

# Sample Agreement Language

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.