult people and professional interactions with TOWN employees, local businesses and news media. TOWN shall provide an adequate communication system (cellular telephone).

CONTRACTOR will create a daily bus operator manifest by using Microsoft Excel or some other software approved by the TOWN. Information for all trips made will be kept during the term of this Contract.

The TOWN will also require the daily trip information be analyzed for one random day per week as determined by the TOWN. This analysis will be included in the Monthly Report. This information will identify productivity by bus and time of day, number of buses out during each service hour, number of one way trips during each service hour, average wait and travel time by service hour and bus, longest wait time and passenger ride time by bus, service hour and day and purpose of trip by passenger.

The dispatcher should facilitate transfers with Quartzsite Transit Services (QTS) by calling these services as the bus approaches the connection point so that passengers have a seamless transfer between the two systems. Transfers to QTS are possible, but are not guaranteed at various locations throughout the service area identified in EXHIBIT D.

10. Control and Distribution of Passes. CONTRACTOR shall maintain strict control of all passes issued by the TOWN. The number and type of passes issued to bus operators shall be documented and bus operators shall return transfers at the end of each shift. All passes not being used in revenue service, or issued to bus operators, shall be kept in a secure place. It is the responsibility of the CONTRACTOR to secure passes in a secured area at all times.

CONTRACTOR shall be responsible for delivering bus passes to TOWN authorized vendors and depositing revenues from vendors with the TOWN's Finance Department monthly as directed by the TOWN.

11. Contact of TOWN/CONTRACTOR Personnel. TOWN personnel shall have the right to make contact with CONTRACTOR personnel, other than the management and dispatch

functions, as needed when CONTRACTOR personnel are in revenue service. CONTRACTOR personnel shall have the right to contact TOWN personnel without fear of retaliation from CONTRACTOR. TOWN shall not intervene with CONTRACTOR issues related to personnel unless State or Federal laws are violated.

12. ADA Passengers. CONTRACTOR shall ensure that if an ADA passenger is stranded due to a lift failure or service interruption that the passenger is picked up within 30 minutes. The vehicle that has the lift failure shall be removed from service and replaced as soon as possible. The lift must be repaired before the vehicle is returned to service. There shall be no ADA trip denials.
13. Service Development. TOWN shall have the responsibility of developing all routes (revenue and deadhead) and schedules with input from the CONTRACTOR. TOWN is not obligated to utilize input from the CONTRACTOR. CONTRACTOR shall provide the schedule used for developing routes (runcut) for review and approval by TOWN prior to its implementation.
14. Security Cameras. CONTRACTOR shall be fully responsible for the proper operation of video surveillance systems (VSS) on TOWN buses, if installed. CONTRACTOR shall routinely check each VSS to ensure it is operating properly and report malfunctions to TOWN immediately. CONTRACTOR will be responsible for maintenance of the VSS equipment. CONTRACTOR shall download and review video from buses whenever an incident occurs on board a bus wherein video of the incident might assist in the resolution of the incident. CONTRACTOR shall operate and maintain the equipment in accordance with the manufacturer specifications and arrange for any necessary training to use VSS provided equipment.
15. Automated Vehicle Locator Service and Real Time Transit Information. At such time as TOWN provides an Automated Vehicle Location (AVL) and real time transit information system, CONTRACTOR shall utilize said system to the fullest extent intended by its manufacturer. TOWN will install said AVL and real time transit information monitoring equipment in office space provided by CONTRACTOR and be responsible for initial start-up of the system. CONTRACTOR shall assist TOWN in the start-up of the system and be trained by the system installer at TOWN expense. CONTRACTOR shall be responsible for the maintenance of such equipment after the initial set up has been completed with authorized TOWN vendors capable of maintaining such equipment at its cost.
16. Email. CONTRACTOR's Project Manager, Dispatcher, Mechanic and any other administrative staff member shall have access to electronic mail over the internet with their own email address provided by CONTRACTOR's email system. Email address from third parties such as Google, Yahoo, Hotmail and/or others shall not be permitted.
17. Advertising. CONTRACTOR shall cooperate with TOWN in TOWN's program to provide advertising on the interior and exterior of TOWN buses. Said advertising includes all signs up to and including full bus wraps. If directed by TOWN, CONTRACTOR shall work with TOWN's contractor related to the installation of interior advertising cards and exterior signs/wraps including coordinating access for the TOWN's Contractor. TOWN shall retain all revenues associated with advertising on TOWN buses.

18. Bus Operator Bids and Employee Schedules. CONTRACTOR shall provide TOWN with a copy of its bus operator run assignment sheet and employee schedules upon TOWN's request. TOWN shall have approval over all bus operator bids and employee schedules.
19. Use of Transit Vehicles For Emergency Preparedness Drills & Exercises. CONTRACTOR shall make available the use of TOWN transit vehicles for emergency preparedness exercises upon request by TOWN. CONTRACTOR's participation shall be included in the fixed cost.
20. Detours. CONTRACTOR in coordination with TOWN shall establish detours when road closures are occurring or roadways within the Quartzsite Trolley service area become impassable due to other obstructions. CONTRACTOR shall post rider alerts on a TOWN approved format if the detour lasts more than 24 hours.
21. Lost and Found. CONTRACTOR shall make a reasonable attempt to identify and return lost items to the passenger the same day it was found. When it is not reasonable to return the item, CONTRACTOR shall: 1) tag the item and note the route, or location where the item was found, time and date found, 2) Include the name of the person turning in the item and a brief description of the item, 3) Maintain a log of lost and found items, 4) dispose of the lost item with the local Police Department of charity within 30 days of non claiming, 5) store the item in a secure container as approved by TOWN.
22. Transit System Security Program Plan. CONTRACTOR shall develop – in coordination with TOWN – a Transit System Security Program and Emergency Preparedness Plan (TSSEPP) that covers passengers, employees, vehicles and facilities. Guidance on the development of this plan is available in a report entitled, the Public Transportation System Security and Emergency Preparedness Planning Guide (DOT-VNTSC-FTA-03-01) dated January 2003. The TSSEPP should assign responsibility for security management from the most senior executive to the first line supervisory staff. The TSSEPP must address the following mechanisms:
 - Interagency coordination with TOWN, Town of Quartzsite Police, La Paz County Sheriff, and Arizona Highway Patrol and other transit operators
 - Evacuation assistance plan utilizing TOWN's Fleet Investigating Security Incidents
 - Security and Emergency Management Training for all personnel
 - Regular threat and vulnerability analyses in cooperation with TOWN
 - Compilation and reporting of data associated with the National Transit Database's Safety and Security Module.

The TSSEPP shall include a plan to respond to emergencies and routine problems that may occur. Occurrences include, but are not limited to:

- Passenger injuries
- Passenger disturbances
- Passenger illnesses
- Vehicle failures

- Inclement weather Accidents
- Detours
- Employee injuries
- Strikes/Walkouts/Work Stoppage Terrorist Incidents
- Diablo Nuclear Event
- Earthquakes

23. Customer Comments. CONTRACTOR shall resolve citizen complaints to the best of its ability utilizing a written procedure subject to TOWN approval and revision at direction of TOWN. Unresolved complaints should be directed to TOWN transit staff. Customer comments shall be tracked in a spreadsheet and submitted to the TOWN monthly.

B. EQUIPMENT INCLUDING VEHICLES

1. Vehicles. TOWN will provide one accessible transit vehicle. The vehicle provided is a 2006 diesel powered, 31 foot long trolley that seats 20 passengers, two wheelchair tiedowns, farebox, manual destination signs and a bicycle rack. It shall be TOWN's responsibility to have its vehicles registered with the Arizona Motor Vehicles Division of the Arizona Department of Transportation (ADOT) prior to delivery to CONTRACTOR.

CONTRACTOR's responsibilities include, but are not limited to full maintenance of appearance, inspections (fluid levels, tire pressure, etc.), preventative maintenance and operating the vehicles in accordance with Contract and this Scope of Work. A fleet inventory of all TOWN vehicles used in the transit service as of this signing of this Contract is included EXHIBIT E. Mechanical and technical maintenance of TOWN's vehicles shall be the obligation of CONTRACTOR as defined in the TOWN's Maintenance Plan in EXHIBIT F.

2. Warranties. CONTRACTOR shall be responsible for maintaining all TOWN provided vehicles and equipment including warranties. CONTRACTOR shall be liable for the cost of repairing or replacing any physical or mechanical damage caused by CONTRACTOR's negligence and not caused by TOWN.
3. Availability. CONTRACTOR shall store at the TOWN vehicle(s) at the TOWN Hall, 465 North Plymouth Avenue, Quartzsite, AZ 85346 and/or other locations as approved by TOWN. CONTRACTOR shall be allowed to access vehicle for service as determined by TOWN. TOWN shall make vehicle available to CONTRACTOR no later than Monday, December 2, 2013.
4. Return of Equipment. CONTRACTOR shall return all equipment including vehicles to TOWN Hall, 465 North Plymouth Avenue, Quartzsite, AZ 85346 when termination of Contract occurs or upon earlier termination in the same condition as accepted less any ordinary wear and tear. Ordinary wear and tear shall be interpreted according to the equipment's/vehicles use. In any event, CONTRACTOR shall be liable for the cost of repairing or replacing any physical or mechanical damage not caused by TOWN.
5. Inventory. TOWN and CONTRACTOR agree to prepare a joint written inventory of all TOWN provided equipment, vehicles, and supplies. This inventory shall be conducted at the commencement and termination of Contract. CONTRACTOR shall be responsible

for returning the vehicles with the same or replacement items, equipment and supplies (all less ordinary wear and tear) as originally delivered.

6. Alterations. CONTRACTOR shall not have the right to install equipment, or make any minor or major alterations to any TOWN owned equipment or vehicles without prior written consent of TOWN. Removal of parts from the TOWN's vehicles is grounds for immediate termination.
7. Use. No TOWN-provided vehicles shall be operated beyond the limits established in the applicable policies of insurance as hereinafter set forth, and may only be used for the transportation of passengers as provided in Contract or other transit-type services pre-approved in writing by TOWN. CONTRACTOR agrees to use equipment including vehicles in a careful and proper manner and to comply with all Federal, State, local, or other governmental laws, regulations, requirements and rules with respect to the use, maintenance and operation of the equipment, including vehicles subject to the Contract. CONTRACTOR shall not use equipment in any unlawful trade, or for any unlawful purpose whatsoever, or in violation of Contract.
8. Liens. TOWN shall not suffer, create or permit to be imposed upon the vehicles any lien or encumbrance which may interfere with CONTRACTOR's intended utilization of the vehicles.

Neither CONTRACTOR nor any of his /her agents shall suffer, create or permit to be imposed upon the vehicles any lien or encumbrance whatsoever, and shall return equipment to TOWN free of any liens, claims or encumbrances resulting from its use of equipment. CONTRACTOR agrees to notify any third party furnishing services, supplies, or other necessities to CONTRACTOR that neither CONTRACTOR nor any of his/her agents have the right to incur, create or permit to be imposed on the vehicles any lien whatsoever.

9. Permits, Charges, Taxes. TOWN shall be responsible for securing and maintaining vehicle related licenses, permits and authorizations necessary for the intended vehicle operation.
10. Repossession. In the event of termination of Contract, TOWN shall have the right to take immediate possession of all TOWN-provided equipment including vehicles and CONTRACTOR shall reimburse TOWN all expenses, including attorney's fees, incurred by TOWN in effecting such repossession.

In the event that a suit or an action is instituted by TOWN, or those claiming by, through, or under it, to recover possession of the equipment, including vehicles, to collect damages or to enforce any right possessed by TOWN under the terms of Contract, CONTRACTOR agrees and promises to pay such additional sum as the court may adjudge reasonable as attorney's fees in said suit or action.

11. Other Equipment. CONTRACTOR is responsible for providing **all materials, supplies, and/or equipment** needed to perform this Contract, which are not otherwise specifically provided by TOWN. This includes a digital camera, accident kits, office supplies, , transfer punches, transfer punch holders for the bus operators, accident and blood borne pathogen kits, bus operator route bags, clipboards for bus operators, Driver Inspection Reports, Driver Log Books, copier and cleaning and maintenance tools and supplies necessary for the

maintenance of the vehicles. CONTRACTOR shall purchase items above, plus items not listed above at CONTRACTOR's cost within the fixed costs.

12. Bus Operator Shuttling. CONTRACTOR will be responsible to provide vehicle transportation for bus operators to and from any shift changes while the TOWN provided vehicle(s) are in service. CONTRACTOR may request permission from the TOWN to utilize its vehicles for shuttling of its bus operators.
13. CONTRACTOR Provided Vehicles. Any CONTRACTOR supplied vehicles will be kept in safe, clean operating condition at all times. The CONTRACTOR will be responsible for all maintenance on all vehicles supplied by the CONTRACTOR for use with this Contract. All CONTRACTOR supplied vehicles will be maintained on a regular maintenance Preventive Maintenance Inspection (PMI) schedule that meets or exceeds the Original Equipment Manufacturer's (OEM's) recommendation. TOWN will approve all vehicles supplied by the CONTRACTOR, and vehicles older than 2005 will not be approved. The CONTRACTOR may be allowed to park additional vehicles at the TOWN's Hall located at 465 North Plymouth Avenue, Quartzsite, AZ 85346. TOWN will approve designated parking spaces for the revenue vehicles located at TOWN's Hall. CONTRACTOR shall not include costs associated with the provision of its own vehicles in the TOWN's budget.
14. Fuel. Fuel facilities for vehicles shall be provided a designated TOWN fueling site. Fuel costs for TOWN vehicles shall be the responsibility of TOWN. TOWN shall provide fuel cards and employee access to gasoline and/or diesel fuel pumps for the purposes of fueling TOWN transit vehicles assigned to CONTRACTOR only.
15. Department of Transportation Number. In addition CONTRACTOR shall have its United States Department of Transportation (USDOT) number placed on all TOWN operated vehicles along with the phrase "Operated by (CONTRACTOR Name)" under the USDOT number.

C. VEHICLE, FACILITY, EQUIPMENT & BUS STOP MAINTENANCE AND MAINTENANCE FACILITY

1. General. CONTRACTOR shall identify a location to maintain transit vehicles. CONTRACTOR shall use due diligence maintaining the cleanliness of all equipment and vehicles. CONTRACTOR is responsible for general housekeeping, wear and tear, and security of equipment when in CONTRACTOR'S possession. CONTRACTOR is responsible to correct any damage caused by CONTRACTOR.

CONTRACTOR responsibilities include, but are not limited to, maintenance of appearance, inspections (fluid levels, tire pressure, etc.), preventative maintenance and operating the vehicles in accordance with Contract and this Scope of Work. Mechanical and technical maintenance of TOWN's provided vehicles shall be the obligation of CONTRACTOR.

TOWN reserves the right to bring a third party maintenance auditor to review TOWN provided vehicles and equipment and monitor/review CONTRACTOR's maintenance program.

CONTRACTOR shall be responsible for the towing of all vehicles assigned to CONTRACTOR in this Contract.

2. Maintenance Personnel. Maintenance personnel assigned to work on TOWN owned vehicle(s) and equipment shall have thorough knowledge of:
 - a. Engines, transmissions, and related mechanical equipment.
 - b. Methods and procedures used in servicing mechanical equipment.
 - c. Vehicle chassis and bodies.
 - d. Tools, precision instruments, equipment, and procedures used in the general repair and maintenance of vehicle equipment.
 - e. Decimals, fractions, and specifications related to vehicle mechanics.
 - f. Specialized areas such as painting, upholstery, brake relining, air conditioning, wheelchair lifts, and electronic destination signs.
 - g. Conduct preventive maintenance inspections and complete associated paperwork.
 - h. Inspect vehicle engines, transmissions, and other mechanical, electric, and electronic parts and components.
 - i. Diagnose vehicle engine, transmission, electrical and electronic component system problems.
 - j. Repair vehicle engines, transmissions, and other mechanical, electric, and electronic parts and components.
3. Maintenance Technical Training. CONTRACTOR shall provide technical training of maintenance personnel necessary to insure a consistent level of current, thorough knowledge in the maintenance and repair of the several types of vehicles and equipment used in fixed route and demand responsive service, including air conditioning systems, wheelchair lifts, and other ancillary equipment.
4. Preventive Maintenance. CONTRACTOR shall document and submit a pro-active preventive maintenance program for review and approval by TOWN within thirty (30) days of the effective date of this Contract. As a minimum, CONTRACTOR'S preventive maintenance program shall adhere to the preventive maintenance schedules and standards of the industry, and shall be sufficient so as not to invalidate or lessen warranty coverage of any TOWN vehicle or associated equipment. Adherence to preventive maintenance schedules shall not be regarded as reasonable cause for deferred maintenance in specific instances where CONTRACTOR'S employees observe that maintenance is needed in advance of schedule.

CONTRACTOR shall not defer maintenance for reasons of shortage of maintenance staff or operable buses, nor shall service be curtailed for the purpose of performing maintenance without prior written consent of TOWN. Preventive maintenance and running repairs shall receive first priority in the use of CONTRACTOR'S maintenance resources. CONTRACTOR shall adjust the work schedules of its employees as necessary to meet

all scheduled services and complete preventive maintenance activities according to the schedule approved by TOWN. CONTRACTOR shall adhere to the Preventive Maintenance Program identified in TOWN established maintenance plan and the TOWN approved Maintenance Plan shown in EXHIBIT F.

5. Mechanical Maintenance Program. CONTRACTOR shall be responsible for the safe and efficient maintenance of all:
 - a. Vehicles and equipment,
 - b. Communications systems,
 - c. All other TOWN provided equipment, furnishings, and accessories;

required in connection with its operation of TOWN transit services in a clean, safe, sound, and operable condition at all times, and fully in accord with any Original Equipment Manufacturer (OEM) Specifications and Requirements, in strict conformity to TOWN approved Preventive Maintenance Program, applicable requirements of any federal or state statute, and Arizona Highway Patrol regulations and orders.

CONTRACTOR'S duty and responsibility to maintain all vehicles and equipment shall not be delegated to any other person, firm or corporation.

All parts, materials, tires, lubricants, fluids, oils and procedures used by CONTRACTOR on all TOWN vehicles and equipment shall meet or exceed Original Equipment Manufacturer (OEM) Specifications and Requirements. All parts installed by CONTRACTOR on TOWN vehicles and equipment shall become property of TOWN.

The CONTRACTOR shall implement a pro-active Quality Assurance Plan, subject to approval by the TOWN, to verify the quality of work performed.

CONTRACTOR, at its sole cost and expense, shall provide all:

- a. Labor
- b. Repairs
- c. Parts (any trolley part over \$250 will be reimbursed by TOWN)
- d. Supplies
- e. Tires
- f. Maintenance tools and equipment
- g. Lubricants
- h. Maintenance
- i. Cleaning
- j. Major components (reimbursed by TOWN as defined in section C.8)
- k. Component rebuilding and replacement
- l. Service facilities and such other components, facilities, and services which may be required to fulfill its maintenance responsibilities pursuant to this Contract outside of what is provided by TOWN.

CONTRACTOR shall ensure that the following is addressed:

- a. All wheelchair lift-related equipment shall be inspected, serviced and lubricated at intervals necessary to insure that the wheelchair lifts are fully operational whenever the vehicle is used in revenue service.
- b. Brake inspections and adjustment shall be performed at intervals that insure the safe and efficient operation of the braking system.
- c. All components of the vehicle bodies, appurtenances, and frames shall be maintained in a safe, sound, and undamaged condition at all times. Damage (including body, glass, and all vehicle appurtenances) shall be repaired in a professional manner within three weeks (21 calendar days) of occurrences.
- d. All mechanical, electrical, fluid, air, and/or hydraulic systems shall be maintained in a safe and fully functional, as designed, condition at all times.
- e. The interior passenger compartment shall be free of exhaust fumes from the engine, engine compartment, and exhaust system of the vehicle.
- f. Heating, ventilation and air conditioning (HVAC) systems shall be maintained and used to insure that the passenger compartment temperature is comfortably maintained under all climatic conditions at all times on all in-service runs. CONTRACTOR shall maintain the A/C systems in an operable condition throughout the entire year.
- g. Seats shall be maintained in proper operating condition at all times. All rips, tears, cuts, gum, graffiti and other damage shall be cleaned or repaired in a professional manner immediately upon their discovery. CONTRACTOR shall replace seat covers, which are worn or cannot be professionally repaired, using materials, which are identical in design and color as those materials being replaced.
- h. Tires shall always be matched (by manufacturer, size, and tread pattern) on each axle. Tires shall not vary more than 3/32" between inner and outer tires and not more than 4/32" between curb side and road side.
- i. Cradle motor mounts shall be replaced in pairs.
- j. Radiators may be re-cored or replaced at the time of engine replacement/rebuild.

CONTRACTOR shall ensure that all vehicle brakes are maintained as discussed below:

- a. Drums shall be turned with hubs attached.
- b. Brake blocks shall be matched to drums by size; i.e., 1X, 2X, etc.
- c. Both brakes on an axle shall be replaced at the same time.
- d. Premium brake blocks shall be used.
- e. Wheel seals shall be replaced with every brake job and bearings shall be checked.

7. Vehicle Repair. All repairs to TOWN vehicles shall be performed by CONTRACTOR or other vendors and suppliers subject to prior approval by TOWN. Repairs shall include, but not be limited to, work to correct loss or damage; adjustments due to normal wear and tear; and overhaul, rebuilding or replacement of components. Repair work shall be conducted as soon as practicable upon learning that such work is required. CONTRACTOR shall perform repair work expeditiously in response to identification of problems by bus operators or other staff members. CONTRACTOR shall assure TOWN that required repairs shall not be deferred beyond a reasonable time. **CONTRACTOR shall not remove parts or equipment from other TOWN owned vehicles and/or equipment to fix other buses or equipment or it is grounds for immediate termination.** CONTRACTOR shall be familiar

with vehicle and equipment warranties and shall comply with all warranty provisions in the conduct of its maintenance functions.

8. Engine, Transmission, Turbochargers and Differential Overhaul. CONTRACTOR shall be responsible to monitor the condition and performance of vehicle engines, transmissions and differentials so as to maximize useful life and avoid costly catastrophic failures. As a minimum, the CONTRACTOR's monitoring program shall consider miles accumulated, fuel and oil consumption trends, loss of power, erratic performance, and regular periodic laboratory analysis of engine oil, transmission fluid, and differential oil. The monitoring program will provide the basis for recommending scheduled overhaul of engines and transmissions.

If CONTRACTOR determines that an engine transmission or differential needs to be overhauled or replaced, CONTRACTOR shall notify TOWN in writing detailing the reasons for such a determination. The determination shall include detailed findings of tests, oil analysis or consumables data that support the conclusion. After inspection, TOWN may direct CONTRACTOR, in writing, to proceed with the recommended work.

Engine, transmission and differential overhaul shall be approved by TOWN in advance of work, using only OEM parts and OEM minimum overhaul standards. TOWN will reimburse CONTRACTOR only for actual costs incurred for engine, transmission and differential work accomplished following the above guidelines. If TOWN determines that such work was a result of poor maintenance performance, failure to monitor overhaul criteria, neglect or abuse by CONTRACTOR, TOWN will not be liable for any costs. CONTRACTOR must submit a detailed invoice to TOWN for all such work.

CONTRACTOR shall be responsible for removal and replacement of engines, transmissions, turbochargers and differentials. In addition, during the overhaul, CONTRACTOR shall replace ancillary parts, including all cooling hoses, engine and transmission mounts, drive belts, and rebuild or replace the radiator. Also, CONTRACTOR shall assess all other components, lines, hoses or systems. Those items determined to have never been replaced or found not to meet the OEM minimum standards for serviceability shall be rebuilt or replaced to minimum OEM specifications at the time of the overhaul. CONTRACTOR shall bill TOWN for costs of equipment necessary for replacement of engines, transmissions, turbochargers and differentials and costs associated with related ancillary parts.

CONTRACTOR shall remain responsible for all costs related to repair or replacement of engine driven parts such as generators, hydraulic pumps, water pumps, fuel pumps, valve covers, oil pans, alternators, radiators, voltage regulators, air compressors, air conditioning compressors, vacuum pumps, and starter motors. CONTRACTOR shall also remain responsible for all costs related to repair or replacement of transmission related parts such as oil coolers, external oil lines, external filters, external linkage modulators, external speedometers, "driven" gears or sensors, neutral start switches and temperature sensors. CONTRACTOR shall also remain responsible for all costs related to repair or replacement of differential related parts such as rear axle housing, bearings, shafts and seals.

9. Parts Inventory. CONTRACTOR shall establish and maintain an ongoing spare parts inventory sufficient to minimize vehicle down-time and ensure that peak vehicle requirements

are met. Parts and equipment shall not be removed from other vehicles owned by TOWN without written approval from TOWN.

10. Tools and Equipment. All tools and equipment used for TOWN transit maintenance shall be provided and maintained by CONTRACTOR.
11. Emissions Control Programs. CONTRACTOR shall perform and certify such tests of equipment required to meet TOWN, other local, State, and Federal requirements related to exhaust smoke and engine emissions.
12. Oil Analysis. A laboratory engine oil analysis shall be performed on every TOWN provided vehicle engine as required by the TOWN's Preventative Maintenance Inspection (PMI) program. The analysis program used by CONTRACTOR shall be subject to approval by TOWN. Results of the analyses shall be reported to TOWN and kept on site for a minimum of one year.

A laboratory transmission oil analysis shall be performed on every TOWN provided vehicle transmission as required by the TOWN's PMI program. The analysis program used by CONTRACTOR shall be subject to approval by TOWN. Results of the analyses shall be reported to TOWN and kept on site for a minimum of one year.

13. Daily Vehicle Servicing. CONTRACTOR shall perform daily vehicle servicing on all TOWN vehicles and equipment used in this Contract. For purposes of this Contract, daily servicing shall include, but not be limited to:
 - a. Fueling
 - b. Engine oil, coolant, water and transmission fluid check/add
 - c. Vault pulling and replacement
 - d. Wheelchair lift check
 - e. Brake check
 - f. Light and flasher check
 - g. Interior sweeping and dusting
 - h. Exterior and interior visual inspection
 - i. Check of all vehicle performance defects reported by bus operators to identify potential safety and reliability items requiring immediate attention
 - j. Additional requirements as specified by vehicle manufacturers.

CONTRACTOR shall develop, implement, and maintain a written checklist of items included in the daily servicing of each vehicle. The checklist shall be utilized and kept on file for TOWN review.

14. Right of Inspection by TOWN. TOWN and its representatives shall have the right to inspect, at any time, all TOWN-provided equipment. CONTRACTOR shall correct any problems, within twenty-four (24) hours of written notification by TOWN, if the problem can be corrected within such time. If the situation is not correctable within 24 hours, then arrangements for correction shall have commenced within said period. CONTRACTOR is responsible for notifying TOWN immediately of any maintenance safety violations for correction.

15. Corrections. If CONTRACTOR fails to correct a problem after receiving TOWN notification, TOWN may make, at its discretion, corrections and shall charge the actual reasonable cost to CONTRACTOR for these corrections. TOWN may deduct these charges from any amount due or that may become due to CONTRACTOR under Contract. CONTRACTOR will use due diligence to maintain TOWN's vehicles in a clean, orderly, and safe manner and in accordance with TOWN standards. TOWN shall have the right to inspect at any and all times TOWN-provided equipment to verify CONTRACTOR compliance with the foregoing. This provision shall also apply to any equipment, including leased equipment, used by CONTRACTOR for backup service.
16. Safety Inspections. TOWN may request a third party maintenance auditor at its own cost inspect, audit and monitor TOWN vehicles and/or equipment and CONTRACTOR'S maintenance program. CONTRACTOR is expected to fully cooperate and provide any records requested by TOWN's maintenance auditor or personnel.
17. Interior & Exterior Cleaning and Maintenance. CONTRACTOR shall maintain the exterior and interior cleanliness of all vehicles to the highest standards at all times. CONTRACTOR shall supply all materials and supplies for this purpose. All gum, litter, newspapers, graffiti, or other foreign materials shall be removed by CONTRACTOR in a professional manner and immediately upon their discovery. Physical damage to the exterior or interior not correctable with diligent cleaning methods, such as tears in the seats, interior body panel cracks or cracked lamp lenses, shall be reported by CONTRACTOR to TOWN at time of observance.
 - a. Daily Servicing. All vehicles that have been in revenue service shall have the following items performed on a nightly basis:
 1. Interior Cleaning
 - a. Interior Sweeping. Using brooms, sweep the complete interior of each vehicle starting in the rear and working to the front. Sweep trash from step wells into an appropriate trash can.
 - b. Trash Bag. Empty the trash receptacle located near the front of each vehicle.
 - c. Accident Kit. CONTRACTOR shall provide accident kits to be carried on all revenue vehicles at all times. The kit shall consist of forms for use in reporting accidents or incidents, disposable camera for photographing damage in the event of an accident, body fluid cleanup kit, and any other materials prescribed by TOWN. CONTRACTOR is responsible for ensuring that an Accident Kit is on each bus and is properly stocked and stored as it enters service.
 - d. Dusting. Using a clean damp rag, wipe clean the dashboard, farebox and all operator controls.

e. Vandalism/Graffiti Inspection. Inspect the vehicle interior to assure that no seat damage or graffiti exists. Seats that are found damaged should be reported to TOWN at time of observance. CONTRACTOR shall remove graffiti at time of observance.

f. Seat Securement. Inspect individual seat inserts to assure each is secured to the seat frame. If seat is not secure, report to TOWN at time of observance.

g. Lights. All lights including the high beams will be checked daily upon the start of a bus operator's shift.

h. Wheelchair Lift. The wheelchair lift on each vehicle shall be cycled one complete cycle prior to start of revenue service. If the wheelchair lift fails to complete the cycle, the failure must be reported to TOWN and the vehicle repaired prior to commencing service or another vehicle assigned.

i. Vehicle Storage. All vehicles shall be stored at the TOWN Hall parking lot located at 465 North Plymouth Avenue, Quartzsite, AZ 85346 or other approved locations as designated by TOWN, when not in service. All doors, windows and safety hatches of vehicle shall be closed and secured.

18. Weekly Servicing. CONTRACTOR shall maintain a list of all vehicles that have been serviced. This list shall be used to assure that all vehicles have had the action items listed below completed at the frequency described, or that a particular vehicle was not available for revenue servicing during any given week. A Vehicle Cleaning Report signed by the Project Manager that details all vehicles cleaned during a one-week period will be submitted to TOWN each month as part of the monthly report following the end of the reporting month.

<u>Action</u>	<u>Frequency</u>
Mop Floors	Once Weekly
Wash Exterior of the vehicle	Once Weekly
Wash Wheels	Once Weekly
Clean Operator's Compartment	Once Weekly
Clean Inside Windows	Once Weekly
Clean Side Panels/Ceilings	Once Weekly
Clean Seat Frames/Backs	Once Weekly
Remove Graffiti	As Needed

a. Mop Floors. Floors shall be wet-mopped starting at the rear of the vehicle working forward, assuring to also mop wheel-well inner extension areas and step well. **Use of excessive amounts of water or other fluids shall not be allowed on the floors or other interior parts of the vehicle.**

b. Wash Wheels. Wheels shall be degreased and rinsed clean.

c. Operators Compartment. Operator's compartments shall be thoroughly cleaned, including vacuuming of trash from around foot controls; wiping clean dashboard,

operator's seat and all operators' controls. Upon completion, the dashboard shall be treated with anti-static spray.

CAUTION: Do not spray anti-static spray on steering wheel or operator's seat.

d. Remove Graffiti. Any graffiti on interior or exterior of any vehicle shall be removed immediately upon discovery. CONTRACTOR shall obtain approval of all graffiti removal materials prior to their use.

e. Windows. Using the cleaner approved for use only on windows, the interiors of all windows shall be sprayed, cleaned and wiped dry with a rag. Windows include windshields, door windows and interior mirrors.

19. Detailing. Each vehicle shall receive a thorough detailing at the end of the Contract. The detailing of these vehicles will be scheduled and completed by the CONTRACTOR and a report verifying the detailing of TOWN provided vehicles. CONTRACTOR shall obtain the monthly preventative maintenance schedule used by TOWN to develop detailing schedule. Each detailing shall include at a minimum the following:
- a. Wash exterior of the vehicle, including wheels.
 - b. Sweep and vacuum interior thoroughly. Remove gum and other substances that may be stuck to the floor, sidewalls, ceiling or seats.
 - c. Remove any and all graffiti from interior and/or exterior of vehicle using TOWN approved graffiti remover.
 - d. Remove any and all foreign materials from the seats and other interior areas of the vehicle and clean the vehicle thoroughly, using industrial cleaner, aerosol all- purpose cleaner, aerosol or mixed concentrated window cleaners. Rinse all washed areas and wipe dry. Clean and dry all windows. Do not use a water hose in the interior of the vehicle.
 - e. Remove all side and rear double and triple seat cushions, not requiring tools, for cleaning underneath. Replace seats.
 - f. Clean interior dome lights as necessary.
 - g. Polish and clean aluminum wheels with TOWN approved method.
 - h. Apply protective coating to bumpers, dashboard, rubber fender walls and tires to improve appearance of vehicle. Do not apply to steering wheel, seats or floors.
20. Bodily Fluids and Blood borne Pathogens. All bodily fluids and blood borne pathogens will be cleaned up immediately. If a vehicle is in service at the time of the discovery of any bodily fluids and/or blood borne pathogens, that vehicle will be replaced and removed from service and cleaned immediately. All TOWN provided vehicles shall have a bloodborne pathogens kit provided by CONTRACTOR.

21. Records. CONTRACTOR shall submit proposed Daily Vehicle Reports, Checklists and Inspection Report, Vehicle Cleaning Report and any other applicable reports to TOWN for approval within the first 15 days of operation.
22. Trolley Stop and Facility Maintenance. CONTRACTOR shall assist TOWN with installing and removing trolley stops. TOWN shall be responsible for trolley stop maintenance.
23. Turnover of Vehicles. This procedure is designed to determine the condition of TOWN vehicles and equipment at the time of turnover between CONTRACTORS. A Turnover Procedure shall be implemented toward the end of the current contract term and prior to the commencement of the new Contract. At TOWN's option, a Turnover Inspection may be implemented with or without a change in CONTRACTORS. Such turnover procedure shall include an audit meeting, inspection, period to cure defects and then formal acceptance.
 - a. Vehicle Acceptance Standards. All TOWN vehicles will undergo a detailed inspection, performed jointly by representatives of TOWN and CONTRACTOR, prior to CONTRACTOR accepting any TOWN vehicle during a transition between CONTRACTORS. TOWN and CONTRACTOR agree that TOWN vehicles will be delivered to CONTRACTOR in good condition and with each vehicle meeting or exceeding the following specifications for the first 30 days of vehicle acceptance by CONTRACTOR:
 1. Vehicle body and all attachments thereto will be free of dents and scratches in excess of 1" in length. All body parts shall be properly attached to vehicle chassis and free of rust.
 2. Exterior paint and decals shall be free from scrapes, scratches in excess of 1" in length, rust and tar. All decals shall be properly applied and free from peeling.
 3. Vehicle tires shall be of proper load range for the vehicle and be of a type equivalent to that originally supplied by the manufacturer. All tires shall be of the same manufacturer and model. All tires will be free from side wall damage, shall have a minimum of 8/32 inch tread depth on front tires and a minimum of 6/32 inch tread depth on rear tires and shall be free from damage due to improper alignment or balancing or curb damage.
 4. Vehicles shall contain a spare tire and wheel meeting the standards of paragraph 3 above if the vehicle was so equipped when purchased by TOWN.
 5. Vehicle destination signs, if vehicles are so equipped, shall have all current route indicators and shall be in proper working order.
 6. All vehicle lights shall be in working order.
 7. All decals or painting identifying the vehicle with a prior contractor or other operator shall be removed prior to delivery and all paint damage from said removal shall be properly repaired.

8. All vehicle doors and windows shall be in proper operating condition and properly sealed against the entry of fumes or water.

9. All components of the emission control and exhaust system shall be free from leaks, rust and be in proper operating condition. Vehicles shall have current state emission certification, if so required.

10. Vehicle engine shall be in proper operating condition. Proper condition shall be established through oil analysis and compression testing. If engine has been rebuilt, TOWN shall supply documentation of rebuilder and assure CONTRACTOR that engine rebuild meets manufacturers' specifications.

11. Vehicle transmission shall be in proper operating condition, free from leaks, bad gears or slippage. If transmission has been rebuilt, TOWN shall supply documentation of rebuilder and assure CONTRACTOR that transmission rebuild meets manufacturer's specifications.

12. Vehicle electrical system shall be in proper operating condition. Alternator shall be supplying specified output and battery(ies) shall fall within manufacturers' specifications for output and specific gravity. All vehicle wiring shall be free from fraying and shall be properly loomed and attached to the vehicle in such a way as to prevent fraying. Any alterations to wiring not completed by vehicle manufacturer shall be performed so as to not overload any circuit and not to cause any short circuit.

13. All heaters and air conditioners shall be free from leaks and shall perform to the manufacturers' specifications.

14. All brake linings, drums and rotors shall meet manufacturers' specifications and shall have at least 50% life remaining as measured in 32nds of an inch from new. All wheel cylinders and brake lines shall be free from leaks. All brake parts shall be in proper repair.

15. Vehicle radios, antennas and all other communications devices shall be in proper working order and mounted so as to not constitute a safety hazard.

16. The wheelchair lift shall meet all current state requirements and be in proper working condition. All wheelchair tiedowns and other securement equipment shall be in good condition and not be frayed or worn so as to constitute a safety hazard. Wheelchair lift interlocks, if so equipped, shall be in proper operating condition and meet state requirements.

17. Vehicles shall be equipped with a fire extinguisher with current tag, a complete first aid kit, full and complete safety triangle kit and all other safety equipment required by law.

18. All passenger seats and all other interior surfaces shall be cleaned and free from stains, tears and graffiti. Seats shall be properly secured to the vehicle with the proper grade of securement device.

19. Vehicles shall have a current preventive maintenance inspection including oil and filter change, transmission service, etc., in accordance with the requirements of CONTRACTOR in this Contract and state requirements.

20. Vehicles will have all current required state inspection and registration certificates, if required.

21. Vehicles will be cleaned to the standards of this Contract and shall be completely fueled. All other fluid levels shall meet manufacturers' requirements.

22. All vehicle repair and inspection records shall be delivered with the vehicles.

23. All glass shall be free from chips, scratches and cracks.

24. All suspension and steering components shall be within the manufacturer's wear limits specifications and free from cracks and leaks.

25. All other items not specifically listed herein shall be in serviceable condition meeting generally accepted standards and practices of the public transportation industry and meeting all requirements of the state and federal government and all requirements contained in this Contract.

In the event the joint vehicle inspection reveals defects in the vehicles as specified in this Section, then TOWN at its discretion may have the items repaired or authorize CONTRACTOR to repair the items at an hourly labor rate plus parts, materials, supplies and sublet as required to repair defects as negotiated between TOWN and CONTRACTOR. If necessary, additional maintenance personnel, with authorization from TOWN will be brought in to assist with completing repairs, their travel, meal and lodging expenses will also be paid by TOWN in accordance with the Internal Revenue Service per diem rates.

Upon completion of repairs, TOWN and CONTRACTOR will conduct a final inspection of the vehicles to ensure that items noted in the preliminary inspection were completed and that all vehicles are in compliance with this section.

D. MARKETING AND PUBLIC RELATIONS PROGRAM

1. Marketing Organization. During the term of Contract, CONTRACTOR will cooperate in marketing and advertising efforts with TOWN and other parties as determined by TOWN.
2. Marketing Identity. TOWN shall determine appearance, and approve all marketing material. CONTRACTOR shall not distribute any materials that can be directly or indirectly associated with TOWN or the transit services identified in Contract, without written approval of TOWN.

All printed, audio, or visual materials dealing with fares, trolley policies, promotional activities, public relations or other marketing communications materials distributed on board any vehicle must be approved by TOWN. From time to time, TOWN will supply

CONTRACTOR with marketing materials for distribution on the vehicles. CONTRACTOR shall distribute such materials on the vehicles when asked to do so by TOWN.

3. Media Referrals. CONTRACTOR will refer all requests from print, broadcast or other media for information on the transit services identified in Contract, to TOWN. Under no circumstances shall CONTRACTOR make any contact with the media or offer comment regarding the services identified in Contract.
4. Passenger Surveys. CONTRACTOR shall, when requested by TOWN, distribute surveys to passengers, and/or otherwise provide reasonable assistance in TOWN's monitoring and marketing activities.
5. On-Vehicle Advertising and Postings. CONTRACTOR shall not post or otherwise distribute any materials on the vehicles, unless specifically requested by TOWN, and TOWN shall approve in writing all materials prior to their distribution. Any revenue from posting or other distribution shall be TOWN's.

E. ADMINISTRATION, REPORTS, ACCOUNTING, AUDITS AND LIQUIDATED DAMAGES

1. Administration. CONTRACTOR shall employ adequate executive, administrative, supervisory, operational, maintenance, and bus cleaning personnel.
2. Reports. CONTRACTOR shall provide TOWN the following reports, based upon the identified schedule and in a form and format prescribed by TOWN:
 - a. Daily Driver Log Summary. Weekly summary of all transit service activity by program based upon daily driver passenger count logs. CONTRACTOR shall provide reports no more than three working weekdays following the week of service.
 - b. Monthly Summary Report. CONTRACTOR shall provide reports by the fifteenth (15th) day of the month following the reporting period. The cover sheet for the report shall be on CONTRACTOR letterhead and be signed by the Project Manager. This report shall be developed using a compatible version of Microsoft Excel and shall be provided in a printed and electronic format. The electronic copy may be sent via internet if approved by TOWN. Invoices shall not be paid without receipt of the complete Monthly Summary Report..
 - c. Fare Revenue. CONTRACTOR shall collect all farebox receipts in sealed fare boxes. The CONTRACTOR staff other than the bus operator will remove all farebox receipts from every service vehicle on a nightly basis. At no time will farebox receipts be left in a vehicle over night. All fares collected the prior business day shall be accounted for and deposited at the Quartzsite Town Hall Finance Department by 8:15 a.m. the next business day. Each month, as

part of the invoice and monthly report, CONTRACTOR shall provide a reconciliation sheet showing passengers carried, revenues received, and an over/short variance comparison.

- d. Other Reports. CONTRACTOR shall provide other reports (i.e. daily departure logs, unusual incident summaries, etc.) as defined by TOWN. CONTRACTOR shall provide reports as often as daily as directed by TOWN.
 - e. Dissemination of Data. CONTRACTOR shall not disseminate ridership, farebox, or other data or information to any party without first receiving approval for such from TOWN or as required by law.
3. Accounting Practices. During the period of Contract, CONTRACTOR shall maintain its books of account as they relate to the programs identified in Contract consistent with Generally Accepted Accounting Principles, and in TOWN approved format.
 4. Compliance with Regulatory Agency Requirements. Services provided under Contract shall conform to all the requirements of Federal, State, and/or local regulatory agencies, including, but not limited to: the Town of Quartzsite, La Paz County, Western Arizona Council of Governments, Arizona Department of Transportation, Arizona Highway Patrol, Federal Transit Administration and U.S. Department of Transportation, if applicable. CONTRACTOR shall cooperate in any audit requested by TOWN or any authorized representative of TOWN and/or regulatory agency and provide any necessary information for the purposes of conducting the audit.
 5. CONTRACTOR/TOWN Meetings. TOWN shall meet with CONTRACTOR on an as needed basis as determined by TOWN.
 6. Service Performance and Liquidated Damages. This Contract shall have no service performance incentives or liquidated damages.

F. INSURANCE

1. Insurance: CONTRACTOR shall supply evidence of general liability coverage for the TOWN's operating facility, and collision, comprehensive, liability and property damage for any CONTRACTOR and/or TOWN provided vehicles used in provision of Contract. By separate endorsement the interest of TOWN and ADOT will be included as Additional Insured and Loss Payee for any TOWN owned vehicle used in this operation. CONTRACTOR shall be solely responsible for payment of all insurance deductible amounts.

CONTRACTOR shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the performance of the work hereunder by CONTRACTOR. The cost of such insurance shall be included in the CONTRACTOR's price proposal shown in EXHIBIT B.

Before the commencement of the term of Contract, CONTRACTOR shall furnish TOWN with certificates showing the type, amount, class of operations covered, effective dates and dates of expiration of insurance coverage in compliance with this section. An endorsement naming TOWN as an additional insured for all liability coverage shall be furnished with the insurance certificates. Such certificates, which do not limit CONTRACTOR's indemnification, shall also contain substantially the following Statement:

"Should any of the above insurance covered by this certificate be canceled or coverage reduced before the expiration date thereof, the insurer afforded coverage shall provide thirty (30) days advance notice to TOWN by certified mail, Attention: Town Manager."

It is agreed that CONTRACTOR shall maintain in force at all times during the performance of Contract all appropriate coverage of insurance required by Contract with an insurance business in the State of Arizona.

No subcontract work shall commence until similar insurance coverage has been obtained by the subcontractor and verified by CONTRACTOR. CONTRACTOR shall then immediately notify TOWN, in writing, of the types and amounts of such insurance.

2. Coverage. CONTRACTOR shall maintain the following insurance coverage:

- a. Workers Compensation and Employers Liability Insurance. CONTRACTOR shall procure and maintain during the life of Contract Workers Compensation Insurance in conformance with the laws of the State of Arizona and with the laws of the United States and Employers Liability Insurance with a minimum of One Million Dollars (\$1,000,000).
- b. General Liability, Automobile Liability and Protection & Indemnity Insurance. CONTRACTOR shall procure and maintain during the life of Contract, Commercial General Liability Insurance and Automobile Liability Insurance on Acor commercial forms, or their equivalent with a minimum of Five Million Dollars (\$5,000,000) Combined Single Limit covering all legal liability for personal injury, bodily injury, death and property damage which may arise out of CONTRACTOR'S performance under Contract.
- c. Comprehensive and Collision. With respect to the vehicles to be used under the terms of Contract, including CONTRACTOR owned or the TOWN provided vehicle, CONTRACTOR shall maintain in full force and effect Comprehensive insurance and Collision insurance covering vehicle structure, engines and drive train, and all other portions of the vehicles, in an amount equal to the vehicles market value. The deductible on Comprehensive insurance and Collision insurance shall not exceed Five Thousand Dollars (\$5,000) per occurrence.
- d. Physical Damage Insurance/Total Loss Language. CONTRACTOR shall provide vehicle physical damage coverage (Comprehensive and Collision) to include such perils as fire; lightning; explosion; theft; windstorm; hail; earthquake; flood; mischief; vandalism; and overturn or collision with another object. The most

CONTRACTOR will pay for any one loss is the lesser of: 1) the actual cash value of the damaged or stolen property as of the date of the loss; or 2) the cost of repairing or replacing the damaged or stolen property with other property of like kind and quality; or 3) the property's stated value on the fleet inventory. An adjustment for depreciation and physical condition will be made in determining actual cash value in the event of a "total loss". If a repair or replacement results in better than like kind or quality, CONTRACTOR will not pay for the amount of the betterment. The vehicle physical damage coverage shall name the vehicle owner as a loss payee, and shall be primary and in no respect excess to, contributory to, or contingent upon any physical damage coverage carried by the vehicle owner. CONTRACTOR shall provide the vehicle owner with a Certificate of Insurance showing compliance with the requirements of this paragraph.

4. Subrogation Waiver. Each of the foregoing policies shall expressly waive the right of subrogation against TOWN and its Councils, Boards and Commissions, officers, employees, and volunteers.
5. Failure to Secure. If CONTRACTOR at any time during the term hereof should fail to secure or maintain the foregoing insurance, TOWN shall be permitted to obtain such insurance in the CONTRACTOR's name or as an agent of CONTRACTOR and shall be compensated by CONTRACTOR for the costs of the insurance premiums plus interest at the maximum rate permitted by law computed from the date written notice is received that the premiums have been paid. CONTRACTOR shall indemnify and hold harmless TOWN from the failure to place, failure to maintain, or the failure of any of the insurance policies required above.
6. Additional Insureds. TOWN, ADOT and its Councils, Boards and Commissions, officers, employees, and volunteers shall be named as additional insureds under all insurance coverage, except Workers Compensation, required by Contract. An additional insured named herein shall not be held liable for any premium, deductible portion of any loss, or expense of any nature on this policy or any extension thereof. Any other insurance held by an additional insured shall not be required to contribute anything toward any loss or expense covered by the insurance required in this Contract.
7. Primary Insurance. Endorsement(s) shall be provided which state that coverage provided by both the Commercial General Liability insurance policy and the Commercial Automobile Liability insurance policy is Primary Insurance and that no the insurance that may be affected by TOWN will be called upon to contribute to these coverages.
8. Separation of Interest. Endorsement(s) shall be provided which state that coverage provided by both the Commercial General Liability insurance policy and the Commercial Automobile Liability insurance policy shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
9. Other Insurance Provisions. The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:
 - a. TOWN, its officers, officials, employees, agents and volunteers are to be covered as insured as respects; liability arising out of activities performed by or on behalf of

CONTRACTOR; products and completed operations of CONTRACTOR; premises owned, occupied or used by CONTRACTOR; or automobiles owned, leased hired, borrowed or used by CONTRACTOR. The coverage shall contain no special limitations on the scope of protection afforded to TOWN, its officers, officials, employees, agents or volunteers.

- b. For any claims related to this project, CONTRACTOR'S insurance coverage shall be primary insurance as respects TOWN, its officers, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by TOWN, its officers, officials, employees, agents or volunteers shall be excess of CONTRACTOR'S insurance.
 - c. Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to TOWN, its officers, officials, employees, agents or volunteers.
 - d. CONTRACTOR'S insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurers liability.
 - e. Each insurance policy required by this clause shall be endorsed to State that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to TOWN.
10. Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII.
11. Verification of Coverage. CONTRACTOR shall furnish TOWN with original certificates of insurance and endorsements effecting coverage required by this clause. The certificates of insurance and endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates of insurance and endorsements are to be received and approved by TOWN before work commences.
12. Subcontractors. CONTRACTOR shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverage for subcontractors shall be subject to all of the requirements stated herein.

G. CHANGES TO LEVEL OF SERVICE

1. Annual Basic Level of Service. The "annual basic level of service" is the amount of service, approximately 550 annual revenue hours for the term of this Contract. TOWN is to be billed for actual revenue service hours operated. This means the time the bus goes into service at the first passenger stop until the bus goes out of service at the last passenger stop. Layover time and deadhead time are to be subtracted from the revenue service hours billed. TOWN may increase, decrease, or otherwise change the service to be provided.

Changes to service levels are provided as follows:

2. Emergency Adjustments. Temporary emergency adjustments in service may be initiated either by TOWN or CONTRACTOR only in the event of an emergency or circumstance

which requires a detour or an adjustment in routing or scheduling under circumstances where there is no opportunity for the parties to confer; provided, however, that such adjustments do not constitute a "substantial change" as defined later.

The party initiating the emergency adjustment shall notify the other party immediately of such occurrence. TOWN shall specify steps to be taken by CONTRACTOR to notify patrons of the change in routing and/or scheduling necessitated by such emergency adjustments, and/or modifications to the emergency adjustments made by CONTRACTOR. In making temporary emergency adjustments, should CONTRACTOR incur added expenses beyond those compensated under the primary terms of Contract, TOWN and CONTRACTOR shall negotiate a fair and equitable adjustment in compensation for service.

3. Non-Substantial Changes in Service Level. TOWN may order non-substantial increases, decreases or other alterations to the service upon written notice to CONTRACTOR. Non-substantial changes in service include minor rerouting, adjustments to schedules, minor route extensions, minor route reductions, or other adjustments that do not require significant revisions to the overall service. Said notice shall specify the change(s) requested and the effective date(s). CONTRACTOR shall be allowed thirty (30) days to implement non-substantial changes; however, TOWN shall endeavor to provide CONTRACTOR with earlier notice whenever possible. TOWN may also, from time-to-time, request minor miscellaneous transit service (i.e. tour of TOWN for new TOWN employees, group of senior citizens wishing to go on a field trip, school field trips, etc.) and provide one (1) week notice, whenever possible.
4. Substantial Changes in Service Level. Should the TOWN wish to add additional service hours to this Contract, including transition of QTS from TOWN operation to CONTRACTOR operation, a separate amendment to this Contract shall be negotiated between the TOWN and CONTRACTOR.
5. Notice. CONTRACTOR shall be given no less than thirty (30) days written notice of the intent to order such substantial changes, and shall have an opportunity to be heard prior to adoption of such order. Such order shall not be effective sooner than thirty (30) days from the date of adoption, unless mutually agreed otherwise in writing by both parties.
6. Compensation. CONTRACTOR shall be compensated following any substantial change to the service level according to the Payment Schedule in EXHIBIT B.
7. Changes in Subsidiary Duties. TOWN may request changes in CONTRACTOR's reporting requirements, training and safety programs, inventory requirements, testing procedures, personnel practices, and/or other operating details that do not result in changes to the service level. If CONTRACTOR declines such requests, or such request would result in a material increase in CONTRACTOR's costs or in the time required for performance, CONTRACTOR shall notify TOWN within seven (7) days after receipt of such request and shall submit a claim detailing such objections and/or increases. The parties shall negotiate an equitable settlement of CONTRACTOR's claim, which reflects actual increases or decreases in CONTRACTOR's total costs to perform Contract caused by the change in question.

H. EMPLOYEE QUALIFICATIONS & TRAINING PROGRAM

1. Employee Qualifications. The following minimum qualifications will be required of those persons employed in the TOWN's transit service:

a. Bus Operator Instructors (Shared with Another Operation):

1. A valid Commercial Drivers License with air brakes and passenger endorsement; and
2. Valid Medical Certificate and passage of pre-employment drug test; and
3. One year recent experience in public transit or school bus driving, or one year recent experience as public transit or school bus training instructor; Valid instructor training certificate consistent with "Train-the-Trainer," or other formal training program recognized by the State of Arizona as having met State requirements; and
4. A criminal records and background check

b. Behind The Wheel (BTW) Trainers

1. A valid Commercial Drivers License with air brakes and passenger endorsement; and
2. Valid Medical Certificate and passage of pre-employment drug test; and
3. One year recent experience in public transit or school bus driving, or one year recent experience as public transit or school bus training instructor. Employee will also have completed a CONTRACTOR developed BTW Training program approved by TOWN that meets all industry standards and practices; and
4. A criminal records and background check

c. Vehicle Bus Operators:

1. A valid Commercial Drivers License with air brakes and passenger endorsement; and
2. A safe driving record; and
3. A valid Medical Certificate and passage of pre-employment drug test; and
4. A minimum of three years recent experience safely driving a motor vehicle with a valid license; and
5. Completion of CONTRACTOR'S driver training program; and
6. A criminal records and background check

2. Bus Operator Training. CONTRACTOR shall provide training for all personnel working under this Contract. It is the sole responsibility of CONTRACTOR to ensure that each individual is fully knowledgeable of his/her duties and responsibilities, and can operate a transit vehicle in a safe manner. It is also the CONTRACTOR's responsibility to provide additional training if the training requirements specified by TOWN are insufficient. At a minimum, training shall comply with the following requirements:

- a. Class "C" drivers, first-time Class "B" drivers and Class "B"/school bus drivers who have not had prior public transit/school bus training, *and at least nine (9) months of actual transit/school bus driving experience over the previous two (2) years:*
 1. Acquisition of a valid Class "B" (or school bus drivers) license, with air brakes, passenger endorsement and Medical Certificate; and
 2. Minimum sixteen (16) hours classroom instruction on CONTRACTOR's policies, procedures, defensive driving, vehicle code, driver notices, vehicle components, bike rack use, radio procedures, vehicle inspection, pick-up lists and schedules, transfer policies, fare collection, accident procedures, State rules and regulations, accident report writing, passenger handling and passenger empathy; and
 3. Minimum eight (8) hours classroom and supervised "hands-on" training regarding wheelchair lift components, handicapped passenger handling, operation of lift with/without power, loading/tying down procedures, and emergency procedures; and
 4. Minimum sixteen (16) hours individual behind-the-wheel instruction from a qualified driving instructor while out of service; and
 5. Minimum sixteen (16) hours individual behind-the-wheel instruction from a qualified driving instructor while in service; and
 6. Completion of driving at least two days before being allowed to drive in service unsupervised; and
 7. Class "B"/school bus drivers (with a medical certificate) who have had at least nine (9) month's public transit or school bus driving experience over the previous two years, as well as proof of training and good references.

For those Class B drivers who has 10 or more months of actual transit/school bus driving experience within the previous two (2) years:

- b. Minimum sixteen (16) hours classroom instruction on CONTRACTOR's policies, procedures, defensive driving, vehicle code, driver notices, vehicle components, bike rack use, radio procedures, vehicle inspection, schedules, routes, transfer policies, fare collection, accident procedures, State rules and regulations, accident report writing, passenger handling and passenger empathy; and
 - c. Minimum eight (8) hours classroom and supervised "hands-on" training regarding wheelchair lift components, handicapped passenger handling, operation of lift with/without power, loading/tying down procedures, and emergency procedures; and
 - d. Minimum eight (8) hours individual behind-the-wheel instruction from a qualified driving instructor while out of service; and
 - e. Minimum eight (8) hours individual behind-the-wheel instruction from a qualified driving instructor while in service; and
 - f. Completion of driving all routes at least twice each direction before being allowed to drive unsupervised.
 - g. Completion of a customer service and sensitivity training program prior to entering service. Said training shall be conducted annually for all staff assigned to this Contract.
3. Additional Training Required For All Drivers Regardless Of Experience.

- a. Vehicle-type Training. No bus operator shall be allowed to operate equipment, until he/she has been trained and signed off by a qualified instructor as to his successful attainment of the skills necessary to properly operate the vehicle type to which he has been assigned; and
 - b. Minimum One (1) Hour Safety/Ongoing Training. A minimum of one hour safety/ongoing training must occur every month for every bus operator employed. CONTRACTOR will deliver meeting agendas and minutes to TOWN and the CONTRACTOR will add items to the next meeting's agenda upon the request of TOWN; and
 - c. Bus Operator Evaluations. Each bus operator employed shall be evaluated by a qualified instructor at least once every six (6) months, including in-service evaluation and license and medical certificate checks; and
 - d. Accidents. Whenever a bus operator is involved in a preventable accident, and whenever a bus operator is involved in two or more non-preventable accidents in any twelve month period, CONTRACTOR' qualified instructor shall ride with that bus operator and perform an evaluation. The bus operator will also receive a minimum of 4 hours of retraining documented to TOWN in writing; and
 - e. Award Program. CONTRACTOR shall institute an ongoing bus operator safety award program; and
4. Bus Operator Uniforms, Dress Code, Appearance & Courtesy. CONTRACTOR shall provide and maintain clean, identical uniforms, to be approved by TOWN for all bus operators and shall enforce an appearance code, also subject to approval by TOWN. CONTRACTOR's proposal shall include a detailed description of the proposed uniform.
 - a. At a minimum, uniform requirements shall include the following for all bus operators:
 1. Clean, identical, solid color permanent press, button-down polo shirts.
 2. Clean, identical, solid color jackets for all bus operators for use during cold or inclement weather.
 3. Clean, identical professionally made clip-on company/employee identification tag and name tags.
 - 4.
 - b. CONTRACTOR shall also strictly enforce the following dress and appearance requirements:
 1. Clean dark, solid color full-length pants/trousers, clean dark matching socks and clean dark, solid-color shoes for all bus operators. bus operators may wear shorts on warm days.
 3. All bus operators operating in revenue service shall comply with uniform and dress requirements, and shall be clean and well-groomed.

- c. CONTRACTOR shall supervise all bus operators to ensure that they are courteous *to all patrons at all times*, and accurately respond to patrons questions regarding use of the transit system or connecting transit systems.

5. Employee Work Rules. The following employee rules, subject to modification by TOWN, shall be enforced by CONTRACTOR:

a. Uniforms:

1. Must be complete and worn at all times when on duty.
2. Shall be clean and presentable at all times.
3. Uniform designs, colors, name tags and ID tags subject to TOWN approval.
- 4.

b. Gratuities/Fares:

1. Gratuities shall not be accepted.
2. All cash shall go into farebox without being handled by the bus operator. Bus operator shall collect fares consistent with the most recent fare structure adopted by TOWN.

c. Knowledge of Services/Fare Structure:

1. Bus operators shall have a thorough knowledge of the service and fare structure prior to driving for that service unsupervised.
2. Bus operators shall also have a basic knowledge of transfer locations with connecting systems, and knowledge of connecting transit systems.

d. General Rules:

1. No employee will be permitted to smoke on board or within 20 feet of the bus.
2. Eating and drinking is permitted during a bus operator's break on board the bus.
3. Boisterous language, profanity, or incivility to anyone shall not be permitted while in uniform, on or off duty.
4. While in uniform, no employee shall purchase, consume, or be under the influence of any narcotic, intoxicant, or harmful drug.
5. Bus operators shall be responsible for keeping all vehicles clean and sanitary during their shift.
6. All employees are responsible for reporting any defects a vehicle may have immediately. Bus operators shall conduct a "walk-around" inspection of their vehicle, and fill out a "Daily Vehicle Inspection Report (DVIR)" sheet. Bus operators shall have CONTRACTOR supervisor personnel resolve any doubt about the safety of a vehicle prior to operating the vehicle in service.
7. Employees may use vehicles only in accordance with their assigned duties.

8. Employees must conduct themselves and operate vehicles in a safe and courteous manner at all times.
9. No one shall be permitted to solicit on the vehicle with the exception of personnel specifically authorized to do so by TOWN.
10. No item longer than five (5) feet shall be allowed on the vehicle.
11. No animals, except guide animals, or animals in approved pet carriers shall be permitted on the vehicle, unless otherwise authorized in writing by TOWN.
12. All information regarding accidents shall be confidential. Employees shall refrain from speaking to anyone concerning any accident unless it is to Police, supervisory personnel, or other person(s) involved in the accident, as required by law.
13. Anyone under the influence of any intoxicant, narcotic, or harmful drug, who endangers the safety of the bus operator, other passengers, himself/herself, or vehicle equipment, shall not be permitted on the vehicle.
14. No vehicle shall stop at an unsafe location. Whenever practical, stops shall be made at a curb.
15. Backing of a vehicle is prohibited unless specifically authorized by Dispatch. Bus operators must request the option to back a vehicle from dispatch prior to beginning the backing movement.
16. No vehicle shall be operated when its condition is unsafe or uncertain.
17. No bus operator shall operate the wheelchair lift:
 - a. until he has received the mandated training; and
 - b. if there is any doubt whatsoever about the mechanical condition of the lift, or safety of the passenger, as a result of using the lift. Wheelchair lift operation shall be in compliance with the methodology recommended by the OEMs.
18. Bus operators shall utilize the farebox system properly, recording ridership data in the format required by TOWN. Bus operators shall not handle money. Passengers must place fares themselves into the farebox.
19. Bus operators shall not leave a vehicle unattended unless:
 - a. The transmission is placed in park;
 - b. The parking brake is set and
 - c. The engine is turned off.
 - d. Doors on unattended vehicles shall be kept locked at all times.
20. Bus operators shall provide "hands-on" assistance to persons with disabilities for boarding and unloading purposes.
21. No vehicle shall be fueled while passengers are on-board.
22. Bus operators shall open passenger doors from the bus operator seat. Bus operators are not to open passenger doors from the exterior of the bus.
23. Bus operators shall remain in their seat when passengers are deboarding the bus except when specifically requested by the passenger.

6. Positions and Wage Scale. CONTRACTOR shall have a wage scale for each year of the Contract with the bus operator's starting wage for training and the bus operator's starting wage when the bus operator has completed the CONTRACTOR'S training program. TOWN recognizes the importance of wages to employee recruiting and retention. TOWN desires

that the CONTRACTOR offer competitive wages to its staff. At the minimum, the following positions must be included in this operation:

- Project Manager
 - Utility Worker
 - Dispatcher/Reservationist
- Mechanic
Bus Operator

EXHIBIT B - LINE ITEM OPERATING BUDGET

CONTRACTOR: _____

2013/2014 – (July 1, 2013-June 30, 2014)

Beginning Level of Service: Up to 550 Revenue Service Hours

Monthly Fixed Cost	\$ 1,711.40 per month (5% of YCIPTA fixed costs)
Variable Cost Per Revenue Vehicle Hour	\$ 27.599 per hour
Insurance	\$ 517.32 per month
Parts for Trolley	\$ 3,500 (up to)
TOTAL MAXIMUM OBLIGATION	\$ 22,219.73

SIGNATURE: _____

DATE: _____

Telephone Number: _____

- A. Maximum Obligation. TOWN shall only pay up to the CONTRACTOR's maximum obligation based on up to 550 revenue vehicle service hours. The TOWN will not pay anything over the maximum obligation unless specified to writing to CONTRACTOR by the TOWN.

- B. Payment. During the term of Contract, TOWN shall obtain and pay, or cause to be paid, to CONTRACTOR, a Payment. CONTRACTOR shall be paid monthly in arrears based upon the expense for all revenue vehicle hours provided, unless otherwise mutually agreed upon in writing. Each monthly payment shall be based upon the actual number of in-service revenue vehicle hours in the month that CONTRACTOR is billing the TOWN. If Contract is terminated before the expiration of the term, CONTRACTOR's total payment shall be computed pro-rata based on the number of revenue vehicle hours operated.

If any amount is in dispute, the TOWN reserves the right to withhold payment for that specific item until resolved. TOWN shall deduct disputed amount from the invoice. Amount of payment during each term shall be as set forth herein above.

In the event TOWN fails to obtain any payment in full, or fails to make any payment in full, as provided herein above, in addition to whatever rights CONTRACTOR may have at law or in equity, CONTRACTOR has the right to declare Contract terminated upon thirty (30) days written notice, and to take such other steps as it may deem appropriate. CONTRACTOR agrees to cooperate fully with TOWN's efforts to obtain and maintain a payment. TOWN agrees to pay the payment to CONTRACTOR subject to the terms of Contract. CONTRACTOR's cooperation shall include, but is not limited to, the provision of applicable service revenue and cost information, passenger counts, and other information

needed to meet any regional, State, and Federal requirement, or herein required for planning and reporting purposes.

- C. Revenues/Fares. All fare and related transportation revenues are property of TOWN. CONTRACTOR shall collect all farebox receipts in sealed fare boxes, and deposit with the TOWN's Finance Department all receipts collected from monthly passes, prepaid tickets, etc. sold by CONTRACTOR. CONTRACTOR shall maintain all account records and reports as required in EXHIBIT A, Scope of Work herein. CONTRACTOR shall provide evidence satisfactory to TOWN that the fare and related transportation revenues collected by CONTRACTOR, and reported to TOWN are the amounts actually collected.

 - D. Submission of Invoices. Invoices are to be submitted to TOWN on a monthly basis, and in the format specified by TOWN. Upon verification of the accuracy and completeness of the Monthly Management Report and invoice by TOWN, the claim shall be forwarded for payment to TOWN Finance Department. The monthly invoice shall not be processed until the Monthly Management Report for the period covered by the invoice has been received.

 - E. Payment. All invoices shall be submitted to TOWN by the 15th day of the relevant month after the month that service is provided, and shall be processed by TOWN within thirty (30) working days after the date of submission.
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EXHIBIT C: FEDERAL REQUIREMENTS

CONTRACTOR warrants and covenants that it shall fully and completely comply with all applicable Federal, State and local laws and ordinances, and all lawful orders, rules and regulations issued by TOWN with jurisdiction in all aspects of its performance of this Contract.

This Contract is subject to a financial assistance contract between TOWN and the United States of America (hereinafter "Federal Government"), acting through the Department of Transportation (hereinafter "USDOT"), and Federal Transit Administration (hereinafter "FTA"). Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives including without limitation those listed directly or by reference in the procedures and directives including without limitation those listed directly or by reference in the FTA Master Contract between TOWN and FTA, as amended, and are incorporated herein by this reference. The PROPOSER shall comply with these FTA requirements and as they may be amended or promulgated from time to time during the term of this Contract. The PROPOSER shall not perform any act, fail to perform any act, or refuse to comply with any TOWN directives, which would cause TOWN to be in violation of the FTA terms and conditions. PROPOSER'S failure to comply with these FTA requirements and TOWN directives shall constitute a material breach of this Contract.

a) **Fly America.** (Transportation of persons or property by air)

The CONTRACTOR agrees to comply with 49 USC 40118 (the "Fly America" Act) in accordance with the General Services Administration's regulations at 41 CFR Part 301-10, which provide that recipients and subrecipients of Federal funds and their contractors are required to use U.S. Flag air carriers for U.S. Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The CONTRACTOR shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. The CONTRACTOR agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

b) **Charter Bus Requirements.** The CONTRACTOR agrees to comply with 49 USC 5323(d) and 49 CFR Part 604, which provides that recipients and subrecipients of FTA assistance are prohibited from providing charter service 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 CFR 604.9. Any charter service provided under one of the exceptions must be "incidental," i.e., it must not interfere with or detract from the provision of mass transportation.

- c) **School Bus Requirements.** Pursuant to 69 USC 5323(f) and 49 CFR Part 605, recipients and subrecipients of FTA assistance 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.
 - d) **Cargo Preference (use of U. S. flag vessel).** The CONTRACTOR agrees: (a) to use privately owned United States-Flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to the underlying contract to the extent such vessels are available at fair and reasonable rates for United States-Flag commercial vessels; (b) to furnish within 20 working days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, "on-board" commercial ocean bill-of-lading in English for each shipment of cargo described in the preceding paragraph to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to TOWN (through the CONTRACTOR in the case of a subcontractor's bill-of-lading.) (c) to include these requirements in all subcontracts issued pursuant to this Contract when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.
 - e) **Energy Conservation.** The CONTRACTOR agrees to comply with 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.
 - f) **Clean Water.** (1) The CONTRACTOR agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 USC 1251 et seq. The CONTRACTOR agrees to report each violation to TOWN and understands and agrees that TOWN will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

(2) The CONTRACTOR also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.
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- g) **Clean Air.** (1) The CONTRACTOR agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 USC §§ 7401 et seq. The CONTRACTOR agrees to report each violation to TOWN and understands and agrees that TOWN will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.
- (2) The CONTRACTOR also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.
- h) **Recycled Products.** The CONTRACTOR agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 USC 6962), including but not limited to the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247.
- i) **Lobbying.** (1) Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR Part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 USC 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 USC 1352. Such disclosures are forwarded from tier to tier up to TOWN.
- (2) The CONTRACTOR also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.
- j) **Access to Records and Reports.** (1) Where TOWN is the FTA Recipient or a sub-grantee of the FTA Recipient in accordance with 49 USC 5325(a) enters into a contract for a capital project or improvement (defined at 49 USC 5302(a)(1) through other than competitive bidding, the CONTRACTOR shall make available records related to the contract to TOWN, the Secretary of Transportation and the Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.
- (2) The CONTRACTOR agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
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(3) The CONTRACTOR agrees to maintain all books, records, accounts and reports required under this Contract for a period of not less than three years after the date of termination or expiration of this Contract, except in the event of litigation or settlement of claims arising from the performance of this Contract, in which case Contractor agrees to maintain same until TOWN, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 49 CFR 18.39(i)(11).

(4) FTA does not require the inclusion of these requirements in subcontracts

k) **Federal Changes.** Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Contract between TOWN and FTA, as they may be amended or promulgated from time to time during the term of this Contract. Contractor's failure to so comply shall constitute a material breach of this Contract.

l) **No Obligation by the Federal Government.** (1) TOWN and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this Contract and shall not be subject to any obligations or liabilities to TOWN, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

(2) The CONTRACTOR agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

m) **Program Fraud and False or Fraudulent Statements or Related.**(1) The CONTRACTOR acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 USC §§ 3801 et seq and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 CFR Part 31 apply to its actions pertaining to this Project. Upon execution of the underlying contract, the CONTRACTOR certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this Contract work is being performed. In addition to other penalties that may be applicable, the CONTRACTOR further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the CONTRACTOR to the extent the Federal Government deems appropriate.

(2) The CONTRACTOR also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 USC § 5307, the Government reserves the right to impose the penalties of 18 USC § 1001 and 49 USC § 5307(n)(1) on the CONTRACTOR, to the extent the Federal Government deems appropriate.

(3) The CONTRACTOR agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

- n) **Government-Wide Debarment and Suspension.** This Contract is a covered transaction for purposes of 49 CFR Part 29. As such, the CONTRACTOR is required to verify that none of the CONTRACTOR, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

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

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

- o) **Privacy Act.** The following requirements apply to the CONTRACTOR and its employees that administer any system of records on behalf of the Federal Government under any contract:

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

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

p) **Civil Rights.** The following requirements apply to the underlying Contract:

(1) **Nondiscrimination:** In accordance with Title VI of the Civil Rights Act, as amended, 42 USC § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 USC § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 USC § 12132, and Federal transit law at 49 USC § 5332, the 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. In addition, the CONTRACTOR agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

(2) **Equal Employment Opportunity:** The following equal employment opportunity requirements apply to the underlying contract. (a) **Race, Color, Creed, National Origin, Sex:** In accordance with Title VII of the Civil Rights Act, as amended, 42 USC § 2000e, and Federal transit laws at 49 USC § 5332, the CONTRACTOR agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 CFR Parts 60 et seq (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 USC § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The CONTRACTOR agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the CONTRACTOR agrees to comply with any implementing requirements FTA may issue. (b) **Age:** In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 USC § 623 and Federal transit law at 49 USC § 5332, the CONTRACTOR agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the CONTRACTOR agrees to comply with any implementing requirements FTA may issue. (c) **Disabilities:** In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 USC § 12112, the CONTRACTOR agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 CFR Part 1630,

pertaining to employment of persons with disabilities. In addition, the CONTRACTOR agrees to comply with any implementing requirements FTA may issue.

(3) The CONTRACTOR also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

q) **Transit Employee Protective Contracts.** (1) The CONTRACTOR agrees to comply with applicable transit employee protective requirements as follows:

(a) General Transit Employee Protective Requirements: To the extent that FTA determines that transit operations are involved, the CONTRACTOR agrees to carry out the transit operations work on the underlying contract in compliance with terms and conditions determined by the U.S. Secretary of Labor to be fair and equitable to protect the interests of employees employed under this Contract and to meet the employee protective requirements of 49 USC A 5333(b), and U.S. DOL guidelines at 29 CFR Part 215, and any amendments thereto. These terms and conditions are identified in the letter of certification from the U.S. DOL to FTA applicable to TOWN's project from which Federal assistance is provided to support work on the underlying contract. The CONTRACTOR agrees to carry out that work in compliance with the conditions stated in that U.S. DOL letter. The requirements of this subsection (1), however, do not apply to any contract financed with Federal assistance provided by FTA either for projects for elderly individuals and individuals with disabilities authorized by 49 USC § 5310(a)(2), or for projects for nonurbanized areas authorized by 49 USC § 5311. Alternate provisions for those projects are set forth in subsections (b) and (c) of this clause.

(b) Transit Employee Protective Requirements for Projects Authorized by 49 USC: § 5310(a)(2) for Elderly Individuals and Individuals with Disabilities: If the contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 USC § 5310(a)(2), and if the U.S. Secretary of Transportation has determined or determines in the future that the employee protective requirements of 49 USC § 5333(b) are necessary or appropriate for the state and TOWN for which work is performed on the underlying contract, the CONTRACTOR agrees to carry out the Project in compliance with the terms and conditions determined by the U.S. Secretary of Labor to meet the requirements of 49 USC § 5333(b), U.S. DOL guidelines at 29 CFR Part 215, and any amendments thereto. These terms and conditions are identified in the U.S. DOL's letter of certification to FTA, the date of which is set forth Grant Contract or Cooperative Contract with the state. The CONTRACTOR agrees to perform transit operations in connection with the underlying contract in compliance with the conditions stated in that U.S. DOL letter.

(c) Transit Employee Protective Requirements for Projects Authorized by 49 USC: § 5311 in Nonurbanized Areas: If the contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 USC § 5311, the CONTRACTOR agrees to comply with the terms and conditions of the Special Warranty for the Nonurbanized Area Program agreed to

by the U.S. Secretaries of Transportation and Labor, dated May 31, 1979, and the procedures implemented by U.S. DOL or any revision thereto.

(2) The CONTRACTOR also agrees to include the any applicable requirements in each subcontract involving transit operations financed in whole or in part with Federal assistance provided by FTA.

r) **Disadvantaged Business Enterprise (DBE)**

(1) **Policy:** It is TOWN's policy and objective to promote and maintain a level playing field for DBE's in TOWN and Federal-aid contracts. It is TOWN's policy to ensure nondiscrimination in the award and administration of U.S. DOT assisted contracts based on the requirements of 49 CFR Parts 21 and 26.

(2) **DBE Obligation:** The CONTRACTOR agrees to ensure that disadvantaged business enterprises as defined in 49 CFR Part 26 have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this Contract. In this regard all contractors shall take all necessary and reasonable steps in accordance with 49 CFR Part 26 to ensure that disadvantaged business enterprises have the maximum opportunity to compete for and perform contracts. CONTRACTOR shall not discriminate on the basis of race, creed, color, national origin, age, or sex in the award of and performance of DOT assisted contracts.

s) **State and Local Law Disclaimer.** CONTRACTOR shall keep itself informed of, comply with, and shall cause all of its agents, employees, suppliers and subcontractors of any tier to observe and comply with all applicable State and local laws, regulations, and policies, including, but not limited to, all applicable terms and conditions prescribed for third party contracts by the U.S. Department of Transportation and the Federal Transit Administration. It is the CONTRACTOR's responsibility to know and to comply with all state laws and regulations and local ordinances relating to public works projects which in any manner affect those engaged or employed in the work, or the materials used in the work, or which in any way affect the conduct of the work. If Contractor discovers any discrepancy or inconsistency between the plans, drawings, specifications, or contract for the work and any law, ordinance, regulation, order or decree; the CONTRACTOR shall immediately provide written notice to TOWN.

t) **Incorporation of Federal Transit Administration (FTA) Terms.** The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1E, dated June 19, 2003, as amended, 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 Contract. The CONTRACTOR shall not perform any act, fail to perform any act, or refuse to comply with any TOWN requests, which would cause TOWN to be in violation of the FTA terms and conditions.

u) **Drug and Alcohol Testing.** The CONTRACTOR agrees to establish and implement a drug and alcohol testing program that complies with 49 CFR Parts 653 and 654, produce any documentation necessary to establish its compliance with Parts 653 and 654, and permit any authorized representative of the United States Department of Transportation or its operating administrations, the State Oversight Agency of Arizona, or TOWN to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 CFR Parts 653 and 654 and review the testing process. The CONTRACTOR agrees further to certify annually its compliance with Parts 653 and 654 before February 15th of each year and to submit the Management Information System (MIS) reports before February 15th to TOWN's Transit Coordinator. To certify compliance the CONTRACTOR shall use the "Substance Abuse Certifications" in the "Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Contracts," which is published annually in the Federal Register.

v) **Equal Employment Opportunity/Basic Requirements.** In connection with the execution of this Contract, the CONTRACTOR shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, age, or national origin. The CONTRACTOR shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, age, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. Contractor further agrees to insert a similar provision in all subcontracts, except subcontracts for standard commercial supplies or raw materials.

w) **Labor Provisions.** (1) **Overtime Requirements.** No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any work week in which he or she is employed on such work to work in excess of eight hours in any calendar day or in excess of forty hours in such work week unless such laborer or mechanic receives compensation at rate not less than one and one-half times the basic rate of pay for all hours worked in excess of eight hours in any calendar day or in excess of forty hours in such work week, whichever is greater.

(2) **Violation; Liability for Unpaid Wages; Liquidated Damages.** In the event of any violation of the clause set forth in subparagraph (b) (1) of 29 CFR Section 5.5, the CONTRACTOR and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such district or to such territory), 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 subparagraph (b) (1) of 29 CFR Section 5.5

in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of eight hours or in excess of the standard of work week of forty hours without payment of the overtime wages required by the clause set forth in subparagraph (b) (1) of 29 CFR Section 5.5.

(3) Withholding for Unpaid Wages and Liquidated Damages. DOT or TOWN shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any monies payable on account of work performed by the CONTRACTOR or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other Federally- assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in subparagraph (b) (2) of 29 CFR Section 5.5.

(4) Nonconstruction Grants. The CONTRACTOR or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Further, TOWN shall require the contracting officer to insert in any such contract a clause providing that the records to be maintained under this paragraph shall be made available by the CONTRACTOR or subcontractor for inspection, copying, or transcription by authorized representatives of DOT and the Department of Labor, and the CONTRACTOR or subcontractor will permit representatives to interview employees during working hours on the job.

(5) Subcontracts. The CONTRACTOR or subcontractor shall insert in any subcontracts the clauses set forth in subparagraph (1) through (5) of this paragraph and also a clause requiring subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in subparagraph (1) through (5) of this paragraph.

- x) **Conflict of Interest.** No employee, officer, or agent of TOWN shall participate in selection, or in the award or administration of a contract if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when the employee, officer or agent, any member of his immediate family, an organization which employs, or is about to employ, has a financial or other interest in the firm selected for award.

TOWN's officers, employees, or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors, or parties of subContracts.

y) **Breaches and Dispute Resolution.** All contracts in excess of \$100,000 shall contain provisions or conditions which will allow for administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate. This may include provisions for bonding, penalties for late or inadequate performance, retained earnings, liquidated damages or other appropriate measures.

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

Unless otherwise directed by TOWN, CONTRACTOR shall continue performance under this Contract while matters in dispute are being resolved.

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

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

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

NON-COLLUSION AFFIDAVIT FOR CONTRACTOR

STATE OF ARIZONA

LA PAZ COUNTY

_____ declares and says:

1. That he/she is the (owner, partner, representative, or agent)
of _____, hereinafter referred to as
(contractor) or (subcontractor).
2. That he/she is fully informed regarding the preparation and contents of this proposal for
certain work in Solano County, State of Arizona.
3. That his/her proposal is genuine, and is not collusive or a sham proposal.
4. That any of its officers, owners, agents, representatives, employees, or parties in interest,
including this affiliate, has not in any way colluded, conspired, connived or agreed, directly or
indirectly, with any other CONTRACTOR, firm, or person to submit a collusive or sham
proposal in connection with such contract, or to refrain to submitting a proposal in connection
with such contract, or has in any manner, directly or indirectly, sought by unlawful Contract or
connivance with any other CONTRACTOR, firm, or person to fix the price or prices in said
proposal, or to secure through collusion, conspiracy, connivance, or unlawful Contract any
advantage against TOWN, or any person interested in the proposed contract; and,
5. That the price or prices quoted in the proposal are fair and proper, and are not tainted
by any collusion, conspiracy, connivance, or unlawful Contract on the part of the
CONTRACTOR, or any of its agents, owners, representatives, employees, or parties in
interest, including this affiliate.

I certify (or declare) under penalty of perjury, that the foregoing is true and correct.

Dated this _____ day of _____, 20____, at _____, Arizona.

Signed: _____

Title: _____

CERTIFICATION OF ELIGIBILITY (LABOR STANDARDS)

The _____ (Name of CONTRACTOR) hereby certifies that it is not included on the United States Comptroller General's Consolidated List of Persons or Firms currently Debarred for Violations of Various Public Contracts Incorporating Labor Standard Provisions.

Signed:

Title:

Date:

**CERTIFICATION OF PRIMARY PARTICIPANT REGARDING
DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS**

The Primary Participant _____ (Name of CONTRACTOR)
certified to the best of its knowledge and belief, that it and its principals:

- a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
- b. Have not, within a three year period preceding this proposal, been convicted, 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;
- c. 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 (b) of this certification; and
- d. Have not within a three-year period preceding this proposal had one or more public transactions (Federal, State or local) terminated for default.

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

THE PRIMARY PARTICIPANT, _____ (Name of CONTRACTOR) CERTIFIES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF THE CONTENTS OF THE STATEMENTS SUBMITTED ON OR WITH THIS CERTIFICATION AND UNDERSTANDS THAT THE PROVISIONS OF 31 USC SECTIONS 3801 ET SEQUA ARE APPLICABLE THERETO.

Signature of Authorized Official:

_____ Title: _____

The undersigned chief legal counsel (or corporate secretary) for the _____ hereby certifies that the _____ has authority under State and local law to comply with the subject assurances and that the certification above has been legally made.

Signature of Attorney/Secretary:

_____ Date: _____

CERTIFICATION OF RESTRICTIONS ON LOBBYING

I, _____, hereby certify on behalf of _____,
that:

a. No Federal appropriated funds have been paid or will be paid, by on or behalf of the undersigned, to any person for influencing, or attempting to influence an officer or employee of any Federal 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 Contract, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan or cooperative Contract.

b. 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 Federal 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 Contract, the undersigned shall complete and submit Standard Form LLL "Disclosure Form to Report Lobbying", in accordance with its instructions.

c. The undersigned shall require that the language of this certification be included in the award documents for all sub awards at all tiers (including sub grants, loans, and cooperative Contracts) which exceed \$100,000, and that all such sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made, or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, USC. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Executed this _____ day of _____, of 20_____

Signature of Authorized Official: _____

Title of Authorized Official: _____

**CERTIFICATION DISADVANTAGED BUSINESS ENTERPRISE PROGRAM/
EQUAL EMPLOYMENT OPPORTUNITY**

CONTRACTOR: _____

1. CONTRACTOR overall DBE participation rate: _____

2. Names/Locations of DBEs contacted by CONTRACTOR:

3. Names/Locations of DBEs selected by CONTRACTOR:

4. CONTRACTOR work force breakdown by race and gender:

TOTAL EMPLOYEES (as of _____): _____

JOB CATEGORIES

EMPLOYEES

	Male					Female				
	Wht	Blk	Hsp	Asn	Nat	Wht	Blk	Hsp	Asn	Nat
Officials & Managers:										
Professional:										
Technical:										
Sales:										
Office/Clerical:										
Craftsmen:										
Laborers:										
Service:										

Note: The above DBE/EEO Affidavit is part of CONTRACTOR Proposal. Signing this Proposal, on the signature portion thereof, shall also constitute signature of this DBE/EEO Affidavit.

By: _____ Title: _____ Date: _____

EXHIBIT D
QUARTZSITE TROLLEY RIDER'S GUIDE

**EXHIBIT E
FLEET INVENTORY**

Bus #	LIC. PLATE #	MAKE	MODEL	Pass Cap	VIN NUMBER	IN SERVICE DATE	Value	Age
Y143/32	G7686V	Freightliner	Specialty Trolley	30	4UZAB0BV86CW69983	9/1/06	\$13,605.36	7

EXHIBIT F
MAINTENANCE PLAN



TOWN OF QUARTZSITE

SPECIAL COUNCIL MEETING

Tuesday, December 3, 2013

Agenda Item #2 Consider approval of an ordinance amending Town Code, Chapter 3 Administration, by adding new Article 3-7 relating to the indemnification and defense of officers and employees acting within the scope of their duties.

Summary: The Town of Quartzsite has not had an established policy or procedure for litigation in which Council members, officers, employees and members of boards, commissions and committees are named as defendants in lawsuits because of their work with the Town. Indemnification ordinances, such as the one proposed here, provide protection for town officers and employees when they are performing within the scope of their authority.

Specifically, the proposed ordinance sets forth the standards for the Town to determine when it will provide the legal defense (on its own or through an applicable insurance policy) and pay the costs for litigation where the individuals are sued for doing their job. Such ordinances are useful because they encourage qualified applicants to volunteer for boards, commissions, committees or the council, or apply for and accept employment with the town, because they can serve without fearing that their own financial resources are at stake.

The proposed ordinance applies only to current and former Council members, officers, employees, members of boards, commissions and committees, and the spouses of those individuals, who meet the requirements of the ordinance. The ordinance only allows the Town to provide a defense in such litigation where the individual acted within the scope of his or her authority, in accordance with Town Code, and performed his or her duties with appropriate care. The Town will not provide a defense if the individual exceeds that authority, violates Town Code, or performs an act negligently or with willful misconduct.

Responsible Person: Michael Jewitt, Vice Mayor

Attachment: Proposed Ordinance

Action Requested: **Motion to approve an ordinance amending Town Code, Chapter 3 Administration, by adding new Article 3-7 relating to the indemnification and defense of officers and employees acting within the scope of their duties.**

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF QUARTZSITE, ARIZONA, AMENDING THE CODE OF QUARTZSITE, ARIZONA, CHAPTER 3 ADMINISTRATION BY ADDING NEW ARTICLE 3-7 INDEMNIFICATION AND DEFENSE OF OFFICERS AND EMPLOYEES ACTING WITHIN THE SCOPE OF THEIR DUTIESRELATED TO INDEMNIFICATION AND DEFENSE OF OFFICERS AND EMPLOYEES ACTING WITHIN THE SCOPE OF THEIR DUTIES; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; AND PROVIDING FOR SEVERABILITY.

WHEREAS, ARS Section 9-255 provides that a member of the common council of a town shall not be personally liable in damages or otherwise for an unlawful act of an officer or employee of the town, unless the act is committed by the authority of the member, or he has notice or knowledge thereof, or unless the act is committed under circumstances which would cause, or would have caused, a reasonable or prudent person to have knowledge of the act; and

WHEREAS, the town council of the Town of Quartzsite finds that it is important to encourage qualified persons to serve on the town council, on its committees, commissions and boards, and in the employment of the town; and

WHEREAS, the town council of the Town of Quartzsite finds that officers, employees, town councilmembers and members of committees, commissions, and boards of the town who act in good faith and within the scope of their duties should be defended and indemnified for costs incurred in defending proceedings brought against them by virtue of their position as officers, employees, town councilmembers and members of committees, commissions and boards of the town.

NOW THEREFORE, BE IT ORDAINED by the Mayor and Common Council of the Town of Quartzsite, Arizona, as follows:

The Code of Quartzsite, Arizona, Chapter 3 Administration, is hereby amended by adding new Article 3-7 Indemnification of Officers and Employees to read as follows (additions in ALL CAPS; deletions in ~~strikeout~~):

ARTICLE 3-7 INDEMNIFICATION AND DEFENSE OF OFFICERS AND EMPLOYEES ACTING WITHIN THE SCOPE OF THEIR DUTIES

SEC. 3-7-1. DEFINITIONS.

THE FOLLOWING WORDS, TERMS AND PHRASES, WHEN USED IN THIS ARTICLE, SHALL HAVE THE MEANINGS ASCRIBED TO THEM IN

THIS SECTION, EXCEPT WHERE THE CONTEXT CLEARLY INDICATES A DIFFERENT MEANING:

“DEFEND” MEANS TO PROVIDE LEGAL COUNSEL TO REPRESENT THE PERSON IN A PROCEEDING.

“INDEMNIFY” MEANS TO REIMBURSE AN OFFICER OR EMPLOYEE FOR EXPENSES INCURRED RELATED TO A PROCEEDING.

“PERSON” MEANS (i) CURRENT AND FORMER OFFICERS, EMPLOYEES, TOWN COUNCILMEMBERS AND MEMBERS OF COMMITTEES, COMMISSIONS AND BOARDS OF THE TOWN, AND (iii) THE SPOUSE OF A CURRENT OR FORMER OFFICER, EMPLOYEE, TOWN COUNCILMEMBER OR MEMBER OF A COMMITTEE, COMMISSION OR BOARD OF THE TOWN TO THE EXTENT SUCH SPOUSE IS NAMED IN A PROCEEDING SOLELY BECAUSE OF THE SPOUSE’S MARITAL RELATIONSHIP TO SUCH OFFICER, EMPLOYEE, TOWN COUNCILMEMBER OR MEMBER OF A COMMITTEE, COMMISSION OR BOARD OF THE TOWN WHO IS NAMED IN A PROCEEDING.

“PROCEEDING” MEANS ANY THREATENED, PENDING OR COMPLETED ACTION OR SUIT, WHETHER CIVIL, CRIMINAL, OR ADMINISTRATIVE.

SEC. 3-7-2. PERSONS TO BE INDEMNIFIED OR DEFENDED.

A. ANY PERSON MADE A PARTY OR THREATENED TO BE MADE A PARTY TO ANY PROCEEDING BECAUSE SUCH PERSON IS AN OFFICER, EMPLOYEE, COUNCILMEMBER OR MEMBER OF A COMMITTEE, COMMISSION OR BOARD OF THE TOWN SHALL BE INDEMNIFIED AND DEFENDED IN ACCORDANCE WITH THIS ARTICLE.

B. THE INDEMNIFICATION AND DEFENSE OBLIGATIONS SET FORTH IN THIS ARTICLE DO NOT APPLY TO ACTS OF AN OFFICER, EMPLOYEE, COUNCILMEMBER OR MEMBER OF A COMMITTEE, COMMISSION OR BOARD FOR ANY CONDUCT THAT EXCEEDS THE AUTHORITY GRANTED TO THE PERSON BY VIRTUE OF HIS POSITION.

C. THE INDEMNIFICATION AND DEFENSE OBLIGATIONS SET FORTH IN THIS ARTICLE DO NOT APPLY TO ACTS OF AN OFFICER, EMPLOYEE, COUNCILMEMBER OR MEMBER OF A COMMITTEE,

COMMISSION OR BOARD OF THE TOWN BEING CIVILLY OR CRIMINALLY PROSECUTED FOR ACTS CONSTITUTING A VIOLATION OF THE TOWN CODE.

D. THE TOWN RESERVES THE RIGHT NOT TO INDEMNIFY ANY PERSON WITH RESPECT TO AN AWARD OF DAMAGES WHERE SUCH PERSON IS ADJUDGED BY A COURT AS NEGLIGENT OR COMMITTING MISCONDUCT IN THE PERFORMANCE OF HIS DUTY TO THE TOWN.

SEC. 3-7-3. PREREQUISITE; NOTIFICATION OF TOWN MANAGER.

AS A PREREQUISITE TO INDEMNIFICATION OR DEFENSE UNDER THIS ARTICLE, A PERSON SHALL NOTIFY THE TOWN MANAGER AS SOON AS HE HAS KNOWLEDGE THAT HE IS MADE A PARTY OR THREATENED TO BE MADE A PARTY TO ANY PROCEEDING. IF THERE IS NO TOWN MANAGER, THE INTERIM TOWN MANAGER OR TOWN CLERK SHALL BE NOTIFIED.

SEC. 3-7-4. PROCEEDING NOT INITIATED BY THE TOWN.

EXCEPT AS PROVIDED IN SECTION 3-7-2, IF THE PROCEEDING IS ONE NOT INITIATED BY THE TOWN:

A. THE PERSON SHALL BE INDEMNIFIED AGAINST HIS EXPENSES, INCLUDING ATTORNEY'S FEES, COSTS, JUDGMENTS, FINES AND AMOUNTS PAID IN SETTLEMENT ACTUALLY AND REASONABLY INCURRED BY HIM IN CONNECTION WITH THE PROCEEDING.

B. THE TOWN, EITHER DIRECTLY OR THROUGH ITS INSURANCE CARRIER, SHALL DEFEND THE PERSON IN CONNECTION WITH THE PROCEEDING.

SEC. 3-7-5. CRIMINAL PROCEEDINGS.

EXCEPT AS PROVIDED IN SECTION 3-7-2, IF THE PROCEEDING IS A CRIMINAL PROCEEDING, THE PERSON SHALL BE INDEMNIFIED AND DEFENDED IF HE HAD NO REASONABLE CAUSE TO BELIEVE HIS CONDUCT WAS UNLAWFUL.

SEC.3-7-6. NO PRESUMPTION CREATED.

WITH RESPECT TO THE INDEMNIFICATION AND DEFENSE OBLIGATIONS UNDER SECTION 3-7-4 OR 3-7-5, A TERMINATION OF THE PROCEEDING BY JUDGMENT, ORDER, SETTLEMENT, CONVICTION, OR UPON A PLEA OF NOLO CONTENDERE OR ITS EQUIVALENT, SHALL NOT BY ITSELF CREATE A PRESUMPTION THAT THE PERSON ACTED, OR FAILED TO ACT, OTHER THAN IN GOOD FAITH AND IN A MANNER WHICH HE REASONABLY BELIEVED TO BE IN OR NOT OPPOSED TO THE BEST INTEREST OF THE TOWN, AND WITH RESPECT TO ANY CRIMINAL PROCEEDING, SHALL NOT BY ITSELF CREATE A PRESUMPTION THAT THE PERSON HAD REASONABLE CAUSE TO BELIEVE THAT HIS CONDUCT WAS UNLAWFUL.

SEC. 3-7-7. PROCEEDING INITIATED BY THE TOWN.

THE INDEMNIFICATION AND DEFENSE OBLIGATIONS SET FORTH IN THIS ARTICLE SHALL NOT APPLY TO PROCEEDINGS INITIATED BY THE TOWN TO PROCURE A JUDGMENT AGAINST ANY PERSON IN THE TOWN'S FAVOR UNLESS A DETERMINATION IS MADE PURSUANT TO SECTION 3-7-9 THAT THE REQUIREMENTS OF THIS ARTICLE HAVE BEEN MET. NOTWITHSTANDING ANYTHING ELSE SET FORTH IN THIS SECTION, IF A COURT ENTERS A JUDGMENT THAT THE PERSON'S ACTIONS EXCEEDED HIS AUTHORITY, SUCH PERSON SHALL REIMBURSE THE TOWN FOR ALL COSTS INCURRED BY IT IN PROVIDING THE INDEMNIFICATION AND/OR DEFENSE OF THE PROCEEDING.

SEC. 3-7-8. SUCCESS ON THE MERITS.

TO THE EXTENT THAT A PERSON COVERED BY THIS ARTICLE HAS BEEN SUCCESSFUL ON THE MERITS OR OTHERWISE IN DEFENSE OF ANY PROCEEDING COVERED BY THIS ARTICLE OR IN THE DEFENSE OF ANY CLAIM, ISSUE OR MATTER THEREIN, HE SHALL BE INDEMNIFIED AGAINST EXPENSES, INCLUDING ATTORNEY'S FEES AND COSTS, ACTUALLY AND REASONABLY INCURRED BY HIM IN CONNECTION THEREWITH.

SEC. 3-7-9. DETERMINATION BY LEGAL COUNSEL.

ANY INDEMNIFICATION MADE PURSUANT TO THIS ARTICLE AND ANY DEFENSE AUTHORIZED BY THIS ARTICLE SHALL BE PROVIDED BY THE TOWN ONLY AS AUTHORIZED IN THE SPECIFIC CASE UPON A DETERMINATION THAT INDEMNIFICATION OR DEFENSE OF THE PERSON IS PROPER IN THE CIRCUMSTANCES BECAUSE HE HAS MET THE REQUIREMENTS SET FORTH IN THIS ARTICLE.

INDEMNIFICATION AND DEFENSE SHALL BE MADE UNLESS THE TOWN ATTORNEY OR INDEPENDENT LEGAL COUNSEL ENGAGED BY THE TOWN DETERMINES THAT THE REQUIREMENTS OF THIS ARTICLE HAVE NOT BEEN MET.

SEC. 3-7-10. INDEMNIFICATION NOT DEEMED EXCLUSIVE REMEDY.

THE INDEMNIFICATION PROVIDED BY THIS ARTICLE SHALL NOT BE DEEMED EXCLUSIVE OF ANY OTHER RIGHTS TO WHICH THOSE INDEMNIFIED MAY BE ENTITLED. THE INDEMNIFICATION PROVIDED BY THIS ARTICLE SHALL BE SUPPLEMENTAL TO AND EXCESS TO ANY VALID AND COLLECTIBLE INSURANCE COVERAGE.

Section II. Providing for Repeal of Conflicting Ordinances.

All ordinances and parts of ordinances in conflict with the provisions of this Ordinance or any part of the Code adopted herein by reference, are hereby repealed.

Section III. Providing for Severability.

If any section, subsection, sentence, clause, phrase or portion of this Ordinance or any part of the Code adopted herein by reference is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions thereof.

PASSED AND ADOPTED by the Common Council of the Town of Quartzsite, Arizona, this ____ day of _____, 2013, by the following vote:

AYES: _____
NAYES: _____ ABSENT: _____
EXCUSED: _____ ABSTAINED: _____

APPROVED this ____ day of _____, 2013.

Ed Foster, Mayor

ATTEST:

Tina Abriani, Town Clerk

APPROVED AS TO FORM:

Curtis, Goodwin, Sullivan, Udall & Schwab, P.L.C.
Town Attorneys
By:

I, TINA ABRIANA, TOWN CLERK, DO HEREBY CERTIFY THAT A TRUE AND CORRECT COPY OF THE ORDINANCE NO. _____ ADOPTED BY THE COMMON COUNCIL OF THE TOWN OF QUARTZSITE, ARIZONA, ON THE ____ DAY OF _____, 2013, WAS POSTED IN THREE PLACES AND ON THE TOWN'S WEBSITE ON THE ____ DAY OF _____, 2013.

Town Clerk