

MEETING DATE: 07/06/21

ITEM:10C

AGENDA ITEM SUMMARY

Subject: Consider Resolution 90-21 - one-year renewal of agreements between City of Charles City and NIACOG for city and county transit service.

Background Summary:

The agreements with NIACOG for city and county transit services are up for renewal. NIACOG has submitted these agreements for us to review and approve. There are a couple changes in language being required by NIACOG,

- 1 - Further defined training listed by NIACOG
- 2- \$3M in excess liability coverage provided by NIACOG for busses
- 3- Additional breakout within the insurance information.

Ticket prices are planned to remain at \$1.50 for student, \$1.00 for elderly/disabled and \$4 for a regular ticket for city services. The agreements are for one year.

CITY OF CHARLES CITY

RESOLUTION NO. 90-21

RESOLUTION APPROVING TRANSIT AGREEMENTS WITH NIACOG

WHEREAS, the agreements with NIACOG for city and county transit services expire June 30, 2021, and

WHEREAS, NIACOG and the city desires to renew these agreements for one year;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Charles City, Iowa, meeting in regular session on the 6th day of July, 2021, that the agreements with NIACOG for city and county transit services are hereby approved.

COUNCIL MEMBER moved the adoption of the foregoing Resolution;

COUNCIL MEMBER seconded the motion to adopt, and on roll call the voting was as follows:

AYES:

NAYS:

Passed and approved this 6th day of July, 2021.

Dean Andrews, Mayor

Attest:

Trudy O'Donnell, City Clerk

TRANSIT SERVICE AGREEMENT

for FY 2022

Parties to the Agreement:

City of Charles City

and

NORTH IOWA AREA COUNCIL OF GOVERNMENTS and its affiliate
REGION 2 TRANSIT SYSTEM, Mason City, Iowa

PURCHASE OF SERVICE AGREEMENT

- 1.0 General Provisions
- 2.0 Roles and Responsibilities
- 3.0 Performance Standards
- 4.0 Finances
- 5.0 Reporting Requirements
- 6.0 Contract Non-Performance
- 7.0 Termination or Suspension of Project
- 8.0 Renewal, Renegotiations, and Modifications
- 9.0 Assignability and Subcontracting
- 10.0 Additional Agreement Provisions
- 11.0 Nondiscrimination
- 12.0 Hold Harmless
- 13.0 Vehicles

1.0 GENERAL PROVISIONS

- 1.1 PARTIES TO AGREEMENT, made and entered into this _____ day of _____ by and between City of Charles City hereinafter called, "TRANSIT PROVIDER" and North Iowa Area Council of Governments/Region 2 Transit System, hereinafter called, NIACOG.

In consideration of the mutual covenants, promises, and representative herein, the parties agree as follows:

- 1.2 DURATION:

The duration of this Agreement shall be from July 1, 2021 through June 30, 2022.

1.3 PURPOSE OF AGREEMENT

The purpose of this Agreement is to provide for the operation of public transportation services to TRANSIT PROVIDER as authorized and described in this Agreement and called the "PROJECT", as described on Appendix A attached.

1.4 ITEMS COVERED BY THE AGREEMENT

Items covered include the parties, the terms and conditions upon which reimbursement will be provided and the understandings and promises made as to the manner in which the PROJECT will be undertaken and completed.

1.5 AUTHORIZED REPRESENTATIVES

The authorized representative for NIACOG is Myrtle Nelson, Executive Director. The authorized representative for TRANSIT PROVIDER, is Dean Andrews, Mayor.

1.6 PROJECT MANAGERS

PROJECT Manager for NIACOG is Kevin Kramer, Transit Administrator, who is directly responsible for the performance called for in this Agreement.

The PROJECT Manager for TRANSIT PROVIDER is Steven Diers, City Administrator who is directly responsible for the performance called for in this Agreement.

2.0 ROLES AND RESPONSIBILITIES

2.1 PROVISION OF VEHICLES

NIACOG shall provide all vehicles necessary to the performance of the PROJECT. Vehicle usage shall be limited to the normal, daily services which TRANSIT PROVIDER provides to PROJECT participants. Vehicle usage outside of Region 2 Counties (Cerro Gordo, Floyd, Franklin, Hancock, Kossuth, Mitchell, Winnebago, and Worth) shall be only with prior NIACOG approval.

2.2 PERSONNEL

TRANSIT PROVIDER and NIACOG shall provide all personnel necessary to the performance of the PROJECT. NIACOG shall at a minimum, conduct at least one drivers' records check on all drivers of NIACOG owned vehicles during the term of this agreement.

2.3 VEHICLE MAINTENANCE

TRANSIT PROVIDER shall pay for and furnish all maintenance and repairs to keep vehicles in good working order and condition and follow the Region 2

Preventive Maintenance Schedule. TRANSIT PROVIDER shall arrange with NIACOG, a annual safety inspection of the vehicle(s) during the term of this agreement. The vehicles must be in a "State of Good Repair" in accordance with the Federal Public Transit Safety Program (49 U.S.C. 5329) to ensure proper maintenance and safe operation of the vehicle(s). Repairs to vehicles will be made by NIACOG at the TRANSIT PROVIDER's expense, as identified by the Vehicle Safety Inspection.

At the expiration or termination of this Agreement, the vehicles and all safety equipment in the vehicles will be returned to NIACOG in good condition, reasonable wear and tear excepted.

2.4 EQUIPMENT

NIACOG shall provide all vehicles and associated equipment as described in Section 13.

2.5 VEHICLE INSURANCE

NIACOG shall provide all vehicle insurance necessary for the PROJECT, and shall maintain no less than the following coverage's during the PROJECT period:

Liability - \$2,000,000 Combined Single Limit

Excess Liability - \$3,000,000

Collision - \$500 Deductible

Comprehensive - \$250 Deductible

Uninsured/Underinsured Motorist - \$2,000,000

Aggregate Medical - \$2,000

2.51 TRANSIT PROVIDER will be listed as an additional insured at the limits listed in Paragraph 2.5, including \$2,000,000 of General Liability coverage.

2.52 TRANSIT PROVIDER must maintain a minimum of \$1,000,000 of its own General Liability coverage. NIACOG shall be listed as an additional insured.

2.52 All TRANSIT PROVIDER employees must be covered under the TRANSIT PROVIDER's Workers Compensation Insurance.

2.6 ACCOUNTING

INFORMATION TO BE FURNISHED BY TRANSIT PROVIDER TO NIACOG. TRANSIT PROVIDER shall furnish monthly operating costs and system statistics to NIACOG during the term of this Agreement. Such information shall be submitted by the TRANSIT PROVIDER to NIACOG by the 10th day of the following month.

2.7 COST REIMBURSEMENT

NIACOG will promptly reimburse TRANSIT PROVIDER for all justified and complete billings.

2.8 ELIGIBILITY

Any person residing in, visiting or otherwise present within the service boundaries as described in Section 2.9 is eligible to use the service, within the established hours of operation, acceptance of fares charged and acceptance of all other rules and guidelines established for service operation. All transit service funded under this contract will be provided in vehicles which are open to the public without discrimination.

2.9 Service Description

The TRANSIT PROVIDER will operate a transit service within the City of Charles City, and the surrounding area, on a demand response basis, Monday through Friday, 7:00 a.m. - 4:00 p.m., except for the following holidays, should they fall on a weekday: New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Eve and Christmas Day.

TRANSIT PROVIDER agrees to alter the above hours to better utilize the vehicles, as determined by mutual agreement with NIACOG and TRANSIT PROVIDER.

3.0 PERFORMANCE STANDARDS

3.1 SERVICE STANDARDS

NIACOG shall provide the PROJECT service, as stated in Appendix A except under extraordinary circumstances, and said standard shall be maintained during no less than 95% of the hours of normal operation of the contract period.

3.2 PERSONNEL TRAINING

NIACOG shall be assured by TRANSIT PROVIDER of the proper training of any personnel involved with the PROJECT. Training shall include, but not be limited to: proper wheelchair lift operation, passenger assistance techniques, wheelchair securment and defensive driving. NIACOG will provide appropriate

instructional materials and training to the limits of NIACOG's ability. This does not relieve TRANSIT PROVIDER from the responsibility of assuring the qualifications of its own drivers. TRANSIT PROVIDER will report all training of transit personnel to NIACOG, as it occurs.

3.3 STATISTICAL DATA

TRANSIT PROVIDER shall provide statistical data to NIACOG in accordance with the reporting schedule attached.

3.4 IDENTIFICATION OF PROJECT COSTS

NIACOG shall maintain a set of accounts which clearly identify and document PROJECT costs.

4.0 FINANCES

4.1 RATE OF PAYMENT FOR SERVICES

NIACOG will pay TRANSIT PROVIDER for transit services provided under this Agreement at the rate outlined in Appendix A.

4.2 REQUESTS FOR PAYMENT

TRANSIT PROVIDER shall invoice NIACOG for any PROJECT costs on a monthly basis.

4.3 TERMS OF PAYMENT

NIACOG will make payments within thirty working days after receipt of the invoice.

4.4 MEANS OF PAYMENT

NIACOG will make payment via check, money order, or other auditable form of payment.

4.5 COLLECTION OF REVENUES

Collection and accounting of passenger fares or donations will be carried out in accordance with paragraph 3 of Appendix A.

4.6 INSPECTION

TRANSIT PROVIDER shall permit NIACOG to inspect all vehicles, facilities, equipment and all transit data and records pertaining to the PROJECT.

5.0 REPORTING REQUIREMENTS

5.1 STATISTICAL DATA

NIACOG agrees to supply statistical data to the Iowa Department of Transportation, relative to passengers transported and costs directly associated with service delivery in compliance with 324A of the Code of Iowa.

6.0 CONTRACT NON-PERFORMANCE

6.1 NIACOG NON-COMPLIANCE

In the event of NIACOG non-compliance with the provisions of this contract, TRANSIT PROVIDER may impose contract sanctions, including but not limited to:

- (A) Withholding of service to NIACOG under the Agreement until NIACOG complies and/or
- (B) Cancellation, termination, or suspension of the Agreement, in whole or in part.

6.2 TRANSIT PROVIDER NON-COMPLIANCE

In the event of TRANSIT PROVIDER's non-compliance with the provision of this contract, NIACOG may impose such contract sanctions as it may determine to be appropriate, including, but not limited to:

- (A) Withholding of payment to TRANSIT PROVIDER under the Agreement until TRANSIT PROVIDER complies and/or
- (B) Cancellation, termination, or suspension of the Agreement, in whole or in part.

7.0 TERMINATION OR SUSPENSION OF PROJECT

7.1 TERMINATION OR SUSPENSION GENERALLY

If either party abandons or before completion, discontinues the PROJECT; or if by reason the commencement, prosecution or timely completion, of the PROJECT by either party is rendered improbable, infeasible, impossible, or illegal, the other party may, by written notice of 15 days, terminate the Agreement or suspend any or all of its obligations under this Agreement until such time as the events or conditions resulting in such suspension has ceased or been corrected.

8.0 RENEWAL, RENEGOTIATION, AND MODIFICATION

8.1 PROVISION FOR AMENDMENTS

This Agreement may be amended by mutual consent. Said amendment to be in writing and signed by both parties.

8.2 SIGNATORY REQUIREMENTS

Any amendment to the language of the Agreement, excepting Appendix A or any financial amendment will require the signatures of the authorized representatives.

Any amendment to Appendix A of a non-financial nature may be made by the PROJECT Managers and will require their signatures only.

Any day-to-day operational change of the PROJECT services of a total duration of ten (10) working days or less may be made by verbal agreement of the PROJECT Managers.

9.0 ASSIGNABILITY AND SUBCONTRACTING

TRANSIT PROVIDER will delegate, assign, and subcontract certain rights and obligations under this Agreement to Circle K Communications, Inc., an Iowa Corporation with a principal place of business in Charles City, Iowa (Circle K), including but not limited to scheduling and dispatching services, operation support, daily storage and maintenance of vehicles, reporting requirements, and maintenance of accounting and records.

NIACOG understands that TRANSIT PROVIDER has subcontracted and assigned or will subcontract and assign certain rights and obligations to Circle K in connection with this Agreement, and NIACOG hereby approves of and consents to such subcontract, delegation, and assignment.

TRANSIT PROVIDER shall not otherwise subcontract, assign, or transfer any other vehicle operations for this project without the prior approval of NIACOG and of the Iowa Department of Transportation. In the event of such approval, the party or parties to whom such work is contracted, assigned, or transferred, shall be bound and obligated by the terms and conditions of this Agreement.

10.0 ADDITIONAL AGREEMENT PROVISIONS

10.1 WORDING

All words used herein in the singular form shall extend to and include the plural.
All words used herein in the plural form shall extend to and include the singular.
All words used in any gender shall extend to and include all genders.

10.2 SUCCESSORS & ASSIGNS

It is further understood that this Agreement and all contracts entered into and under this Agreement shall be binding upon TRANSIT PROVIDER, NIACOG, and their successors and assigns.

10.3 PROHIBITED INTEREST

No member, officer or employee of NIACOG or TRANSIT PROVIDER during this tenure or for one year thereafter shall have any interest, direct or indirect, in this contract or the proceeds thereof.

No member or delegate to the Iowa State Legislature or to the Congress of the United States shall be admitted to any share or part of the Agreement or any benefit arising here from.

10.4 ENTIRE AGREEMENT

This Agreement, expresses the entire Agreement between the parties and no representations, promises, or warranties have been made by either of the parties that are not fully expressed herein concerning this PROJECT.

10.5 SAVINGS CLAUSE

If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected thereby if such remainder would then continue to conform to the terms and requirements of applicable law.

10.6 BONUS AND COMMISSION PROHIBITION

By execution of the Agreement, NIACOG and TRANSIT PROVIDER represent that they have not paid and, also, agree not to pay, any bonus or commission for the purpose of obtaining an approval of this Agreement.

10.7 COMPLIANCE WITH LAWS

NIACOG and TRANSIT PROVIDER agree to comply with all Federal, State, and Local laws, ordinances and resolutions applicable to this Agreement.

10.8 IOWA DOT AUDIT

TRANSIT PROVIDER shall permit the Iowa Department of Transportation to inspect and audit all work materials, records, books and accounts and any other data with regards to the AGREEMENT. All records applicable to the AGREEMENT must be retained and available to the Iowa Department of Transportation for a period of three years after the closing of the AGREEMENT period.

10.9 REQUIRED ELEMENTS

The following are mandatory Federal Transit Administration (FTA) and/or Iowa Department of Transportation requirements to be incorporated into all third party Operating Contracts and Agreements for FY 2022. Some of the items have been discussed in the text of this Agreement.

1. Service is for the transportation of passengers and is open to all members of the public on an equal basis.
2. NIACOG owned vehicles are insured for service to all members of the public.
3. NIACOG will provide Liability coverage to a minimum of \$2.0 million including uninsured and underinsured driver coverage on all NIACOG owned vehicles.
4. Each driver of a NIACOG vehicle shall have a valid class "C" Commercial Motor Vehicle Driver License with a passenger endorsement, per the Federal Program guidelines..
5. All revenues received by TRANSIT PROVIDER from passengers must be reported to NIACOG and will be credited against TRANSIT PROVIDER'S operating costs.
6. TRANSIT PROVIDER will participate in a Drug and Alcohol Testing program that conforms to the Federal Transit Administration (FTA) regulations; 49 CFR Parts 29, 40 and 655. These regulations mandate that NIACOG and each of its subcontractors or providers comply with "Procedures for Transportation Workplace Drug and Alcohol Testing Programs". All safety-sensitive personnel are required to submit to drug and alcohol testing. NIACOG has adopted policies pursuant to these regulations that are detailed in the *Region 2 Transit System's, Policy and Procedures*, manual. Required testing will occur for prohibited drugs and alcohol, in these circumstances: pre-employment, random selection, reasonable suspicion, post accident, return to duty and follow-up.
7. SMOKEFREE AIR ACT - Smoking is prohibited and no person shall smoke in any of the following: The grounds of any buildings or within any vehicles owned, leased, or operated by or under the control of NIACOG.
8. SEAT BELT USE - In compliance with Federal Executive Order No. 13043, "Increasing Seat Belt Use in the United States," TRANSIT PROVIDER will adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate NIACOG owned vehicles.
9. TEXTING WHILE DRIVING AND DISTRACTED DRIVING - Consistent with Executive Order No. 13513, "Federal Leadership on Reducing Text

Messaging While Driving,” TRANSIT PROVIDER will prohibit the use of hand held mobile devices while operating NIACOG owned vehicles.

11. NON-DISCRIMINATION

11.1 CIVIL RIGHTS

TRANSIT PROVIDER will comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964 and the non-discrimination clauses that follow.

11.2 EQUAL EMPLOYMENT OPPORTUNITY

- (A) In connection with the execution of this contract, TRANSIT PROVIDER shall not discriminate against any employee or applicant for employment because of race, age, handicap, religion, color, sex or national origin. TRANSIT PROVIDER shall take affirmative action to insure that applicants are employed, and that employees are treated during their employment, without regard to their race, age, handicap, religion, color, sex or national origin. Such actions shall include, but not limited to the following:

Employment, promotion, demotion or transfer, recruitment, or recruitment advertising, layoff, or termination, rates of pay or other forms of compensation, selection for training (including apprenticeship), procurements of materials, and leases of equipment.

TRANSIT PROVIDER shall not participate either directly or indirectly in prohibited discrimination.

- (B) In all solicitations either by competitive bidding or negotiation made by TRANSIT PROVIDER for work to be performed under a subcontract, including procurement of materials or leases or equipment, each potential subcontractor or supplier shall be notified by TRANSIT PROVIDER of TRANSIT PROVIDER's obligations under this contract relative to nondiscrimination on the grounds of race, age, handicap, color, sex, national origin, or religion.

11.3 DISADVANTAGED BUSINESS ENTERPRISES

In connection with the performance of this contract, TRANSIT PROVIDER will cooperate with the Iowa Department of Transportation in meeting its commitments and goals with regard to the maximum utilization of disadvantaged business enterprises and will use its best efforts to insure that disadvantaged business enterprises shall have the maximum practicable opportunity to compete for subcontract work under this contract.

12. HOLD HARMLESS

NIACOG and TRANSIT PROVIDER will hold the Iowa Department of Transportation harmless from any losses related to the provision of contract services or to the use of vehicles purchased with funds administered by the Iowa Department of Transportation Office of Public Transit.

TRANSIT PROVIDER agrees to hold NIACOG harmless from losses that are beyond NIACOG's control that may prevent the provision of the services called for in this AGREEMENT.

NIACOG agrees to hold the TRANSIT PROVIDER harmless from losses resulting from transit system actions. This "Hold Harmless" clause will not relieve TRANSIT PROVIDER of any responsibilities due to neglect on the part of a TRANSIT PROVIDER employee.

13. VEHICLES

Vehicles assigned to the Project:

<u>ID</u>	<u>YEAR</u>	<u>MAKE/MODEL</u>	<u>VIN</u>	<u>FEE</u>
E012	2021	Ford/Elkhart Coach Bus	1FD4E4FN3MDC27599	\$ 1.00
E013	2021	Ford/Elkhart Coach Bus	1FD4E4FN6MDC27600	\$ 1.00
E014	2021	Ford/Elkhart Coach Bus	1FD4E4FN8MDC27601	\$ 1.00

1. NIACOG will provide properly maintained and insured vehicles.
2. It is the responsibility of TRANSIT PROVIDER to follow proper daily maintenance procedures and to operate as efficiently and as economically as possible.
3. NIACOG reserves the right to use these vehicles for other operations when not under normal use per this Agreement.
4. TRANSIT PROVIDER will assure proper utilization of the assigned vehicles.
5. Each vehicle listed in Section 13 of this AGREEMENT shall bear Iowa Transit vehicle license plates and regional transit system signage, prominently displayed on the right and left side of the vehicle.

IN WITNESS WHEREOF, the parties hereunto have caused this AGREEMENT to be executed by their proper officials thereunto duly authorized as of the dates below indicated.

North Iowa Area Council of Governments

By: _____
Myrtle Nelson, Executive Director

Date

City of Charles City

By: _____
Dean Andrews, Mayor

Date

APPENDIX A

1. NIACOG will reimburse TRANSIT PROVIDER for ONE HALF OF THE SERVICE'S MONTHLY OPERATING DEFICIT. The operating deficit shall be determined by subtracting the coupon and fare revenue from the eligible monthly operating costs. NIACOG shall determine the eligibility of all costs.

2. Estimated number of service units	<u>52,450</u>
Estimated contributions/fares	<u>\$ 51,000</u>
Maximum contract amount	<u>\$ 207,000</u>

Possible sources of support FTA, STA, Fares, City, SA, NEMT
Estimated yearly mileage for the TRANSIT PROVIDER is 83,000.

3. TRANSIT PROVIDER agrees to request a cash contribution from each elderly (60 years of age or older) or disabled person with disabilities for each one-way trip provided. The TRANSIT PROVIDER further agrees to accept a legitimate rider coupon in lieu of a cash contribution for each one-way trip from any eligible person.

Fare Rates

Within City

Elderly/Disabled (white ticket)	\$1.00 per one way ride
Student (blue ticket)	\$1.50 per one way ride
General Public	\$4.00 per one way ride

Within County

Elderly/Disabled/Student (pink ticket)	\$2.00 per one way ride
General Public	\$4.00 per one way ride

4. NIACOG will be responsible for obtaining insurance coverage for the vehicles used in connection with the project. NIACOG will charge back insurance coverage to the TRANSIT PROVIDER including comprehensive and collision deductibles.
5. TRANSIT PROVIDER will pay NIACOG **\$ 3.00** to be applied to a Capital Match Fund for future purchases of capital equipment or rehabilitation of existing equipment.
6. TRANSIT PROVIDER will reimburse NIACOG within 30 days of the receipt of an invoice.
7. The TRANSIT PROVIDER shall submit a monthly transit report on a form provided by NIACOG detailing total miles traveled, total one-way trips provided, total hours of service, total personnel expenses, etc. Said report is due to NIACOG by the 10th day of the following month in which service was provided.

TRANSIT SERVICE AGREEMENT

for FY 2022

Parties to the Agreement:

City of Charles City

and

NORTH IOWA AREA COUNCIL OF GOVERNMENTS and its affiliate
REGION 2 TRANSIT SYSTEM, Mason City, Iowa

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1.4 ITEMS COVERED BY THE AGREEMENT

Items covered include the parties, the terms and conditions upon which reimbursement will be provided and the understandings and promises made as to the manner in which the PROJECT will be undertaken and completed.

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PROJECT Manager for NIACOG is Kevin Kramer, Transit Administrator, who is directly responsible for the performance called for in this Agreement.

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At the expiration or termination of this Agreement, the vehicles and all safety equipment in the vehicles will be returned to NIACOG in good condition, reasonable wear and tear excepted.

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INFORMATION TO BE FURNISHED BY TRANSIT PROVIDER TO NIACOG. TRANSIT PROVIDER shall furnish monthly operating costs and system statistics to NIACOG during the term of this Agreement. Such information shall be submitted by the TRANSIT PROVIDER to NIACOG by the 10th day of the following month.

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2.9 Service Description

The TRANSIT PROVIDER will operate a transit service for residents within Floyd County, Iowa, and the surrounding area, on a demand response basis, Monday through Friday, 7:00 a.m. - 4:00 p.m., except for the following holidays, should they fall on a weekday: New Years Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Eve and Christmas Day.

TRANSIT PROVIDER agrees to operate county-wide service, for the general public, Service will utilize vehicle(s) in a coordinated manner to serve all parties in need of transportation with daily service offered regularly to/from Mason City, Iowa. Service will be available to/from any destination within Region 2 to/from any destination within Floyd County in a coordinated manner with other transit providers within the Region and to make back-up or supplemental vehicles available, as needed, to other services (i.e Charles City Public Transit). and may include requests from NIACOG to other locations within the State of Iowa.

TRANSIT PROVIDER agrees to alter the above hours to better utilize the vehicles, as determined by mutual agreement with NIACOG and SUBCONTRACTOR.

3.0 PERFORMANCE STANDARDS

3.1 SERVICE STANDARDS

NIACOG shall provide the PROJECT service, as stated in Appendix A except under extraordinary circumstances, and said standard shall be maintained during no less than 95% of the hours of normal operation of the contract period.

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TRANSIT PROVIDER shall permit NIACOG to inspect all vehicles, facilities, equipment and all transit data and records pertaining to the PROJECT.

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6.0 CONTRACT NON-PERFORMANCE

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- (A) Withholding of service to NIACOG under the Agreement until NIACOG complies and/or
- (B) Cancellation, termination, or suspension of the Agreement, in whole or in part.

6.2 TRANSIT PROVIDER NON-COMPLIANCE

In the event of TRANSIT PROVIDER's non-compliance with the provision of this contract, NIACOG may impose such contract sanctions as it may determine to be appropriate, including, but not limited to:

- (A) Withholding of payment to TRANSIT PROVIDER under the Agreement until TRANSIT PROVIDER complies and/or
- (B) Cancellation, termination, or suspension of the Agreement, in whole or in part.

7.0 TERMINATION OR SUSPENSION OF PROJECT

7.1 TERMINATION OR SUSPENSION GENERALLY

If either party abandons or before completion, discontinues the PROJECT; or if by reason the commencement, prosecution or timely completion, of the

PROJECT by either party is rendered improbable, infeasible, impossible, or illegal, the other party may, by written notice of 15 days, terminate the Agreement or suspend any or all of its obligations under this Agreement until such time as the events or conditions resulting in such suspension has ceased or been corrected.

8.0 RENEWAL, RENEGOTIATION, AND MODIFICATION

8.1 PROVISION FOR AMENDMENTS

This Agreement may be amended by mutual consent. Said amendment to be in writing and signed by both parties.

8.2 SIGNATORY REQUIREMENTS

Any amendment to the language of the Agreement, excepting Appendix A or any financial amendment will require the signatures of the authorized representatives.

Any amendment to Appendix A of a non-financial nature may be made by the PROJECT Managers and will require their signatures only.

Any day-to-day operational change of the PROJECT services of a total duration of ten (10) working days or less may be made by verbal agreement of the PROJECT Managers.

9.0 ASSIGNABILITY AND SUBCONTRACTING

TRANSIT PROVIDER will delegate, assign, certain rights and obligations under this Agreement to NIACOG's subcontractor, Circle K Communications, Inc., an Iowa Corporation with a principal place of business in Charles City, Iowa (Circle K), including but not limited to scheduling and dispatching services, operation support, daily storage and maintenance of vehicles, reporting requirements, and maintenance of accounting and records.

TRANSIT PROVIDER understands that NIACOG has subcontracted and assigned or will subcontract and assign certain rights and obligations to Circle K in connection with this Agreement, and TRANSIT PROVIDER hereby approves of and consents to such subcontract, delegation, and assignment.

TRANSIT PROVIDER shall not otherwise subcontract, assign, or transfer any other vehicle operations for this project without the prior approval of NIACOG and of the Iowa Department of Transportation. In the event of such approval, the party or parties to whom such work is contracted, assigned, or transferred, shall be bound and obligated by the terms and conditions of this Agreement.

10.0 ADDITIONAL AGREEMENT PROVISIONS

10.1 WORDING

All words used herein in the singular form shall extend to and include the plural. All words used herein in the plural form shall extend to and include the singular. All words used in any gender shall extend to and include all genders.

10.2 SUCCESSORS & ASSIGNS

It is further understood that this Agreement and all contracts entered into and under this Agreement shall be binding upon TRANSIT PROVIDER, NIACOG, and their successors and assigns.

10.3 PROHIBITED INTEREST

No member, officer or employee of NIACOG or TRANSIT PROVIDER during this tenure or for one year thereafter shall have any interest, direct or indirect, in this contract or the proceeds thereof.

No member or delegate to the Iowa State Legislature or to the Congress of the United States shall be admitted to any share or part of the Agreement or any benefit arising here from.

10.4 ENTIRE AGREEMENT

This Agreement, expresses the entire Agreement between the parties and no representations, promises, or warranties have been made by either of the parties that are not fully expressed herein concerning this PROJECT.

10.5 SAVINGS CLAUSE

If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected thereby if such remainder would then continue to conform to the terms and requirements of applicable law.

10.6 BONUS AND COMMISSION PROHIBITION

By execution of the Agreement, NIACOG and TRANSIT PROVIDER represent that they have not paid and, also, agree not to pay, any bonus or commission for the purpose of obtaining an approval of this Agreement.

10.7 COMPLIANCE WITH LAWS

NIACOG and TRANSIT PROVIDER agree to comply with all Federal, State, and Local laws, ordinances and resolutions applicable to this Agreement.

10.8 IOWA DOT AUDIT

TRANSIT PROVIDER shall permit the Iowa Department of Transportation to inspect and audit all work materials, records, books and accounts and any other data with regards to the AGREEMENT. All records applicable to the AGREEMENT must be retained and available to the Iowa Department of Transportation for a period of three years after the closing of the AGREEMENT period.

10.9 REQUIRED ELEMENTS

The following are mandatory Federal Transit Administration (FTA) and/or Iowa Department of Transportation requirements to be incorporated into all third party Operating Contracts and Agreements for FY 2022. Some of the items have been discussed in the text of this Agreement.

1. Service is for the transportation of passengers and is open to all members of the public on an equal basis.
2. NIACOG owned vehicles are insured for service to all members of the public.
3. NIACOG will provide Liability coverage to a minimum of \$2.0 million including uninsured and underinsured driver coverage on all NIACOG owned vehicles.
4. Each driver of a NIACOG vehicle shall have a valid class "C" Commercial Motor Vehicle Driver License with a passenger endorsement, per the Federal Program guidelines..
5. All revenues received by TRANSIT PROVIDER from passengers must be reported to NIACOG and will be credited against TRANSIT PROVIDER'S operating costs.
6. TRANSIT PROVIDER will participate in a Drug and Alcohol Testing program that conforms to the Federal Transit Administration (FTA) regulations; 49 CFR Parts 29, 40 and 655. These regulations mandate that NIACOG and each of its subcontractors or providers comply with "Procedures for Transportation Workplace Drug and Alcohol Testing Programs". All safety-sensitive personnel are required to submit to drug and alcohol testing. NIACOG has adopted policies pursuant to these regulations that are detailed in the *Region 2 Transit System's, Policy and Procedures*, manual. Required testing will occur for prohibited drugs and alcohol, in these circumstances: pre-employment, random selection, reasonable suspicion, post accident, return to duty and follow-up.
7. SMOKEFREE AIR ACT - Smoking is prohibited and no person shall smoke in any of the following: The grounds of any buildings or within any vehicles owned, leased, or operated by or under the control of NIACOG.

8. SEAT BELT USE - In compliance with Federal Executive Order No. 13043, "Increasing Seat Belt Use in the United States," TRANSIT PROVIDER will adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate NIACOG owned vehicles.
9. TEXTING WHILE DRIVING AND DISTRACTED DRIVING - Consistent with Executive Order No. 13513, "Federal Leadership on Reducing Text Messaging While Driving," TRANSIT PROVIDER will prohibit the use of hand held mobile devices while operating NIACOG owned vehicles.

11. NON-DISCRIMINATION

11.1 CIVIL RIGHTS

TRANSIT PROVIDER will comply with all the requirements imposed by Title VI of the Civil Rights Act of 1964 and the non-discrimination clauses that follow.

11.2 EQUAL EMPLOYMENT OPPORTUNITY

- (A) In connection with the execution of this contract, TRANSIT PROVIDER shall not discriminate against any employee or applicant for employment because of race, age, handicap, religion, color, sex or national origin. TRANSIT PROVIDER shall take affirmative action to insure that applicants are employed, and that employees are treated during their employment, without regard to their race, age, handicap, religion, color, sex or national origin. Such actions shall include, but not limited to the following:

Employment, promotion, demotion or transfer, recruitment, or recruitment advertising, layoff, or termination, rates of pay or other forms of compensation, selection for training (including apprenticeship), procurements of materials, and leases of equipment.

TRANSIT PROVIDER shall not participate either directly or indirectly in prohibited discrimination.

- (B) In all solicitations either by competitive bidding or negotiation made by TRANSIT PROVIDER for work to be performed under a subcontract, including procurement of materials or leases or equipment, each potential subcontractor or supplier shall be notified by TRANSIT PROVIDER of TRANSIT PROVIDER's obligations under this contract relative to nondiscrimination on the grounds of race, age, handicap, color, sex, national origin, or religion.

11.3 DISADVANTAGED BUSINESS ENTERPRISES

In connection with the performance of this contract, TRANSIT PROVIDER will cooperate with the Iowa Department of Transportation in meeting its commitments and goals with regard to the maximum utilization of disadvantaged business

enterprises and will use its best efforts to insure that disadvantaged business enterprises shall have the maximum practicable opportunity to compete for subcontract work under this contract.

12. HOLD HARMLESS

NIACOG and TRANSIT PROVIDER will hold the Iowa Department of Transportation harmless from any losses related to the provision of contract services or to the use of vehicles purchased with funds administered by the Iowa Department of Transportation Office of Public Transit.

TRANSIT PROVIDER agrees to hold NIACOG harmless from losses that are beyond NIACOG's control that may prevent the provision of the services called for in this AGREEMENT.

NIACOG agrees to hold the TRANSIT PROVIDER harmless from losses resulting from transit system actions. This "Hold Harmless" clause will not relieve TRANSIT PROVIDER of any responsibilities due to neglect on the part of a TRANSIT PROVIDER employee.

13. VEHICLES

Vehicles assigned to the Project:

ID	YEAR	MAKE/MODEL	VIN	FEE
2009	2019	Ford / EIDorado Aerotech	1FDFE4FS2KDC74965	\$1.00

1. NIACOG will provide properly maintained and insured vehicles.
2. It is the responsibility of TRANSIT PROVIDER to follow proper daily maintenance procedures and to operate as efficiently and as economically as possible.
3. NIACOG reserves the right to use these vehicles for other operations when not under normal use per this Agreement.
4. TRANSIT PROVIDER will assure proper utilization of the assigned vehicles.
5. Each vehicle listed in Section 13 of this AGREEMENT shall bear Iowa Transit vehicle license plates and regional transit system signage, prominently displayed on the right and left side of the vehicle.

IN WITNESS WHEREOF, the parties hereunto have caused this AGREEMENT to be executed by their proper officials thereunto duly authorized as of the dates below indicated.

North Iowa Area Council of Governments

By: _____
Myrtle Nelson, Executive Director

Date

City of Charles City

By: _____
Dean Andrews, Mayor

Date

APPENDIX A

1. NIACOG will reimburse TRANSIT PROVIDER for THE FULL SERVICE'S MONTHLY OPERATING DEFICIT. The operating deficit shall be determined by subtracting the coupon and fare revenue from the eligible monthly operating costs. NIACOG shall determine the eligibility of all costs.

2. Estimated number of service units 7,500
Estimated contributions/fares \$ 10,500
Maximum contract amount \$ 150,000
Possible sources of support FTA, STA, Fares, COUNTY, SA, NEMT
Estimated yearly mileage for the TRANSIT PROVIDER is 85,000.

3. TRANSIT PROVIDER agrees to request a cash contribution from each elderly (60 years of age or older) or disabled person with disabilities for each one-way trip provided. The TRANSIT PROVIDER further agrees to accept a legitimate rider coupon in lieu of a cash contribution for each one-way trip from any eligible person.

Fare Rates

Within County
Elderly/Disabled/Student (pink ticket) \$2.00 per one way ride
General Public \$4.00 per one way ride

Outside County (Within Region) (yellow ticket)
Elderly/Disabled/Student \$3.00 per one way ride
General Public \$5.00 per one way ride

4. NIACOG will be responsible for obtaining insurance coverage for the vehicles used in connection with the project. NIACOG will charge back insurance coverage to the TRANSIT PROVIDER including comprehensive and collision deductibles.

5. TRANSIT PROVIDER will pay NIACOG \$ 1.00 to be applied to a Capital Match Fund for future purchases of capital equipment or rehabilitation of existing equipment.

6. TRANSIT PROVIDER will reimburse NIACOG within 30 days of the receipt of an invoice.

7. The TRANSIT PROVIDER shall submit a monthly transit report on a form provided by NIACOG detailing total miles traveled, total one-way trips provided, total hours of service, total personnel expenses, etc. Said report is due to NIACOG by the 10th day of the following month in which service was provided.