

**Service Agreement -
City of Lake Wales and
Lakeland Area Mass Transit District**

This Service Agreement is entered into as of the 1st day of October, 2020, by and between the City of Lake Wales, a political subdivision of the State of Florida (hereinafter referred to as “Lake Wales”), and the Lakeland Area Mass Transit District, an independent special district (hereinafter referred to as the “District”).

WHEREAS, provision of adequate and effective public transit services is a continuing need in Polk County; and

WHEREAS, the District is the legal entity responsible for the operation and management of the public transportation system; and

WHEREAS, Lake Wales has agreed to participate in funding a portion of the fixed route services currently being operated through the city boundaries,

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties hereto agree as follows:

1. The term of this Agreement shall be for a period of two (2) years commencing on October 1, 2020, through and including September 30, 2022.

2. In the event funds from governmental sources relied upon to finance this Agreement become unavailable, the District or Lake Wales may terminate this Agreement with no less than thirty (30) calendar days written notice to the other party. Notice shall be delivered as set forth in paragraph nine (9) of this Agreement. Either party may terminate this Agreement based on the other party’s breach, by giving the breaching party written notice of the breach in accordance with paragraph nine (9) of this Agreement. If the breach is not cured within thirty (30) calendar days, the non-breaching party may terminate this Agreement immediately. Waiver by either party of breach of any provision of this Agreement shall not be deemed to be a waiver of any other breach,

shall not be construed to be a modification of the terms of this Agreement, and shall not act as a waiver or estoppel to enforcement of any provision of this Agreement. The provisions herein do not limit Lake Wales's or the District's right to remedies at law or to damages.

3. No later than six (6) months before the end of the term of this Agreement, the District and Lake Wales shall meet in good faith to discuss each party's intentions to negotiate an Agreement for the continuation of the service.

4. Hours of operation of bus service are defined as the number of hours each bus operates plus reasonable travel time each way to and from the District Operations Center located at 1212 George Jenkins Boulevard, Lakeland, Florida, or the County Operations Center located in Bartow or Winter Haven, Florida. Bus service will not be provided on holidays on which the District does not operate and on any other days on which the District does not operate.

5. The fee to be charged to Lake Wales by the District for the transit service for the term of the Agreement will be \$132,275.74 per year. Lake Wales shall remit payment within thirty (30) business days from receipt of invoice.

6. Revenue derived from the operation of the transit system, including, but not limited to the proceeds from advertising and transit fares paid by passengers, will be the absolute property of the District; and the treatment of such revenue, including the banking and accounting thereof, will be as directed by the District.

7. This Agreement is subject to the terms and conditions contained in any interlocal or other agreement between the District and any other governmental authority, including, without limitation, the City of Lakeland, the Polk Transit Authority, and the County of Polk. Nothing in such agreements prohibits or limits the ability of any of the parties to this agreement to deliver the various benefits specifically described herein.

8. This Agreement is subject to all federal, state, and local laws, rules, and regulations with which the District is obligated to comply. Nothing in such laws, rules or

regulations prohibits or limits the ability of any of the parties to this agreement to deliver the various benefits specifically described herein.

9. All notices, requests, demands and other communications which are required or may be given under this Agreement shall be in writing and shall be deemed to have been duly given when received if personally delivered; when transmitted if transmitted by telecopy, electronic telephone line facsimile transmission or other similar electronic or digital transmission method; the day after it is sent, if sent by recognized expedited delivery service; and five (5) days after it is sent, if mailed, first class mail, postage prepaid. In each case, notice shall be sent to:

LAKE WALES: City of Lake Wales

ATTN: _____

DISTRICT: Lakeland Area Mass Transit District
1212 George Jenkins Boulevard
Lakeland, FL 33815
ATTN: Tom Phillips

10. If any covenant or provision of this Agreement is determined to be invalid, illegal or incapable of being enforced, all other covenants and provisions of this Agreement shall, nevertheless, remain in full force and effect, and no covenant or provision shall be dependent upon any other covenant or provision unless so expressed herein.

11. This Agreement contains all the terms and conditions agreed upon by the parties and is a complete and exclusive statement of the Agreement between the parties. Any renewals, alterations, variations, modifications, amendments or waivers of provisions of this Agreement shall only be valid when they have been reduced to writing, duly signed, approved by all entities and attached to this Agreement. This Agreement supersedes all

other agreements and proposals, oral or written, regarding the subject matter herein, and all such other agreements and proposals are hereby deemed void.

12. In the performance of this Agreement, the District will be acting in the capacity of an independent contractor, and not as an agent, employee, partner, joint venturer, or associate of Lake Wales. The District shall be solely responsible for the means, methods, techniques, sequences, and procedures utilized by the District in the full performance of this Agreement. Neither the District nor any of the employees, officers, agents or any other individual directed to act on behalf of the District for any act related to this Agreement, shall represent, act, purport to act, or be deemed to be the agent, representative, employee or servant of Lake Wales.

13. This Agreement shall be construed in accordance with the laws of the State of Florida and venue of any legal proceedings shall be in Polk County, Florida, if the action is commenced in state court. If any action is commenced in federal court, then venue shall be in the United States District Court for the Middle District of Florida, Tampa Division.

14. Nothing contained herein shall operate or be construed as a waiver of the District's limit of liability as set forth in Section 768.28 of the Florida Statutes regardless of whether such claims are based in tort, contract, statute, strict liability, negligence, product liability or otherwise.

15. Lake Wales and District agree that both parties shall comply with Florida's public records laws. Pursuant to Chapter 119 of the Florida Statutes, the contractor is specifically required to:

- a. Keep and maintain public records required by the public agency to perform the service.
- b. Upon request from the public agency's custodian of public records, provide the public agency with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed

the cost provided in Chapter 119 of the Florida Statutes or as otherwise provided by law.

- c. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the contractor does not transfer the records to the public agency.
- d. Upon completion of the contract, transfer, at no cost, to the public agency all public records in possession of the contractor or keep and maintain public records required by the public agency to perform the service. If the contractor transfers all public records to the public agency upon completion of the contract, the contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the contractor keeps and maintains public records upon completion of the contract, the contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the public agency, upon request from the public agency's custodian of public records, in a format that is compatible with the information technology systems of the public agency.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT

16. Each of the undersigned warrants and represents that he or she is authorized to execute this Agreement on behalf of the entity identified.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed for the uses and purposes therein expressed as of the day and year set forth above.

[SIGNATURES ON FOLLOWING PAGE]

CITY OF LAKE WALES

Witnesses

BY: _____

LAKELAND AREA MASS
TRANSIT DISTRICT

Eik. Kilant

BY: *[Signature]*
_____ Chairman

Witnesses