

**TRANSIT SERVICES AGREEMENT
(ROUTE 75)**

THIS AGREEMENT, made and entered into this ____ day of _____, A.D., 20____, by and between the City of Gainesville, Florida, a municipal corporation of the State of Florida, by and through its City Commission (CITY), and Alachua County, a charter county and political subdivision of the State of Florida, by and through its Board of County Commissioners (COUNTY), concerning the provision by the City of transit services:

WITNESSETH:

WHEREAS, the COUNTY wishes to provide additional and enhanced transit services for certain parts of the County; and,

WHEREAS, the COUNTY and the CITY support the use of the Regional Transit System in lieu of citizens operating single-occupant vehicles; and

WHEREAS, the CITY operates a transit system capable of providing the desired service;

NOW, THEREFORE, in consideration of the mutual covenants and promises hereinafter set forth, and other good and valuable consideration, the CITY and COUNTY do hereby agree:

ARTICLE I

PURPOSE

It is the purpose and intent of this Agreement to define the terms and conditions of the COUNTY's contribution to the expansion of the Regional Transit System services in the unincorporated area of the County.

ARTICLE II

COUNTY OBLIGATIONS

1. The COUNTY agrees to pay for transit service on Route 75. A map of Route 75 is attached hereto as Exhibit A. The transit service on Route 75 will be in accordance with Article III, Section 2 below. Payments by the COUNTY to the CITY shall be made in equal quarterly amounts

for the period beginning October 1, 2009, through September 30, 2010. The COUNTY agrees to make payment in an amount totaling four hundred two thousand five hundred and fifty-seven dollars (\$402,557);

2. The COUNTY agrees to pay invoices within the time period after receipt of invoice as enumerated in Sections 218.70 – 218.80, Florida Statutes. Any disputed invoice must be brought to the attention of the City official named below within ten days of receipt of such invoice, as specified in Section 218.76, Florida Statutes. Failure to act within the statutory time frame will waive any extension of the statutory payment period.

3. If funds generated by taxes levied pursuant to Section 336.021(1)(a), Florida Statutes (ninth-cent fuel tax), are not available to finance this agreement, the COUNTY may terminate the Agreement with no less than twenty-four hours notice in writing to the CITY. The COUNTY will be with final authority as to the availability of funds.

ARTICLE III

CITY OBLIGATIONS

1. The CITY agrees to provide bus service for Route 75 in accordance with the map attached hereto as Exhibit A. Bus service will be provided every thirty-five (35) minutes on weekdays (6:00 a.m. to 10:00 a.m. and 5:05 p.m. to 7:30 p.m.) and every fifty-three (53) minutes at all other times, excluding City recognized holidays. Bus service will be provided every ninety (90) minutes on Saturday from 6:40 a.m. to 6:00 p.m., excluding City recognized holidays.

2. The CITY shall invoice the County quarterly by the last day of October, January, April, and July for the quarters ending September, December, March, and June for the services identified in Article II and shall provide the County a "Passenger Productivity Report". The County shall have the right to examine the City's records pertaining to the Regional Transit System.

ARTICLE IV

TERM OF AGREEMENT

This Agreement shall become effective on October 1, 2009 and shall remain in effect until September 30, 2010.

ARTICLE V

MISCELLANEOUS

1. ANNEXATION

In the event that the CITY should annex an area of unincorporated Alachua County within the term of this Agreement, the County shall have the right to require an amendment to this Agreement relative to compensation based on the change in level of services provided by the CITY within the unincorporated area.

2. POINT OF CONTACT

The day-to-day dealings between the County and the City shall be between the County Manager for the County, and the City Manager for the City.

3. NOTICE

Any notice, demand, communication, or request required or permitted hereunder shall be in writing, except where otherwise herein designated by telephone, and delivered in person or sent by certified, return, receipt requested, United States Mail as follows:

As to the CITY:

City Manager
City of Gainesville
P.O. Box 490, Station 6
Gainesville, FL 32602-0490

As to the COUNTY:

County Manager
Post Office Box 2877
Gainesville, FL 32602-2877

Notices shall be effective when received at the address as specified above. Changes in the respective addresses to which such notice is to be directed may be made from time to time by written notice. Facsimile transmission is acceptable notice, effective when received, however, facsimile transmissions received (i.e. printed) after 4:30 p.m. or on weekends or holidays, will be deemed received on the next business day. The original of items which are transmitted by facsimile equipment must also be mailed as required herein.

4. DEFAULT OF AGREEMENT

If either party fails to keep and perform each and every covenant it has agreed to keep and perform, the other party, after giving the defaulting party notice of the default and 30 days to correct the default, and the default remains, may terminate this Agreement.

5. INDEPENDENCE OF AGREEMENT

It is understood and agreed that nothing herein contained is intended or should be construed as in any way establishing the relationship of co-partners or a joint venture between the parties hereto, or as constituting the COUNTY as an Agent or Representative of the CITY for any purpose whatsoever.

6. INDEMNIFICATION

The COUNTY and the CITY, as political subdivisions of the State of Florida as defined in Section 768.28, Florida Statutes, agree to be fully responsible for their respective negligent acts or omissions which in any way relate to or arise out of this Agreement. Nothing herein shall be construed as consent by an agency or subdivision of the State of Florida to be sued by third parties in any matter arising out of this Agreement or as a waiver of sovereign immunity by any party to which sovereign immunity applies.

The COUNTY and the CITY, represent that they are each self-funded for insurance in accordance with Section 768.28, Florida Statutes.

7. RIGHT TO REQUIRE PERFORMANCE

The failure of either party, at any time, to require performance of any provision hereof shall in no way affect the right of said party thereafter to enforce same. Nor shall waiver by either party of any breach of any provision hereof be taken or held to be a waiver of any succeeding breach of such provision or as a waiver of any provision itself.

8. VENUE

This Agreement shall be governed by the laws of the State of Florida. Any and all legal action necessary to enforce this Agreement will be held in the 8th Judicial Circuit of the State of Florida and Agreement will be interpreted according to the laws of the State of Florida.

9. SEVERABILITY

In the event that any provision of this Agreement shall be declared illegal, void or unenforceable by a court of competent jurisdiction, or in an arbitration proceeding, the other provisions shall not be affected but shall remain in full force and effect.

10. ENTIRE CONTRACT

This document incorporates and includes all prior negotiations, correspondence, conversations, agreements, or understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements, or understandings concerning the subject matter of the Agreement that are not contained in this document. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or agreements whether oral or written. The parties acknowledge that this Agreement was negotiated at arms length by the parties, with adequate representation on an equal basis, and the filling of a

suit challenging the negotiated terms of this Agreement by either party shall be deemed a default and the Agreement shall be terminated as provided herein.

This Agreement constitutes the entire agreement and understanding between the parties hereto, and it shall not be considered modified, altered, changed or amended in any respect unless in writing and signed by both parties hereto.

IN WITNESS WHEREOF the parties hereto have executed this Agreement on the day first above written in three (3) counterparts, each of which shall without proof or accounting for the other counterparts be deemed an original contract.

ATTEST:

**ALACHUA COUNTY, FLORIDA
Board of County Commissioners**

J.K. "Buddy" Irby, Clerk

By: _____
Mike Byerly, Chair

APPROVED AS TO FORM:

Alachua County Attorney's Office

WITNESS:

CITY OF GAINESVILLE

By: _____
Russ Blackburn, City Manager

APPROVED AS TO FORM AND LEGALITY:

Gainesville City Attorney's Office