

## CONTRACT FOR PUBLIC TRANSPORTATION

THIS AGREEMENT is entered into by the South Central Regional Transit District hereby known as SCRTD and ZIA THERAPY CENTER (Contractor) located at 900 First Street, Alamogordo, NM 88310.

In consideration of the promises and agreements set forth, the SCRTD and contractor Agree:

1. Scope and Description of Services: Contractor will perform in a timely fashion for the benefit of SCRTD the following public transportation service, as described in Exhibit A, on Monday through Friday three daily round trips between the hours of 6am to 7pm except listed holidays. The equipment to be provided by the Contractor will be sufficient to provide the required service.

Contractor shall at all times maintain vehicles in good mechanical condition in conformity with all applicable safety regulations, and will keep all vehicles in clean condition, subject to inspection by SCRTD at all times. The Contractor warrants that it now has and will continue to have during the term of this agreement, all necessary licenses, certification, or other documents required by any governmental agency, federal, state, or local, which authorize or empower the operation of subject service.

Contractor will utilize drivers for this service who are properly qualified and lawfully licensed for the service provided in the vehicles used, and have received appropriate safety training. Drivers shall display proper courtesy toward passengers and maintain a neat and clean appearance.

Contractor shall display appropriate signs designating route and/or service area.

2. Terms of payment for services: The SCRTD shall pay to Contractor, as full payment for all services to be performed by Contractor pursuant to this agreement, a maximum compensation of \$20,000.00 for services through September 30, 2019. Contractor shall invoice the SCRTD monthly for an amount equal to 1/12 of the total compensation. Terms are net 30 days.

3. Contractor shall report ridership for each month of service provided on the Orange Route. Ridership on the route will be credited fully to SCRTD for the reporting period. SCRTD will report Orange route ridership to NM DOT for the reporting period.

SCRTD shall have the option of renewing this agreement for a maximum of three (3) years beyond termination date. Compensation for this extended service shall be at a rate as mutually agreed by the parties, provided the State continues to provide adequate funds for the program.

4. Time for Completion of Services: Term of this Agreement shall be for twelve months, commencing on the 1<sup>st</sup> day of October 2018, and terminating after the last scheduled run on the 30<sup>th</sup> day of September 2019.

5. Contract Documents: Each of the following described Contract Documents,

copies of which are attached or incorporated by reference, form a part of this Agreement:

Exhibit A - Current Route Schedule

Exhibit B - Certificate of Insurance

6. Amendments: Both SCRTD and Contractor shall have the option to implement minor route changes upon thirty (30) days written notice to the other party. Service changes, requiring additional compensation will be implemented following written agreement by both parties as to proper compensation to be paid to Contractor. Similarly, both parties shall have the option to reduce service after written agreement by both parties.

Except for the above, this Agreement constitutes the entire agreement between the parties. No modification, addition, deletion, etc., to this Agreement shall be effective unless and until such changes are reduced to writing and executed by the authorized officers of each party.

7. Reports: Contractor shall submit quarterly reports to SCRTD showing the vehicles used, the passengers carried, the vehicle days and hours of service and miles traveled, total vehicle mileage, revenue collected, maintenance costs, operating costs as well as operating costs per passenger trip, per vehicle hour and per vehicle mile, passengers per vehicle mile. Reports similar to those currently provided to Contractors grantee will be acceptable. Contractor shall supply SCRTD with a copy of its annual audit, within thirty (30) days of acceptance of said audit by the Contractor's Board of Directors.

8. Agreement: This Agreement shall be binding upon, and inure to the benefit of, the respective successors, assigns, heirs, and personal representatives of SCRTD and Contractor. Any successor to Contractor's rights under this Agreement must be approved by SCRTD. Any successor will be required to accede to all of the terms, conditions and requirements of this Agreement as a condition precedent to succession. Assignment of any portion of the work by subcontract must be approved in advance by SCRTD, in writing.

9. Insurance: Contractor shall carry and keep in force business auto liability insurance covering the use, maintenance and operation of its vehicles in amounts not less than the following:

\$1,000,000 combined single limit of liability each occurrence for Bodily Injury Liability and Property Damage Liability. Upon execution of this agreement Contractor shall present certificates of insurance coverage. Contractor shall have SCRTD named as an additional insured on its policies.

Contractor shall assume liability for, and hold harmless SCRTD and SCRTD 's successors, assigns, officers, directors, employees and agents from any liabilities, obligations, losses, damages, claims, or costs, incurred by or asserted against SCRTD , resulting from any of the following: the failure of Contractor to operate service in conformance with law; the violation by the Contractor of any of the provisions of this Agreement; any act or failure to act by any officer, director, employee or agent of the Contractor; any injury to any person, loss of life, or loss or destruction of property arising out of or relating to operation of the bus services. This does not apply if the loss claimed is caused by the negligence or other act or failure to act of SCRTD or its employees, or agents. SCRTD will promptly notify Contractor in writing of any claim or liability which

SCRTD believes to be covered under this paragraph. SCRTD shall tender and Contractor shall promptly accept tender of defense in connection with any claim or liability which Contractor has agreed in writing that, based on the face of the claim or liability, SCRTD is entitled to indemnification under this paragraph; provided, however, that SCRTD shall be kept informed of the status of the proceeding, shall be promptly furnished with copies of all documents filed or served by plaintiffs, and shall be furnished in advance with copies of all documents proposed to be filed or served on its behalf by defense counsel. In the event that SCRTD believes to be covered under this paragraph, fails to advise SCRTD in writing that the Contractor agrees that SCRTD is entitled to indemnification under this paragraph, based on the face of such claim, SCRTD may retain its own counsel and present its own defense in connection with such claim or liability. SCRTD, without first obtaining approval of the contractor, shall not settle or compromise any claim, suit, action or proceeding in respect to which the Contractor has agreed in writing that SCRTD is entitled to indemnification under this paragraph. Notwithstanding anything in this Agreement to the contrary, the indemnities contained in this paragraph shall survive termination of this Agreement.

10. **Non-collusion:** Contractor warrants and represents that it has not paid nor agreed to pay any bonus, commission, fee or gratuity to any employee or official of the SCRTD or to any other Contractor for the purpose of obtaining this Agreement.

11. **Prohibited Interests:** No member, officer or employee of the SCRTD or local public body with financial interest or control in this Agreement, during his/her tenure or for two (2) years thereafter, shall have any interest, direct or indirect, in this Agreement or the proceeds of it.

12. **Notices:** All notices required pursuant to this Agreement shall be in writing and shall be served upon the parties at the address listed in this Agreement. Delivery to an officer authorized to receive notices or the mailing of the notice by registered mail, return receipt requested, shall be sufficient service.

13. **Governing Laws:** this Agreement shall be interpreted under and governed by the laws of the State of New Mexico.

14. **Compliance with Laws:** Contractor agrees to comply with all applicable statutes, ordinances and regulations of the United States, the State of New Mexico and the SCRTD.

15. **Headings:** The section headings of this Agreement are for convenience and reference only and in no way, define, limit, or describe the scope or intent of this Agreement.

ATTEST:

**South Central Regional Transit District**

By \_\_\_\_\_  
Javier Perea, Chair

\_\_\_\_\_  
APPROVED AS TO FORM:

\_\_\_\_\_  
David Armijo, Executive Director

**ZIA THERAPY CENTER, INC.**

\_\_\_\_\_  
Margaret S. O'Neill  
Chief Executive Officer

ATTEST:

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Joseph E. Hardin, Transportation Director