

**MANAGEMENT AGREEMENT
FOR THE OPERATION AND MAINTENANCE OF BEACH CITIES TRANSIT FIXED ROUTE
TRANSIT BETWEEN THE CITY OF REDONDO BEACH AND
PARKING CONCEPTS, INC. DBA TRANSPORTATION CONCEPTS**

This MANAGEMENT AGREEMENT FOR THE OPERATION AND MAINTENANCE OF BEACH CITIES TRANSIT ("Agreement") is made between the City of Redondo Beach, a Chartered Municipal Corporation ("City") and Parking Concepts, Inc., a California corporation dba Transportation Concepts ("Contractor").

RECITALS

WHEREAS, the City desires to provide public transportation services in the City and the cities of Hermosa Beach, Manhattan Beach, and El Segundo; and

WHEREAS, Contractor has the management and technical personnel, expertise, experience, and qualifications necessary for the management and operation of public transit services

WHEREAS, Contractor has proposed to provide such services to the City; and

WHEREAS, Contractor warrants that the representations made in its proposal as described in Exhibit "D" are true and Contractor is bound by each of its representations; and

WHEREAS, City desires to engage Contractor to perform said services.

NOW THEREFORE, in consideration of the promises and mutual covenants contained herein, and intending to be legally bound, the parties hereby agree to the following:

1. Agreement. This Agreement consists of this document and all attached exhibits, which are incorporated herein by reference:
 - a) Exhibit "A": FTA Required Contract Clause Certification and FTA Contract Clauses
 - b) Exhibit "B": Scope of Work
 - c) Exhibit "C": 2019 Request for Proposals
 - d) Exhibit "D": Contractor's Proposal
 - e) Exhibit "E": Insurance Requirements
 - f) Exhibit "F": Cost Proposal
 - g) Exhibit "G": Out of Contract Rates Directly Related to Federal, State or Local Emergencies
 - h) Exhibit "H": Terms for Compliance with California Labor Law

Notwithstanding the foregoing, any language in Exhibit "B" and Exhibit "C" which does not pertain to the project description, proposal, or scope of services (as applicable) to be provided by Contractor, or any corresponding responsibilities of City, shall be deemed extraneous to, and not a part of, this Agreement. In the event of a conflict among the provisions of the foregoing documents, the provisions of this Agreement shall govern, then, in alphabetical order, the provisions of Exhibit "A", Exhibit "B", Exhibit "C", Exhibit "D", Exhibit "F", Exhibit "G", and Exhibit "H". Exhibit "E" shall stand alone.

2. Scope of Services. Contractor is to perform all the services set forth in Exhibit "B", Scope of Work, as amended by any Addenda.
3. Term of Agreement. The term of this Agreement shall commence on July 1, 2020 and terminate on June 30, 2023 ("Base Term"), unless otherwise terminated herein.

The term of this Agreement may be extended at the sole discretion of the City for one (1) additional two-year period, commencing on July 1, 2023 ("Option Period"), by a written amendment executed by both parties, and approved by City Council. Thereafter, this Agreement may proceed month to month by a mutual written amendment executed by both parties and approved by City Council. However, in no event shall this Agreement continue beyond September 30, 2025.

4. Commencement of Performance. Contractor's services shall commence operation of the Beach Cities Transit service on July 1, 2020.
5. Contract Administration. Pursuant to the terms of this Agreement, the Contractor is responsible for project management of the Transit Services according to specified operating procedures. The City may establish additional rules which are reasonable for operation of this service after consultation with the Contractor.
 - a) **City's Lead Representative.** Unless otherwise designated in writing, the Transit Manager or designee shall serve as the City's representative for the administration of the project. All activities performed by the Contractor shall be coordinated with this person.
 - b) **The Contractor's Manager in Charge.** Contractor's Project Manager shall be in charge of the project for the Contractor on all matters relating to this Agreement and any agreement or approval made shall be binding on the Contractor.
6. Service Levels to be Operated. During the Base Term and Option Period, Contractor shall operate the annual levels of service specified in Section 3.6 of the Exhibit "B", unless adjusted by the City as specified herein.
7. Compensation and Method of Payment. For performance of such services City shall pay Contractor a not to exceed amount of ~~\$\$\$8,894,680.48~~~~888,894,434.48~~, for the Base Term (three years) which shall constitute full and complete compensation for the Contractor's services under this Agreement based on the rates set forth in Exhibit "F". In no event shall Contractor's compensation exceed ~~\$8,894,680.48~~~~\$8,894,434.48~~ for services performed during the Base Term. Said sum shall be paid for full performance of those services described in this Agreement and may be decreased for unsatisfactory performance of those services described herein. Said compensation shall be paid by the

City out of the City's Proposition "A" Local Return funds, Formula Allocation Funds, and other transit funding which may include federal and state funding.

- a) **Monthly Invoice.** Contractor shall submit for the preceding month the Monthly Invoice on a form approved by the City listing the monthly fixed route and dial-a-ride Vehicle Revenue Hours provided and other related expenses. Contractor shall submit the Monthly Invoice, with the Monthly Operating Report on or before the 10th day of each month. City agrees to pay Contractor within 30 days of receipt of Contractor's invoice, unless City, in good faith, disputes any item in the invoice. In such event, City shall pay the amount not in dispute, and shall enter into good faith negotiations to resolve the disputed matter. In the event Contractor and City cannot resolve the dispute within 30 days, City in its sole discretion, shall decide the amount to be paid to Contractor.

- b) **Fee Structure.** City agrees to pay Contractor based on a Fixed Fee and Fixed Hour Rate Fee Structure as follows.

- i. **Fixed Fee.** Contractor shall be paid a Fixed Fee for each Contract Period, payable in monthly installments, to cover the costs of performing those services set forth in Exhibit "B" and Exhibit "F".
- ii. **Fixed Hourly Rate.** On a monthly basis, Contractor shall be paid a Fixed Hourly Rate for each documented Vehicle Revenue Hour as defined in Exhibit "B", operated during that month, within the authorized service levels specified in this agreement.
- iii. Therefore, the City shall pay the following amounts:

(1) Base Term (36 months):

- (a) **Fixed Fee:** During each month of the Base Term, the following monthly fee shall be payable to Contractor:
Year One: \$91,198.02
Year Two: \$95,062.34
Year Three: \$98,667.18
- (b) **Fixed Hourly Rate:** During each year of the Base Term, the following Fixed Hourly Rate shall be payable to Contractor for each documented Vehicle Revenue Hour of service operated in Fixed Route and Dial-A-Ride service:
Year One: \$42.72
Year Two: \$44.53
Year Three: \$46.30

- (2) **Compensation in Option Period.** In the event that the one, (1) two-year option period is exercised by the City, Contractor's compensation will be negotiated between the parties, but in no event shall that compensation increase by more than the annual increase in the Consumer Price Index for the State of California (Los Angeles-Riverside-Orange County statistical area) for the most recently reported calendar year.

8. Out-of-Contract Rate. Out-of-contract services will be provided by Contractor upon request by the City Transit Manager or designee, as described herein, and shall not be in violation of Federal Transit Administration, (FTA) Charter Regulations:
- a) Out of contract services, specifically directly arising out of any emergency declared by Federal, State or local agencies:
 - i. Non-driving services directly related to any emergency declared by Federal, State or local agencies, such as additional services beyond the requirements described in "Exhibit B", are subject to the rates set forth in Exhibit "G". In the event these services are requested by the City, then Contractor shall perform such services at City's direction.
 - b) Out of contract services, specifically driving services, the following subsections shall apply.
 - i. When out-of-contract services fall within normal service hours and City directs that normal operating personnel should be used to provide the out-of-contract services, such services shall be provided at the Vehicle Revenue Hour rate for that period during the Base Term or any Option Period, if exercised.
 - ii. Out-of-contract services falling outside normal operating hours (as defined in Exhibit "B") or otherwise not provided in Exhibit "B" or Exhibit "C", if requested by the City, shall be provided by the Contractor at a market rate not to exceed 120% of the regular Vehicle Revenue Hour Rate. Contractor shall bill City for any such extra services separately from Contractor's regular monthly invoice under this Agreement.
 - c) The amount paid by the City for extra services pursuant to this Section 8 shall not be subject to the not to exceed compensation set forth in Section 7. However, in no event shall the amounts paid under subsections (a) and (b) in the aggregate exceed \$1,000,000.
9. Changes in Level of Service. City may adjust the level of service at its discretion. Contractor shall not make operational modifications that affect the level of service, including but not limited to, hours or operation, schedules, and routes without the prior written approval of the City. City shall give Contractor sixty (60) days written notice of modifications that the City determines are major and may provide Contractor with less notice if the City determines modifications are minor. If the City makes modifications which increase or decrease the level of service more than twenty five percent (25%) of the Vehicle Revenue Hours set forth in Exhibit "B", City and Contractor may negotiate a change in the hourly rate, and subsequently execute a written amendment modifying said hourly rate. Notwithstanding the foregoing and to the extent permitted by law, in the event there is a declared Federal, State or local emergency, City in its sole discretion may adjust the level of service by any percentage without prior notice to Contractor.

10. Fare Revenues and Fare Box Control. All fare revenues collected by Contractor shall be the property of the City. Contractor shall collect all fares in a locked fare box approved by the City. Contractor shall empty all fares and transfer slips from the fare box daily, and reconcile and report in writing to the City the next business day, and in the monthly operating report. Contractor shall reconcile the amount of the collected fares and transfer slips to correspond with the reported number of passengers carried. Contractor shall prepare the fare deposit for the City contracted armored security company pick up of the total amount of fares collected.
11. Force Majeure. Contractor shall not be in breach of this Agreement in the event of delays, failure to perform, or excess costs caused by the following: acts of nature (including fire, epidemics, earthquake, flood or other natural disaster), acts of the government (riots, war, or civil disorder), labor strikes, or unavailability of fuel.
12. Liability Insurance/Indemnification Requirements.

- a) Insurance. Contractor shall comply with the requirements set forth in Exhibit "E". Insurance requirements that are waived by the City's Risk Manager do not require amendments or revisions to this Agreement.

Notwithstanding the foregoing, California Labor Code Sections 1860 and 3700 provide that every contractor will be required to secure the payment of compensation to its employees. In accordance with the provisions of California Labor Code Section 1861, the Contractor hereby certifies as follows:

"I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to under take self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract."

- b) Indemnity. To the fullest extent permitted by law, Contractor shall indemnify, hold harmless, and defend (at Contractor's expense with counsel acceptable to the City), the City and the cities of Hermosa Beach, Manhattan Beach, and El Segundo, and all their elected and appointed officials, officers, employees, agents, independent contractors, and volunteers from and against any and all claims, demands, causes of action, compensation, lawsuits (whether at law, equity or both), proceedings, liabilities, losses, damages, expenses, costs (including without limitation attorneys' fees, expert witness fees, and other related costs and expenses), judgments, fines, penalties, liens of every nature, and other amounts arising or claimed to arise, directly or indirectly, out of Contractor's (including Contractor, its subcontractors, and each of their officials, officers, employees, and agents) performance of work hereunder or its failure to comply with any of its obligations contained in the Agreement, or its failure to comply with any current or prospective law, except for to the extent such loss or damage which was caused by the sole negligence or willful misconduct of the City. This indemnification obligation shall survive this Agreement and shall not be limited by any term of any insurance policy required under this Agreement.

13. Responsibilities of the Contractor

- a) Licenses/Fees/Taxes/Permits. Contractor shall have the sole obligation to pay all license fees, assessments, and taxes, including but not limited to, sales tax, business licenses, vehicle licenses, property or other taxes, plus applicable penalties and interest which may be imposed upon the Contractor by any governmental entity.
- b) Non-Discrimination and Equal Employment Opportunity. The Contractor represents and agrees that it does not and will not discriminate against any employee or applicant for employment on the basis of race, religious creed, color, national origin, ancestry, gender, sexual orientation, or physical disability in the performance of any Agreement with the City, and shall comply with the provisions of all Federal, State, and local laws, including without limitation, the State Fair Employment Practices Act, the Federal Rights Act of 1964 and all amendments thereto, and the Americans with Disabilities Act of 1990.

14. Record Keeping and Reporting

- a) Record Keeping Requirements. Contractor, including any of its subcontractors, shall maintain full and complete documents and records, including all books, accounting records, reports, employee time sheets, work papers, and correspondence pertaining to the project or services set forth in Exhibit "B" and Exhibit "C". Contractor shall make such documents and records available for City review or audit upon request and reasonable notice, and shall keep such documents and records, for at least four (4) years after Contractor's completion of performance of this Agreement. Copies of all pertinent reports and correspondence shall be furnished to the City for its files. Contractor shall provide the City with all information necessary to complete FTA National Transit Database (NTD) Reports. In the event of litigation or settlement of claims arising from the performance of this contract, Contractor agrees to maintain all documents and records, as defined in this section, until the City, the FTA, the Comptroller General, or any of their duly authorized representative, have disposed of all such litigation, appeals, claims or exceptions related thereto. Contractor acknowledges and agrees that any records maintained pursuant to this Agreement may be subject to the California Public Records Act and agrees to indemnify, defend and hold the City harmless from and against any discovery or Public Records Act request seeking the disclosure of any documents and records.
- b) Report Requirements. All reporting documents shall be produced accurately and in a timely manner as indicated herein on a monthly basis as required by the City, or at such other frequency established by the City. These reports shall be submitted in a form compatible with existing City record keeping. Contractor shall submit additional written reports as requested by the City for specific purposes.
- c) Access to Records. The Contractor agrees to provide sufficient access to FTA and its contractors to inspect and audit records and information related to performance of this contract as reasonably may be required.

- d) Access to the Sites of Performance. The Contractor agrees to permit FTA and its contractors access to the sites of performance under this contract as reasonably may be required.
15. Audits. All invoices, monthly reports, supporting documents, and other financial records relevant to this Agreement shall be subject to inspection and audit by representatives of the City, United States Department of Transportation, State Controller's Office, Controller General of the United States, and Metro. Operational Records/Data and Vehicle Maintenance Records collected by the Contractor shall be provided to the City at the end of the contract period, including but not limited to, electronic versions of customer data.
16. Termination Without Default. Notwithstanding any provision herein to the contrary, the City may, in its sole and absolute discretion and without cause, terminate this Agreement at any time prior to completion by Contractor of the project or services hereunder, immediately upon written notice to Contractor. In the event of any termination by City, Contractor shall be compensated for: (1) all authorized work satisfactorily performed prior to the effective date of termination; and (2) necessary materials or services of others ordered by Contractor for this Agreement prior to Contractor's receipt of notice of termination, irrespective of whether such materials or services of others have actually been delivered, and further provided that Contractor is not able to cancel such orders. Compensation for Contractor in such event shall be determined by the City in accordance with the percentage of the project or services completed by Contractor; and all of Contractor's finished or unfinished work product through the time of the City's last payment shall be transferred and assigned to the City. In conjunction with any termination of this Agreement, the City may, at its own expense, make copies or extract information from any notes, sketches, computations, drawings, and specifications or other data, whether complete or not. In the event the City receives federal funding during the term of this Agreement for the services described herein, the termination provisions in Exhibit "A" shall supersede this section.
17. Termination in the Event of Default. Should Contractor fail to perform any of its obligations hereunder, within the time and in the manner provided or otherwise violate any of the terms of this Agreement, the City may immediately terminate this Agreement for default by giving written notice, stating the reasons for such termination. Contractor shall be compensated as provided immediately above, provided, however there shall be deducted from such amount the amount of damages, if any, sustained by the City by virtue of Contractor's breach of this Agreement. Contractor may terminate this Agreement upon default by the City which is not cured within 30 days following written notice to the City stating the basis of such default.
- a) Suspension/Termination of the Agreement for Cause. The following shall constitute a material breach of the Agreement by Contractor and serve as the basis for termination by the City:
 - i. Bankruptcy of the Contractor, being placed in receivership, or assignment by it for the benefit of creditors;

- ii. Failure or refusal of the Contractor (after written warning by the City) to perform service and meet the City's goals and objectives, in a satisfactory manner, including a satisfactory level of vehicle maintenance;
 - iii. Failure or refusal of the Contractor to comply with City's instructions or with applicable local, state or federal codes and laws;
 - iv. Failure of the Contractor to receive a "pass" rating from the California Highway Patrol Carrier Motor Safety inspector; Contractor shall notify the City within 24 hours if it has received a "fail" rating on any system vehicle. Contractor must provide evidence that its maintenance facilities and/or vehicles have been re-inspected and have received a "conditional" rating within one hundred eighty (180) days. Failure to notify the City, take action to correct the problem, or present the vehicle for re-inspection may result in suspension/termination of the contract;
 - v. Failure by the Contractor to perform any of its obligations shall not constitute a breach of contract, if such failure is caused by an act described in Section 11 of this Agreement;
 - vi. Failure or refusal by Contractor to abide by the Reporting Requirements as described herein;
 - vii. Failure to maintain the insurance coverage as described in this Agreement.
 - viii. Failure to Meet Specifications. City reserves the right to withhold payment to Contractor, suspend the contract, provide substitute services with all charges in excess of contract rates to be paid by the Contractor, in the event Contractor fails to meet any of the specifications in regards to vehicle maintenance, or service quality as described in this Agreement, until such time as the City determines that Contractor has satisfactorily corrected any deficiencies. Such suspension shall be considered for cause, and the Contractor may not claim any damages against the City for any action or suspension.
- b) Opportunity to Cure. If Contractor fails to remedy to the City's satisfaction the breach or default of any of the terms, covenants, or conditions of this Agreement within ten (10) days after receipt by Contractor of written notice from City setting forth the nature of said breach or default, City shall have the right to terminate the Agreement without any further obligation to Contractor. Any such termination for default shall not in any way operate to preclude City from also pursuing all available remedies against Contractor and its sureties for said breach or default.
18. Non-Assignability. Contractor acknowledges that the services which Contractor shall provide under this Agreement are unique, personal services which, except as otherwise provided herein, Contractor shall not assign or sublet to any other party without the prior written approval of City, which approval may be withheld in the City's sole and absolute discretion. In the event that the City, in writing, approves any assignment or subletting of

this Agreement or the retention of subcontractors by Contractor, Contractor shall provide to the City upon request copies of each and every subcontract prior to the execution thereof by Contractor and subcontractor. Any attempt by Contractor to assign any or all of its rights under this Agreement without first obtaining the City's prior written consent shall constitute a material default under this Agreement.

The sale, assignment, transfer or other disposition, on a cumulative basis, of twenty-five percent (25%) or more of the ownership interest in Contractor or twenty-five percent (25%) or more the voting control of Contractor (whether Contractor is a corporation, limited liability company, partnership, joint venture or otherwise) shall constitute an assignment for purposes of this Agreement. Further, the involvement of Contractor or its assets in any transaction or series of transactions (by way of merger, sale, acquisition, financing, transfer, leveraged buyout or otherwise), whether or not a formal assignment or hypothecation of this Agreement or Contractor's assets occurs, which reduces Contractor's assets or net worth by twenty-five percent (25%) or more shall also constitute an assignment for purposes of this Agreement.

19. Independent Contractor. Contractor acknowledges, represents and warrants that Contractor is not a regular or temporary employee, officer, agent, joint venturer or partner of the City, but rather an independent contractor. This Agreement shall not be construed as a contract of employment. Contractor shall have no rights to any benefits which accrue to City employees unless otherwise expressly provided in this Agreement. Due to the independent contractor relationship created by this Agreement, the City shall not withhold state or federal income taxes, the reporting of which shall be Contractor's sole responsibility.
20. Brokers. Contractor acknowledges, represents and warrants that Contractor has not hired, retained or agreed to pay any entity or person any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award or making of this Agreement.
21. Professional Ability. Contractor acknowledges, represents and warrants that Contractor is skilled and able to competently provide the services hereunder, and possesses all professional licenses, certifications, and approvals necessary to engage in its occupation. City has relied upon the professional ability and training of Contractor as a material inducement to enter into this Agreement. Contractor shall perform in accordance with generally accepted professional practices and standards of Contractor's profession.
22. Business License. Contractor shall obtain a Redondo Beach Business License before performing any services required under this Agreement. The failure to so obtain such license shall be a material breach of this Agreement and grounds for immediate termination by City; provided, however, that City may waive the business license requirement in writing under unusual circumstances without necessitating any modification of this Agreement to reflect such waiver.
23. Conflict of Interest. Contractor acknowledges, represents and warrants that Contractor shall avoid all conflicts of interest (as defined under any federal, state or local statute, rule or regulation, or at common law) with respect to this Agreement. Contractor further acknowledges, represents and warrants that Contractor has no business relationship or

arrangement of any kind with any City official or employee with respect to this Agreement. Contractor acknowledges that in the event that Contractor shall be found by any judicial or administrative body to have any conflict of interest (as defined above) with respect to this Agreement, all consideration received under this Agreement shall be forfeited and returned to City forthwith. This provision shall survive the termination of this Agreement for one (1) year.

24. Compliance with Laws. Contractor shall comply with all federal, state and local laws, statutes, ordinances, rules and regulations, and the orders and decrees of any courts or administrative bodies or tribunals, with respect to this Agreement, including without limitation all environmental laws, employment laws, and non-discrimination laws.
 - a) Contractor further acknowledges that in the event, this is a federally assisted construction contract, federal labor standards provisions, including prevailing wage requirements of the Davis-Bacon and Related Acts, will be enforced. Contractor understands that in the event of a conflict between the Federal General Wage Decision as established by the United States Department of Labor (available at www.access.gpo.gov/davisbacon/ca.html) and the State General Prevailing Wage Determination as established by the California Department of Industrial Relations (available at <http://www.dir.ca.gov/DLSR/PWD/index.htm>), the higher of the two will prevail.
 - b) Prevailing Wages. City and Contractor acknowledge that in the event this project is a public work to which prevailing wages apply, Contractor shall comply with the Terms for Compliance with California Labor Law Requirements set forth in Exhibit "H", which is attached hereto and incorporated by reference.
 - c) Intelligent Transportation Systems – National Architecture. For all ITS property and service the Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the National ITS Architecture and Standards to the extent required by 23 U.S.C. Section 517(d) and 23 CFR Parts 655 and 940.
25. Non-Exclusivity. Notwithstanding any provision herein to the contrary, the services provided by Contractor hereunder shall be non-exclusive, and City reserves the right to employ other contractors in connection with the project.
26. Third Parties. Nothing herein shall be interpreted as creating any rights or benefits in any third parties. For purposes hereof, transferees or assignees as permitted under this Agreement shall not be considered "third parties."
27. Claims. Any claim by Contractor against City hereunder shall be subject to Government Code §§ 800 *et seq.* The claims presentation provisions of said Act are hereby modified such that the presentation of all claims hereunder to the City shall be waived if not made within six (6) months after accrual of the cause of action.
28. Interpretation. Contractor acknowledges that it has had ample opportunity to seek legal advice with respect to the negotiation of this Agreement. This Agreement shall be interpreted as if drafted by both parties.

29. Authority. City warrants and represents that upon City Council approval, the Mayor of the City of Redondo Beach is duly authorized to enter into and execute this Agreement on behalf of City. The party signing on behalf of Contractor warrants and represents that he or she is duly authorized to enter into and execute this Agreement on behalf of Contractor, and shall be personally liable to City if he or she is not duly authorized to enter into and execute this Agreement on behalf of Contractor.
30. Waiver. The waiver by the City of any breach of any term or provision of this Agreement shall not be construed as a waiver of any subsequent breach, and such waiver by City shall not limit City's remedies for any succeeding breach of that or of any other term, covenant, or condition of this Agreement.
31. Notices. Written notices to each party shall be given by registered or certified mail, postage prepaid and addressed to or personally served on:
- Notices, reports and statements to the City shall be delivered to:
- City of Redondo Beach
415 Diamond Street
Redondo Beach, CA 90277
Attn: Transit Manager
- Notices, reports and statements to the Contractor shall be delivered to:
- Parking Concepts, Inc. dba Transportation Concepts, Inc.
12 Mauchly Bldg I
Irvine CA 92618
Attn: Rich Rogers, COO
32. Integration. This Agreement constitutes the entire agreement between the parties concerning the subject matter hereof and supersedes any previous oral or written agreement; provided, however, that correspondence or documents exchanged between Contractor and City may be used to assist in the interpretation of the exhibits to this Agreement.
33. Attorneys' Fees. In the event either party to this Agreement brings any action to enforce or interpret this Agreement, the prevailing party in such action shall be entitled to reasonable attorneys' fees (including expert witness fees) and costs. This provision shall survive the termination of this Agreement.
34. Governing Law and Venue. This Agreement shall be construed in accordance with the laws of the State of California without regard to principles of conflicts of law. Venue for any litigation or other action arising hereunder shall reside exclusively in the Superior Court of the County of Los Angeles, Southwest Judicial District.
35. Severance. Any provision of this Agreement that is found invalid or unenforceable shall be deemed severed and all remaining provisions of this Agreement shall remain enforceable to the fullest extent permitted by law.

36. Inspection. If the services set forth in Exhibit "B" and Exhibit "C" shall be performed on City or other public property, the City shall have the right to inspect such work without notice. If such services shall not be performed on City or other public property, the City shall have the right to inspect such work upon reasonable notice. Inspections by the City shall not relieve or minimize the responsibility of Contractor to conduct any inspections Contractor has agreed to perform pursuant to the terms of this Agreement. Contractor shall be solely liable for said inspections performed by Contractor. Contractor shall certify in writing to the City as to the completeness and accuracy of each inspection required to be conducted by Contractor hereunder.
37. Services. The project or services set forth herein shall be performed to the full satisfaction and approval of the City. In the event that the project or services set forth herein are itemized by price, the City in its sole discretion may, upon notice to Contractor, delete certain items or services set forth herein, in which case there shall be a corresponding reduction in the amount of compensation paid to Contractor. City shall furnish Contractor, to the extent available, with any City standards, details, specifications and regulations applicable to the Project and necessary for the performance of Contractor's services hereunder. Notwithstanding the foregoing, any and all additional data necessary for design shall be the responsibility of Contractor.
38. Changes and Extra Work. All changes and/or extra work under this Agreement shall be performed and paid for in accordance with the following:

Only the City Council, City Manager, or the Department Head responsible for the administration of, or supervision of the scope of work under, this Agreement may authorize extra and/or changed work. Contractor expressly recognizes that other City personnel are without authorization to either order extra and/or changed work or waive contract requirements. Failure of Contractor to secure the authorization for such extra and/or changed work shall constitute a waiver of any and all right to adjustment in contract price due to such unauthorized work and Contractor thereafter shall be entitled to no compensation whatsoever for performance of such work.

If Contractor is of the opinion that any work which Contractor has been directed to perform is beyond the scope of this Agreement and constitutes extra work, Contractor shall promptly notify the City of the fact. The City shall make a determination as to whether or not such work is, in fact, beyond the scope of this Agreement and constitutes extra work. In the event that the City determines that such work does constitute extra work, a written amendment providing for more compensation shall be executed by Contractor and the City, and approved by the City Council. City shall provide extra compensation to Contractor on a fair and equitable basis.

In the event City determines that such work does not constitute extra work, Contractor shall not be paid extra compensation above that provided herein and if such determination is made by City staff, said determination may be appealed to the City Manager as long as a written appeal is submitted to the City Manager within five (5) days after the staff's determination is received by Contractor. Said written appeal shall include a description of each and every ground upon which Contractor challenges the staff's determination.

39. Additional Assistance. If this Agreement requires Contractor to prepare plans and specifications, Contractor shall provide assistance as necessary to resolve any questions regarding such plans and specifications that may arise during the period of advertising for bids, and Contractor shall issue any necessary addenda to the plans and specifications as requested. In the event Contractor is of the opinion that City's requests for addenda and assistance is outside the scope of normal services, the parties shall proceed in accordance with the changes and extra work provisions of this Agreement.
40. Non-Liability of Officials and Employees of the City. No official or employee of the City shall be personally liable for any default or liability under this Agreement.
41. Subcontractors. Contractor shall provide properly skilled professional and technical personnel to perform any approved subcontracting duties. Contractor shall not engage the services of any person or persons now employed by the City without the prior written approval of City, which approval may be withheld in the City's sole and absolute discretion.
42. Amendment. This Agreement may be amended or modified only by a subsequent written amendment executed by both parties and approved by the City Council.
43. Conflicting Provisions. In the event of a conflict between the terms and conditions of this Agreement and those of any exhibit or attachment hereto, this Agreement proper shall prevail. In the event of a conflict between the terms and conditions of any two or more exhibits or attachments hereto, those prepared by the City shall prevail over those prepared by Contractor.
44. Confidentiality. To the extent permissible under law, Contractor shall keep confidential its obligations hereunder and the information acquired during the performance of the project or services hereunder.
45. Warranty. In the event that any product shall be provided to the City as part of this Agreement, Contractor warrants as follows: Contractor possesses good title to the product and the right to transfer the product to City; the product shall be delivered to the City free from any security interest or other lien; the product meets all specifications contained herein; the product shall be free from material defects in materials and workmanship under normal use for a period of one (1) year from the date of delivery; and the product shall be fit for its intended purpose(s). Notwithstanding the foregoing, consumable and maintenance items (such as light bulbs and batteries) shall be warranted for a period of thirty (30) days from the date of delivery. All repairs during the warranty period shall be promptly performed by Contractor, at Contractor's expense, including shipping. Contractor shall not be liable under this warranty for an amount greater than the compensation set forth in Section 7.
46. Federal Funding. In the event the City receives federal funding for this Agreement, Contractor shall comply with all applicable FTA regulations, policies, procedures, and directives, as more specifically set forth in Exhibit "A". Failure to do so will constitute a material breach of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement in Redondo Beach, California, as of this 5th day of May, 2020.

CITY OF REDONDO BEACH,
a chartered municipal corporation

PARKING CONCEPTS, INC.,
a California corporation dba Transportation
Concepts

William C. Brand, Mayor

By: _____
Name: _____
Title: _____

ATTEST:

APPROVED:

Eleanor Manzano, City Clerk

Jill Buchholz, Risk Manager

APPROVED AS TO FORM:

Michael W. Webb, City Attorney