

Memorandum



Date: October 5, 2021

To: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

From: Daniella Levine Cava
Mayor

A handwritten signature in blue ink that reads "Daniella Levine Cava".

Substitute
Agenda Item No. 8(N)(14)

Resolution No. R-929-21

Subject: Resolution Waiving Competitive Bidding Procedures, Ratifying an Emergency Purchase for the Miami-Dade Department of Transportation and Public Works (DTPW) for the provision of On-demand After-hours Transportation Services by Uber Technologies Inc. (UBER) from September 13, 2021 through October 15, 2021 for a total amount not to exceed \$166,258.00, and Further Approving an Agreement with UBER Effective October 16, 2021 through December 31, 2021, for the Provision of On-demand After-hours Transportation Services for an amount not to exceed \$387,937.00

The substitute item differs from the original item in that it (1) ratifies an emergency purchase for DTPW for the provision of on-demand after-hours transportation services by Uber Technologies Inc. from September 13, 2021 through October 15, 2021 at a cost of up to \$35.00 per ride for a total contract amount not to exceed \$166,258.00, and (2) approves a revised version of the agreement with UBER with a new term from October 16, 2021 through December 31, 2021 and a reduced contract amount of \$387,937.00; the combined amount of the contract commencing on October 16, 2021 and the emergency purchase is the same as the original item, \$554,195.00. Additionally, conforming changes have been made to the title of the resolution.

Recommendation

It is recommended that the Board of County Commissioners (Board) waive competitive bidding procedures pursuant to Section 5.03(D) of the Home Rule Charter and Section 2-8.1 of the County Code, ratifying an emergency purchase for DTPW for the provision of on-demand after-hours transportation services by UBER from September 13, 2021 through October 15, 2021 at a cost of up to \$35 per ride for a total contract amount not to exceed \$166,258.00; further approving an agreement between UBER and Miami-Dade County, for the provision of on-demand after-hour transportation services from October 16, 2021 through December 31, 2021 at a cost of up to \$35.00 per ride for a total contract amount not to exceed \$387,937.00; and authorizing the County Mayor or County Mayor's designee to (1) exercise all provisions of the emergency contract pursuant to section 2-8.1 of the County Code and Implementing Order 3-28, and (2) execute the agreement and to effectuate the same and exercise all provisions contained therein.

Additionally, DTPW is working with the taxicab industry to provide supplemental on-demand transportation services. Incorporation of taxis will result in a gap in service for several weeks until the impacted bus routes are pulled back in-house in November.

Delegated Authority

If this item is approved, the County Mayor or County Mayor's designee will have the authority to exercise all provisions of the contract including termination, excluding extensions or renewals,

pursuant to section 2-1.1 of the Code of Miami-Dade County, Florida, and Implementing Order 3-38.

Scope

UBER will provide on-demand after-hours transportation service adhering to the following service parameters:

- Monday through Sunday from Midnight to 5:00 a.m.
- Two (2) trips per rider per night
- Booking through App or Call-in
- Subsidy cap = \$35.00, to be applied upon rider paying fare
- Pick-up and Drop-off must be within 500 feet of designated bus route
- Designated routes: 3, 11, 27, 38, 77, 112/L, 119/S, 246, and 500

With approval of this item, the contractor will continue to provide service to users of the after-hours bus routes listed above until the November 2021 County Bus Line-up becomes effective and DTPW can resume operation of the late-night bus service with County equipment and personnel.

Fiscal Impact/Funding Source

The total estimated costs associated with the services described above is \$554,195.00 for service from September 13, 2021 through December 31, 2021, budgeted in the DTPW Operating Fund. Not authorizing this bid waiver may result in loss of service for the nine (9) routes listed in the scope of service. Currently, DTPW does not have sufficient equipment or staff to operate these routes.

Track Record/Monitor

The Project Manager (PM) is Linda Morris, Chief of Scheduling and Service Planning Division, DTPW. The contracted routes stated in the Scope are randomly monitored by the division utilizing the Geo-positioning system (GPS) data provided by UBER.

Staff and the Contractor hold weekly conference calls to review complaints and to address any concerns that may potentially impact service.

Background

In April 2020, due to the COVID-19 State of Emergency, DTPW entered into an emergency contract with UBER for provision of on-demand after-hours transportation services along 9 Miami-Dade County night-time bus routes which DTPW suspended, on an emergency-basis, in order to re-allocate resources to properly address social distancing needs on high-demand routes.

Although COVID-19 restrictions were eased and the State of Emergency was rescinded by the State of Florida, DTPW did not have sufficient equipment or staff to resume operation of all transit routes as part of the June 27, 2021 Bus Line-up. As such, DTPW continued services from June 27, 2021 through September 12, 2021 via a confirmation purchase order for the total contract

amount of \$250,000, ratified by the Internal Services Director as provided for in Implementing Order 3-38.

DTPW submitted a bid waiver item to the September 1, 2021 Board of County Commissioners (Board) meeting (Legistar Item Number 212078) to request approval for extending the on-demand transportation service contract with UBER from September 13, 2021 through December 31, 2021, at which time DTPW will be able to re-establish service with its own fleet and staff as part of the next Bus Line-up. At the September 1st Board meeting, however, Rule 5.04(c) of the Board’s Rules of Procedure (the “4-Day Rule”) was invoked for this item which automatically places it on the next Board meeting agenda for consideration. The next Board meeting is scheduled for October 5, 2021.

To avoid the abrupt interruption of the on-demand services, which would impact over 10,000 monthly users, and with the understanding that DTPW will not be able to timely comply, prior to the next Board meeting, with Section 2-150 of the County Code, which requires a public hearing for any major service change and with Title VI requirements established by the Federal Transit Administration (FTA), which require an analysis of proposed impacts prior to the implementation of any significant service change, DTPW requested an emergency procurement of on-demand transportation services from UBER from September 13, 2021 through October 15, 2021 while the item is considered by the Board and the subsequent 10-day veto period has concluded should the Board approve the subject bid waiver item.

Limited Liability

This Agreement includes a provision limiting UBER’s liability for any direct, punitive, incidental, exemplary, special, or consequential damages, or for loss of business or profits, suffered by the other party or any third party arising out of this Agreement, whether based on contract, tort, or any other legal theory, even if UBER or County (or County agents) have been advised of the possibility of such damages. UBER shall not be liable under the Agreement for any direct damages in an amount exceeding one hundred thousand dollars.

Due Diligence

Pursuant to Resolution No. R-187-12, DTPW evaluated the proposed contractor’s performance during the COVID-19 emergency and determined that the vendor has been responsible and responsive in providing on-demand after-hours transportation services and that it is capable to deploy its services promptly and with enough flexibility as required by the County to continue providing essential service along suspended bus routes.



Jimmy Morales
Chief Operations Officer



MEMORANDUM

(Revised)

TO: Honorable Chairman Jose "Pepe" Diaz
and Members, Board of County Commissioners

DATE: October 5, 2021

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Substitute
Agenda Item No. 8(N)(14)

Please note any items checked.

- ☐ "3-Day Rule" for committees applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☐ Statement of social equity required
- ☐ Ordinance creating a new board requires detailed County Mayor's report for public hearing
- ☒ No committee review
- ☒ Applicable legislation requires more than a majority vote (i.e., 2/3's present ☒, 2/3 membership ____, 3/5's ____, unanimous ____, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) ____, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) ____, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) ____ to approve
- ☒ Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved _____ Mayor
Veto _____
Override _____

Substitute
Agenda Item No. 8(N)(14)
10-5-21

RESOLUTION NO. R-929-21

RESOLUTION WAIVING COMPETITIVE BIDDING PROCEDURES PURSUANT TO SECTION 5.03(D) OF THE HOME RULE CHARTER AND SECTION 2-8.1 OF THE COUNTY CODE BY A TWO-THIRDS (2/3) VOTE OF THE BOARD MEMBERS PRESENT; RATIFYING AN EMERGENCY PURCHASE FOR THE MIAMI-DADE DEPARTMENT OF TRANSPORTATION AND PUBLIC WORKS FOR THE PROVISION OF ON-DEMAND AFTER-HOURS TRANSPORTATION SERVICES BY UBER TECHNOLOGIES INC. FROM SEPTEMBER 13, 2021 THROUGH OCTOBER 15, 2021 AT A COST OF UP TO \$35.00 PER RIDE FOR A TOTAL CONTRACT AMOUNT NOT TO EXCEED \$166,258.00; FURTHER APPROVING AN AGREEMENT BETWEEN UBER TECHNOLOGIES INC. AND MIAMI-DADE COUNTY, FOR THE PROVISION OF ON-DEMAND AFTER-HOURS TRANSPORTATION SERVICES FROM OCTOBER 16, 2021 THROUGH DECEMBER 31, 2021 AT A COST OF UP TO \$35.00 PER RIDE FOR A TOTAL CONTRACT AMOUNT NOT TO EXCEED \$387,937.00; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO (1) EXERCISE ALL PROVISIONS OF THE EMERGENCY CONTRACT PURSUANT TO SECTION 2-8.1 OF THE COUNTY CODE AND IMPLEMENTING ORDER 3-28, AND (2) EXECUTE THE AGREEMENT AND TO EFFECTUATE THE SAME AND EXERCISE ALL PROVISIONS CONTAINED THEREIN

WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference; and

WHEREAS, the Board finds it in the best interest of the County to waive competitive bidding requirements of Section 2-8.1(b)(1) of the Code of Miami-Dade County, Florida, and section 5.03(D) of the County Charter by a two-thirds vote of the Board members present,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board:

Section 1. Finds it in the best interest of the County to waive competitive bidding requirements of section 2-8.1(b)(1) of the Code of Miami-Dade County, Florida (the “Code”), and section 5.03(D) of the County Charter by a two-thirds vote of the Board members present and >>(1) ratifies an emergency purchase for the Department of Transportation and Public Works for the provision of on-demand after-hours transportation services by Uber Technologies Inc. from September 13, 2021 through October 15, 2021 at a cost of up to \$35.00 per ride for a total contract amount not to exceed \$166,258.00 (the “Emergency Contract”); and (2)<<¹ approves the agreement between Uber Technologies Inc. and Miami-Dade County, for the provision of on-demand after-hours transportation services >>from October 16, 2021 through December 31, 2021 (the “Agreement”)<< at a cost of up to \$35.00 per ride for a total contract amount not to exceed >>\$387,937.00<< ~~[[\$554,195.00]]~~.

>> **Section 2.** Pursuant to section 2-8.1 of the Code and Implementing Order 3-28, authorizes the County Mayor or County Mayor’s designee to exercise all provisions of the Emergency Contract.<<

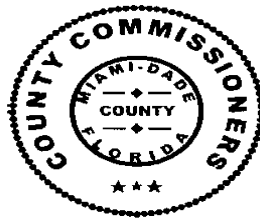
Section >>3<<~~[[2]]~~. Authorizes the County Mayor or County Mayor’s designee to execute the >>Agreement<< ~~[[agreement]]~~ in substantially the form attached and to effectuate the same and exercise all provisions contained therein.

¹ The differences between the substitute and the original item are indicated as follows: Words stricken through and/or ~~[[double bracketed]]~~ shall be deleted, words underscored and/or >>double arrowed<< are added.

The foregoing resolution was offered by Commissioner **Sally A. Heyman**,
who moved its adoption. The motion was seconded by Commissioner **Eileen Higgins**
and upon being put to a vote, the vote was as follows:

Jose "Pepe" Diaz, Chairman	aye		
Oliver G. Gilbert, III, Vice-Chairman	absent		
Sen. René García	aye	Keon Hardemon	aye
Sally A. Heyman	aye	Danielle Cohen Higgins	aye
Eileen Higgins	aye	Joe A. Martinez	nay
Kionne L. McGhee	absent	Jean Monestime	absent
Raquel A. Regalado	aye	Rebeca Sosa	absent
Sen. Javier D. Souto	aye		

The Chairperson thereupon declared this resolution duly passed and adopted this 5th day of October, 2021. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this resolution and the filing of this approval with the Clerk of the Board.



MIAMI-DADE COUNTY, FLORIDA
BY ITS BOARD OF
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

By: **Melissa Adames**
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

APA

Annery Pulgar Alfonso

AGREEMENT TO PROVIDE ON-DEMAND AFTER-HOURS TRANSPORTATION SERVICES

THIS AGREEMENT (the “Contract” or “Agreement”) is made and entered into this 13th day of September, 2021 (the “Effective Date”), by and between Miami-Dade County, FLORIDA, a political subdivision of the State of Florida, through the Miami-Dade Department of Transportation and Public Works, a Department of the County (“DTPW”) (Miami-Dade County is hereinafter referred to as “County” or “DTPW”), and Uber Technologies Inc. (“Contractor” or “Uber”), with a location at 1515 3rd Street, San Francisco, CA 94158. County and Contractor are sometimes individually referred to herein as a “Party” and collectively as the “Parties.”

TERMS AND CONDITIONS

1. **TERM AND TERMINATION.** This Agreement shall commence on September 13, 2021 and shall continue through October 15, 2021 or the date by which DTPW’s budget of \$166,258 as related to services is exhausted. The County may terminate this Agreement at any time and for any reason by giving ten (10) days’ prior written notice to the Contractor.
2. **SCOPE OF WORK, REQUIREMENTS, AND SPECIFICATIONS.** Contractor shall provide access to Uber Vouchers services meeting DTPW’s System Requirements and Parameters, and all portions of **Appendix A**, which is incorporated fully herein by reference and made part hereof for all purposes.
 - 2.1. **Uber Vouchers.** Uber shall provide County with access to (a) Uber’s browser-based online dashboard for “*Uber Vouchers for Transit*” customers (“**Dashboard**”), and (b) the Vouchers for Transit Agencies product (“**Uber Vouchers**”) that will allow County to distribute Uber Vouchers in accordance with the terms of this Agreement. County agrees to: (i) maintain an “*Uber Vouchers for Transit*” account (“**Corporate Account**”) under the terms and conditions of this Agreement.
 - 2.2. **Service Area.** Vouchers shall be available for redemption on trips completed along Miami-Dade transit routes: 3, 11, 27 (including connection to Miami Intermodal Center), 38, 77, 112/L, 119/S, 246, and 500.
 - 2.3. **Time for Provision of Services.** Contractor shall ensure Vouchers are available from Monday through Sunday, Midnight (12:00 a.m.) to 5:00 a.m., including holidays.
 - 2.4. **Labor, Materials, and Equipment.** Contractor shall furnish access to Uber Vouchers and customer support services required to provide the services under this Agreement.
 - 2.5. **Safety & Safety Supplies.** Contractor shall be responsible for providing Contractor’s agents, staff, employees, and independent contractors who

will perform Services on behalf of Contractor under this Agreement (hereinafter "Contractor's Staff") with all personal protective equipment such as, hats gloves, masks, face shields, safety vest etc. that Contractor deems necessary for the safety of Contractor's Staff.

3. **FEES AND PAYMENT.** County shall pay the Contractor a not to exceed amount of **\$35** per ride. County's subsidy to be applied upon payment of \$2.25 fare by rider. The contractor should invoice monthly and to be paid within 30 days following the invoice date. Contractor will invoice or charge Agency for the full dollar amount of actual Codes redeemed by Agency or its Riders for the preceding month, in addition to a 2.25% platform fee in accordance with the Agreement.
4. **Access to Dashboard.** Uber shall provide County with access to the Dashboard under the Terms of this Agreement. Uber's primary contact with County shall be through the individual employee or agent that County identifies in writing to Uber ("**Administrator**"). The Dashboard will enable County to (a) view and pay Monthly Statements; and (b) view current, appoint new, and remove Administrators. Uber reserves the right to add, remove and update features and functionality of the Dashboard at any time. Subject to County's compliance with this Agreement, Uber agrees to use commercially reasonable efforts to provide access to the Dashboard and Uber Vouchers to County as stated in this Agreement.
 - 4.1. **Administration.** County may appoint additional administrators at its discretion. County agrees to (a) maintain all Dashboard login credentials in confidence, (b) only permit the lead Administrator and County's other authorized administrators to access the Dashboard, and (c) update all information of the lead Administrator and other authorized administrators to ensure that it is current, accurate, and complete. County shall be responsible for all activity that occurs under its Dashboard login credentials, including, but not limited to, all Uber Programs, and Uber Vouchers created for County use on the Dashboard.
 - 4.2. **County User Updates.** It is County's sole responsibility to keep and maintain an accurate list of current County Users authorized to receive and utilize Uber Vouchers.
 - 4.3. **Creating Uber Programs and Uber Vouchers; Limitations.**
 - 4.3.1. An Uber Account Manager will create the Uber Vouchers for County to distribute to County Users. Such vouchers may only be used where Uber makes Uber Vouchers available to County. County acknowledges and agrees that it is responsible for all marketing, promotion, and advertising of County programs for which Uber Vouchers are created, including but not limited to ensuring that such marketing, promotion, and advertising complies with all applicable laws, rules, regulations and ordinances and does not harm the goodwill or reputation of Uber.
 - 4.3.2. County can choose to either create a Program with: (a) one Uber Voucher to distribute to all County Users (a "**Single Code**"); or (b) individualized Uber Vouchers that County can distribute to each County User, with the following restrictions: limited to one code per person, only redeemable by the first person who redeems the code (an "**Individualized Code**"). County acknowledges that

Uber cannot prevent an County User from sharing a Single Code or an Individualized Code with a non-County User, and that Uber cannot disaggregate County User transactions from non-County User transactions when determining Utilization Amounts. County acknowledges and agrees to pay Utilization Amount generated from all redeemed Uber Vouchers under the terms stated in this Agreement up to the Uber Voucher Limit, even in the event that Utilization Amounts are impacted by code sharing or non-intended use.

4.3.2.1. **Single Codes**. For any Program that utilizes a Single Code, County may limit the number of times such code can be used; provided, however, that County must clearly and conspicuously disclose the material terms and conditions of each Single Code to each County User, including that use of the code is not guaranteed. County acknowledges and agrees that: (1) a Single Code may be used by consumers that County did not intend to target (including non-County Users), but County will be financially responsible for the number of times the Single Code is used to access Uber Services; and (2) Uber will direct all individuals that try to access a Single Code after County reaches the usage limitations to contact County. Notwithstanding section 6(a)(ii)(1)(2) above, County acknowledges and agrees that Uber will not be liable (i) to County Users targeted to receive an Uber Voucher but unable to use their Single Code, or (ii) to County for Uber's non-fulfillment of the Uber Voucher because County usage limitations have been reached.

4.3.2.2. **Individualized Codes**. For any Program that utilizes Individualized Codes, it is County's responsibility to (1) correctly deliver such codes to County Users and (2) to clearly and conspicuously disclose the material terms and conditions of each Individualized Code to each County User. County acknowledges and agrees that Uber will direct all individuals that try to access an Individualized Code after such Code has expired to contact County.

4.4. **Uber Voucher Limitations**. County shall ensure that the maximum aggregate Redemption Value of Uber Vouchers that County has available at any given time during the Term shall not exceed the credit amount authorized by Uber for County's Monthly Billing, unless Uber agrees in writing to allow County to distribute a different amount of Uber Vouchers. Each Uber Voucher created by County shall:

(1) expire no later than the termination date; (2) have a minimum Redemption Value for each region for which an Uber Voucher was ordered as specified in the Dashboard; (3) be valid for redemption in areas where Uber Vouchers are available until such Uber Voucher expires; and (4) be usable for the County User receiving such Uber Voucher (i.e. County User cannot be located in New York, New York and have the code only valid for San Francisco, California).

4.5. **Restrictions of Use**. County cannot use Uber Vouchers with any third-party promotion, agreement, relationship, marketing event, partnership, or any other use case without Uber's prior written consent. County agrees it will not apply, or allow to be applied, the Uber Voucher to an County User account without first disclosing all of the disclaimers stated in Section 6(e)(iv) below.

4.6. Modification or Cancellation of Uber Vouchers. After a Program is created, County may: (1) update a Program to make the restrictions and/or value more permissive if the Uber Voucher code has not yet been distributed to County Users, or (2) cancel a Program, in which case County shall immediately notify all affected County Users that County has cancelled the Program and that Uber is not responsible for the Program cancellation. County acknowledges and agrees that if County modifies or cancels a Program: (1) County remains financially responsible to County Users who received an Uber Voucher from County, even if the County User utilized such Uber Voucher after County modified or cancelled the Program; and (2) County Users who contact Uber because they are unable to utilize an Uber Voucher code for a modified or cancelled Program will be directed by Uber to contact County about any modification or cancellation issues. County acknowledges and agrees that Uber will not be liable to: (i) County Users who received an Uber Voucher, but were unable to utilize the Uber Voucher following County's modifications to or cancellation of the Program, or (ii) County for Uber's non-fulfillment of the Uber Voucher as a result of modifications to or cancellation of the Program by County.

4.7. Marketing and Messaging Related to Uber Vouchers.

- 4.7.1. **Marketing Guidelines.** At all times during the Term, County shall follow the marketing guidelines that the parties have agreed to in this Agreement ("Transit County Marketing Toolkit"), which Uber may update from time to time in its discretion.
- 4.7.2. **Approved Use Cases.** County agrees to use Uber Vouchers only for the specific purposes described in Exhibit 1. During the Term, County shall obtain prior written consent from Uber to use Uber Vouchers for any purpose other than the approved use case.
- 4.7.3. **Delivery of Uber Vouchers to County Users.** County will receive Uber Vouchers in the form of code links, that County may deliver to County Users via email, SMS, social media, online in other digital media, in broadcast media, in print, or OOH, so long as County takes down any communication containing the delivery or distribution of an Uber Voucher after such Uber Voucher's expiration date. In the event that County delivers Uber Vouchers via email, County shall ensure that it is the sole sender of the email as defined by the CAN-SPAM Act and that Uber does not appear as the sender of such email. If County delivers Uber Vouchers via SMS, those messages are marketing text message and County shall ensure that it is in compliance with the TCPA by obtaining affirmative prior express written consent from all County Users to send them such messages and will make clear in the message that it is being sent by County (as opposed to Uber).
- 4.7.4. **Uber Vouchers for Transit Agencies Disclaimer.** County shall ensure that its delivery or distribution of an Uber Voucher to an County User, or any related communication, shall include a prominent disclaimer notifying the County User that the Uber Voucher: (a) may only be redeemed for rides requested via Uber's mobile application; (b) is subject to an expiration date; (c) is subject to specific, defined geographic restrictions; (d) is subject to a maximum Redemption Value; (e) value is non-transferrable to other Uber accounts,

users, or products once redeemed by an County User; and (f) has no cash value and may not be redeemed for cash, except as required by law. The following is a pre-approved disclaimer for a Single Code voucher:

“Limited Availability. No cash value. Maximum discount of \$[#] per [Uber product] trip. Maximum of [#] [Uber product] trips per person [per week/day/month]. To redeem discount, Uber Voucher code [INSERT LINK] must be applied to Wallet section of the Uber app before requesting the first ride [within area/along bus route] [until date/between time and date and time and date]. Expires on [DATE]. For details on eligible transit zones see HERE [<-- link]. Uber Voucher does not apply to tips. Terms subject to change or cancellation. Issues involving redemption and/or use of the Uber Voucher code should be directed to County at [INSERT COUNTY CONTACT INFO].”

For an Individualized Code voucher, County should use the pre-approved Single Code voucher disclaimer paragraph above and also add the following disclaimer at the beginning:

“Limited to one code per person. Can only be used by the first person who redeems the code. Non-transferrable.”

4.8. **Uber Account Required.**

- 4.8.1. **Active Uber Rider Account Required.** County acknowledges and agrees that before an individual can activate an Uber Voucher for access to Uber Services under this Agreement, such proposed County User must have an active Uber rider account for Uber Services (“**Rider Account**”).
- 4.8.2. **Violations.** County acknowledges that certain proposed County Users may be suspended or banned from use of Uber Services due to violating Uber’s End User Terms or Community Guidelines, available at <https://www.uber.com/legal/community-guidelines> (collectively, “**Violations**”), and that Uber is not obligated or liable to a prospective County User that is unable to utilize an County-generated Uber Voucher due to Violations. If an County User’s Rider Account is suspended or terminated in accordance with the End User Terms, that County User’s access to Uber Vouchers shall also be immediately suspended.
- 4.9. **Restrictions.** County agrees to use the Corporate Account, and Uber Vouchers, solely as stated in this Agreement. County shall not, and shall not authorize others to: (a) decompile, disassemble, reverse engineer or otherwise attempt to derive the source code or underlying technology, methodologies or algorithms of the Uber Voucher, Uber Service, or Uber App, except to the extent allowed by applicable law, (b) sublicense, lease, rent, sell, give, or otherwise transfer or provide the Uber Service or Uber App to any unaffiliated third party, (c) modify or alter any Uber Voucher unless permitted under this Agreement, or (d) otherwise impose any additional fees or charges on an County User related to their use of the Uber Vouchers. Uber reserves all rights not granted to County or County Users under this Agreement.
- 4.10. **Uber Voucher for Transit Agencies Usage.**

- 4.10.1. Uber Vouchers and the resulting discount codes may be used for personal purposes only by individuals that receive an Uber Voucher via either a Single Code or an Individualized Code.
- 4.10.2. County or County Users may not use or resell the Uber Vouchers and resulting discount codes in connection with any marketing, advertising, promotional or other commercial activities, including, without limitation, via websites, Internet advertisements, email, telemarketing, direct mail, newspaper and magazine advertisements, radio and television broadcasts, or otherwise, authorized under the Transit Voucher Terms of this Agreement.
- 4.10.3. County is responsible for lost, stolen, or misused Uber Vouchers and the resulting discount codes or Utilization Charges assessed on Billing Statement.
- 4.10.4. Uber reserves the right to close or suspend an County's or County User's account, to adjust balances and/or request alternative forms of payment if Uber determines in its sole discretion that an Uber Voucher is or has been fraudulently obtained or used.

Uber may cease offering the Uber Vouchers for Transit Agencies program at any time and for any reason.

5. Intellectual Property.

5.1. **License to Marks; Restrictions.** The term "**Uber Marks**" shall mean the trademarks identified as Uber Marks in Exhibit 2. The term "**County Marks**" shall mean the trademarks identified as County Marks in Exhibit 2. The term "**Territory**" shall mean the territory identified in Exhibit 2.

- 5.1.1. Uber hereby grants to County, solely during the Term and solely in the Territory, a limited, royalty-free, non-exclusive, non-transferable, non-assignable license, without the right to sublicense, to use and display the Uber Marks only as expressly permitted by Uber in each instance. All use of the Uber Marks by County will be in the form and format approved by Uber, and County will not otherwise use or modify the Uber Marks without Uber's prior written consent. All goodwill related to County's use of the Uber Marks shall inure solely to the benefit of Uber. The Uber Marks will at all times remain the exclusive property of Uber. Except as stated in this Agreement, Uber does not, and shall not be deemed to, grant County any license or rights under any intellectual property or other proprietary rights. All rights not granted in this Agreement are reserved by Uber.
- 5.1.2. County hereby grants to Uber, solely during the Term and solely in the Territory, a limited, royalty-free, non-exclusive, non-transferable, non-assignable license, without the right to sublicense, to use and display the County Marks only as permitted by County in each instance. All use of the County Marks by Uber will be in the form and format approved by County, and Uber will not otherwise use or modify the County Marks without County's prior written consent. All goodwill related to Uber's use of the County Marks shall inure solely to the benefit of County. The County Marks will at all times remain the exclusive property of County. Except as stated in this Agreement, County does not, and shall not be deemed to, grant Uber any license or rights under

any intellectual property or other proprietary rights. All rights not granted in this Agreement are reserved by County.

- 5.1.3. **Use of Uber Marks; Guidelines.** Any use by County of Uber Marks shall be subject to Uber's prior written approval, which shall be deemed granted with respect to such uses compliant with the Uber Trademark Usage Guidelines available at <https://developer.uber.com/docs/riders/guides/design-guidelines>, as may be amended from time to time by Uber in its sole discretion (the "**Design Guidelines**"). If County uses Uber Marks, County will comply with the Design Guidelines, including without limitation, all additional directions given by Uber to County as to the content, colors, size, "look and feel" and other elements of any and all representations of Uber's Marks. Uber reserves the right to immediately suspend County's Corporate Account and suspend any or all access to Uber Vouchers by County Users if Uber, in its sole discretion, determines at any time during the Term that County breached any of its obligations under this Agreement with respect to authorized usage of Uber Marks.
6. **Confidentiality.** The term "Confidential Information" shall mean any confidential or proprietary business, technical or financial information or materials of a party ("**Disclosing Party**") provided to the other party ("**Receiving Party**") in connection with the Agreement, whether orally or in physical form, and shall include the terms of the Agreement and be subject to applicable provisions of Florida's public records laws, Chapter 119, Florida Statutes (hereinafter "Public Records Disclosure Laws"). However, Confidential Information shall not include information (a) previously known by Receiving Party without an obligation of confidentiality, (b) acquired by Receiving Party from a third party which was not, to Receiving Party's knowledge, under an obligation of confidentiality, (c) that is or becomes publicly available through no fault of Receiving Party, or (d) that Disclosing Party provides written permission to Receiving Party to disclose, but only to the extent of such permitted disclosure.
 - 6.1. **Restrictions.** Receiving Party agrees that (a) it will use Confidential Information solely for the purposes permitted under this Agreement and (b) it will not disclose the Confidential Information to any third party other than Receiving Party's employees or agents who are bound by obligations of nondisclosure and restricted use at least as strict as those contained herein. In the event Receiving Party receives a subpoena, administrative or judicial order, or any other requests for disclosure of any Confidential Information of Disclosing Party, to the extent possible pursuant to applicable Public Records Disclosure Laws, Receiving Party will give Disclosing Party written notice of such subpoena, order, or request at least five (5) days before disclosure, and allow Disclosing Party to assert any available defenses to disclosure in the appropriate court or other applicable venue.
 - 6.2. **Public Records Laws.** Uber acknowledges that County may be subject to Public Records Disclosure Laws. County agrees to make diligent efforts to prevent the disclosure of confidential and/or exempt records pursuant to any available bases stated in the Public Records Disclosure Laws or other applicable law. To the extent possible pursuant to applicable Public Records Disclosure Laws, County agrees to notify Uber of such disclosure requirements at least five (5) days before disclosure, and to allow Uber reasonable opportunity to object to

production. If County determines the material is not exempt from disclosure pursuant to Public Records Disclosure Laws, County will notify Uber of the request and, to the extent possible pursuant to applicable Public Records Disclosure Laws, allow Uber twenty (20) business days to take whatever action it deems necessary to protect its interests. If County is required to release Uber's Confidential Information, it agrees to use any available authorities to redact personal or business Confidential Information from such records to the extent permissible by applicable law and final judgment.

6.3. Nonpublic Personal Information. If County mistakenly, inadvertently, or inappropriately obtains access to any Personal Data related to an Uber Voucher or the Uber Services utilized by a rider in connection with this Agreement, County shall immediately notify and return it to Uber (and shall cause its employees or agents to do the same). County shall not (i) copy, duplicate, or otherwise reproduce or retain any portion of any Personal Data in any form or manner whatsoever, nor permit any of its employees or agents to do so, nor (ii) enhance any database or any other files or other media by using any Personal Data. Personal Data shall mean data not subject to disclosure pursuant to Public Records Disclosure Laws

6.4. Confidential Information Security. Receiving Party will protect the Disclosing Party's Confidential Information in the same manner that it protects the confidentiality of its own proprietary and confidential information, but in no event using less than a reasonable standard of care.

7. Privacy and Data Security.

7.1.1. Uber Data Restrictions. Uber's collection and use of Uber Personal Data, including information Uber obtains from individuals to establish an Uber Rider Account, shall be treated by Uber in accordance with the Uber privacy statement, available at www.uber.com/legal/privacy, as may be updated by Uber from time to time. Uber agrees that County Personal Data shall be used solely for the authentication, verification, and linking purposes described in this Agreement and for no other purpose. Uber shall limit access to County Personal Data solely to Uber personnel who have a legitimate business need to access such County Personal Data. Uber will not disclose County Personal Data to any third party unless expressly authorized in writing by County, except for Uber service providers who have a legitimate business need to access County Personal Data to carry out work solely on Uber's behalf and for no other purpose, and who are in each case bound by privacy and security obligations regarding County Personal Data that are at least as restrictive as those contained herein.

7.1.2. Security. Uber and County agree to implement and maintain appropriate technical, physical, and organizational measures to protect the other's personal data against unauthorized or unlawful processing and against unauthorized loss, destruction, damage, alteration, or disclosure, keeping in mind the nature of the information. In the event of a data breach involving the other party's personal data, each party shall notify the other promptly after becoming aware that the data breach involved the other party's personal data.

Such notice shall include at least: (1) the nature of the breach of security measures; (2) the types of potentially compromised personal data; (3) the duration and expected consequences of the data breach; and (4) any mitigation or remediation measures taken or planned in response to the data breach. Upon any such discovery, each party will (a) take all reasonable steps to investigate, remediate, and mitigate the effects of the data breach, and (b) provide the other with assurances that such data breach will not recur.

8. **Contract Amendment.** All changes to the Agreement shall be made in writing through an amendment by mutual agreement. No oral statement or other conduct by either party shall change or modify the Agreement. The County may perform an analysis of cost, price or schedule to determine the reasonableness of the proposed change to the Agreement and if County is unsatisfied with the proposed change, County's sole remedy is to terminate the Agreement and pay Uber for all remaining invoiced amounts.
9. **INDEMNIFICATION AND INSURANCE.** Each party ("**Indemnifying Party**") will indemnify, defend and hold harmless the other party ("**Indemnified Party**"), its directors, officers, employees, agents, successors and assigns against all claims, damages, losses and expenses (including reasonable outside attorney fees) with respect to any third-party claim arising out of or related to: (a) a breach (or claim that, if true, would be a breach) of any of the Indemnifying Party's representations or warranties in this Agreement, or (b) the infringement of a third party's intellectual property rights by the Indemnifying Party's Marks, but only if such Marks have been used by the Indemnified Party in the manner authorized under this Agreement.
 - 9.1. Additionally, County, as an Indemnifying Party, will indemnify, defend and hold harmless Uber, as an Indemnified Party, its Affiliates and their respective directors, officers, employees, agents, successors and assigns against all claims, damages, losses and expenses (including reasonable outside attorney fees) with respect to any third-party claim arising out of or related to County's use and distribution of the Uber Vouchers, including but not limited to County's marketing, advertising, promoting, communicating, or delivering the Uber Voucher to County Users in any manner in any media. This means that if County Users are unable to redeem their Single or Individualized Codes because the funds attributable to such Codes have already been used, County shall indemnify Uber for any claims made by such County Users.
 - 9.2. The Indemnified Party shall provide prompt notice to the Indemnifying Party of any potential claim subject to indemnification hereunder. The Indemnifying Party will assume the defense of the claim through counsel designated by it and reasonably acceptable to the Indemnified Party. The Indemnifying Party will not settle or compromise any claim, or consent to the entry of any judgment, without written consent of the Indemnified Party, which will not be unreasonably withheld. The Indemnified Party will reasonably cooperate with the Indemnifying Party in the defense of a claim, at Indemnifying Party's expense.
10. **Limits of Liability.** OTHER THAN EITHER PARTY'S INDEMNIFICATION OBLIGATIONS OR OBLIGATIONS WITH RESPECT TO A BREACH OF CONFIDENTIALITY, (A) IN NO EVENT SHALL UBER OR COUNTY BE LIABLE FOR

ANY INDIRECT, PUNITIVE, INCIDENTAL, EXEMPLARY, SPECIAL OR CONSEQUENTIAL DAMAGES, OR FOR LOSS OF BUSINESS OR PROFITS, SUFFERED BY THE OTHER PARTY OR ANY THIRD PARTY ARISING OUT OF THIS AGREEMENT, WHETHER BASED ON CONTRACT, TORT OR ANY OTHER LEGAL THEORY, EVEN IF UBER OR COUNTY (OR THEIR AGENTS) HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND (B) IN NO EVENT SHALL EITHER PARTY BE LIABLE UNDER THIS AGREEMENT FOR ANY DIRECT DAMAGES IN AN AMOUNT EXCEEDING ONE HUNDRED THOUSAND DOLLARS (\$100,000).

The Contractor shall furnish to the Department of Transportation and Public Works Certificate(s) of Insurance meeting the following requirements:

- (a) Commercial General Liability (including contractual liability, personal and advertising injury and products and completed operations) with a limit of one million dollars (US\$1,000,000) per occurrence and two million dollars (US\$2,000,000) in the aggregate for bodily injury and property damage.
- (b) Workers Compensation Statutory (for all states of operation) including Employer's Liability with limits of not less than one million dollars (US\$1,000,000).
- (c) Commercial Auto Liability insurance for all owned, hired and non-owned vehicles for bodily injury, including death and property damage for limits of one million dollars (US\$1,000,000) each accident combined single limit.
- (d) The insurance obligations stated here are in addition to those that may be required of Transportation Network Companies by applicable law in Agency's jurisdiction.

All insurance policies required above shall be issued by companies authorized to do business under the laws of the State of Florida, with the following qualifications:

The company must be rated no less than "A-" as to management, and no less than "Class VII" as to financial strength, by Best's Insurance Guide, published by A.M. Best Company, Oldwick, New Jersey, or its equivalent, subject to the approval of the County Risk Management Division.

or

The company must hold a valid Florida Certificate of Authority as shown in the latest "List of All Insurance Companies Authorized or Approved to Do Business in Florida" issued by the State of Florida Department of Financial Services.

NOTE: CERTIFICATE HOLDER MUST READ: MIAMI-DADE COUNTY
111 NW 1st STREET
SUITE 2340
MIAMI, FL 33128

11. **Mutual Warranties.** Each party hereby represents and warrants that (a) it has full power and authority to enter into this Agreement and perform its obligations hereunder, (b) such party's acceptance of this Agreement, as well as such party's performance of the obligations set forth in this Agreement, does not and will not violate any other agreement to which such party is a party, (c) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its origin, (d) it shall comply with all applicable laws and regulations applicable to the performance of its obligations hereunder, and (e) such party's Marks as provided by such party pursuant to this Agreement and used in accordance herewith will not infringe or otherwise violate the intellectual property rights, rights of publicity or other proprietary rights of any third party.
12. **County Warranties.** County represents and warrants that: (a) as it relates to County's activities involving the Uber Vouchers, including but not limited to the Programs, and the marketing, promotion and any other form of communications regarding the Uber Vouchers, County will comply with the Design and Marketing Guidelines and all applicable law (including, without limitation, CAN-SPAM and TCPA); (b) County is responsible for the full cost of all Uber Vouchers used, whether Single Codes or Individualized Codes, and whether or not used as intended by County Users or others; and (c) County will comply with Uber's Terms of Use and Community Guidelines and other applicable terms and policies, including but not limited to not engaging in the following prohibited behaviors and uses: (i) using Uber to commit a crime, (ii) riders carrying firearms, and (iii) using Uber to facilitate nuisance, annoyance, inconvenience, property damage, or violations of state or federal law or regulation. County further represents and warrants that Company has obtained rights, permission and legally adequate consent from County Users: (a) to receive SMS messages and other communications from Uber in connection with Uber Vouchers and the Uber Service; and (b) for Uber to provide County with detailed trip information for the Uber Voucher that an County User has charged to County's program.
13. **Disclaimer.** EXCEPT AS EXPRESSLY PROVIDED HEREIN, UBER PROVIDES THE UBER SERVICE, UBER APP AND UBER VOUCHERS "AS IS" AND WITHOUT WARRANTY. UBER DOES NOT WARRANT THAT THE FUNCTIONS CONTAINED IN THE UBER SERVICE, UBER APP AND UBER VOUCHERS WILL MEET COUNTY'S REQUIREMENTS OR THAT THE OPERATION OF THE UBER SERVICE, UBER APP, OR UBER VOUCHERS WILL BE UNINTERRUPTED OR ERROR FREE. UBER HEREBY DISCLAIMS ALL OTHER WARRANTIES WITH RESPECT TO THIS AGREEMENT, WHETHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, (A) ANY IMPLIED OR STATUTORY WARRANTIES COVERING THE UBER SERVICE, THE UBER APP, OR UBER VOUCHERS, AND (B) ANY IMPLIED WARRANTIES OF MERCHANTABILITY, NONINFRINGEMENT OR FITNESS FOR A PARTICULAR PURPOSE. COUNTY ACKNOWLEDGES AND AGREES THAT THE UBER SERVICE IS A TECHNOLOGY SYSTEM THAT ENABLES ACCESS TO REQUEST ON-DEMAND GROUND TRANSPORTATION AND LOGISTICS SERVICES PROVIDED BY INDEPENDENT THIRD-PARTY PROVIDERS. UBER IS NOT A TRANSPORTATION OR LOGISTICS PROVIDER. UBER DOES NOT GUARANTEE AVAILABILITY OF

TRANSPORTATION OR LOGISTICS SERVICES, ON-TIME ARRIVALS OR DEPARTURES THEREOF, OR ANY OTHER SERVICES LEVELS RELATED TO INDEPENDENT TRANSPORTATION OR LOGISTICS PROVIDERS THAT MAY BE OBTAINED VIA THE UBER SERVICE.

14. Ownership. County agrees that Uber and its Affiliates are and shall remain the owners of all right, title and interest in and to the Uber Service, Uber App, including any updates, enhancements and new versions thereof, all data related to the use of the Uber Services, and all related documentation and materials provided or made available to County or any proposed County User or County User in connection with this Agreement. All rights not expressly granted are withheld.

15. NOTICES. All notices, demands, requests, consents, approvals and other instruments required or permitted to be given pursuant to this Agreement shall be in writing, signed by the notifying Party, or officer, agent or attorney of the notifying Party, and shall be deemed to have been effective upon delivery if served personally, including but not limited to delivery by messenger, overnight courier service or by overnight express mail, or on the third (3rd) business day after posting if sent by registered or certified mail, postage prepaid, return receipt requested, and addressed as follows:

To County:

**Miami-Dade County
Department of Transportation and Public Works
701 N.W. 1st Court, Suite 1700
Miami, Florida 33136-3922
Attn: Linda Morris
Email: Linda.Morris@miamidade.gov**

To Contractor:

**Uber Technologies Inc.
1515 3rd Street
San Francisco, CA 94158
Attention: Legal - Transactions
Email: transit-legal-us@uber.com**

16. MISCELLANEOUS PROVISIONS.

16.1 Independent Private Sector Inspector General (IG) Requirements.

Pursuant to Miami-Dade County Administrative Order No. 3-20, the County has the right to retain the services of an Independent Private Sector Inspector General (the "IPSIG"), whenever the County deems it appropriate to do so. Upon written notice from the County, the Contractor shall make available to the IPSIG retained by the County, all requested records and documentation pertaining to this Agreement for inspection and reproduction. The County shall be responsible for the payment of these IPSIG services, and under no circumstance shall the Contractor's prices

and any changes thereto approved by the County, be inclusive of any charges relating to these IPSIG services. The terms of this provision apply to the Contractor, its officers, agents, employees, Subcontractors, and assignees. Nothing contained in this provision shall impair any independent right of the County to conduct an audit or investigate the operations, activities, and performance of the Contractor in connection with this Agreement. The terms of this Article shall not impose any liability on the County by the Contractor or any third party.

16.2 Miami-Dade County Inspector General Review.

According to Section 2-1076 of the Code, Miami-Dade County has established the Office of the Inspector General which may, on a random basis, perform audits on all County contracts, throughout the duration of said contracts. The cost of the audit for this Contract shall be one quarter of one percent (0.25%) of the total Contract amount which cost shall be included in the total Contract amount. The audit cost will be deducted by the County from progress payments to the Contractor. The audit cost shall also be included in all change orders and all Contract renewals and extensions.

Exception: The above application of one quarter of one percent (0.25%) fee assessment shall not apply to the following contracts: (a) IPSIG contracts; (b) contracts for legal services; (c) contracts for financial advisory services; (d) auditing contracts; (e) facility rentals and lease agreements; (f) concessions and other rental agreements; (g) insurance contracts; (h) revenue-generating contracts; (i) contracts where an IPSIG is assigned at the time the contract is approved by the Board; (j) professional service agreements under \$1,000; (k) management agreements; (l) small purchase orders as defined in Miami-Dade County Implementing Order No. 3-38; (m) federal, state and local government-funded grants; and (n) interlocal agreements. Notwithstanding the foregoing, the Miami-Dade County Board of County Commissioners may authorize the inclusion of the fee assessment of one quarter of one percent (0.25%) in any exempted contract at the time of award.

Nothing contained above shall in any way limit the powers of the Inspector General to perform audits on all County contracts including, but not limited to, those contracts specifically exempted above. The Miami-Dade County Inspector General is authorized and empowered to review past, present, and proposed County and Trust contracts, transactions, accounts, records, and programs. In addition, the Inspector General has the power to subpoena witnesses, administer oaths, require the production of records, and monitor existing projects and programs. Monitoring of an existing project or program may include a report concerning whether the project is on time, within budget and in conformance with plans, specifications, and applicable law. The Inspector General is empowered to analyze the necessity of and reasonableness of proposed change orders to the Contract. The Inspector General is empowered to retain the services of IPSIGs to audit, investigate, monitor, oversee, inspect, and review operations, activities, performance and procurement process, including but not limited to project design, specifications, proposal submittals, activities of the Contractor, its officers, agents and employees, lobbyists, County staff and elected officials to ensure compliance with contract specifications and to detect fraud and corruption.

Upon written notice to the Contractor from the Inspector General or IPSIG retained by the Inspector General, the Contractor shall make all requested records and documents available to the Inspector General or IPSIG for inspection and copying. The Inspector General and IPSIG shall have the right to inspect and copy all documents and records in the Contractor's possession, custody or control which, in the Inspector General's or IPSIG's sole judgment, pertain to performance of the Contract, including, but not limited to original estimate files, change order estimate files, worksheets, proposals and agreements form and which successful and unsuccessful Subcontractors and suppliers, all project-related correspondence, memoranda, instructions, financial documents, construction documents, proposal and contract documents, back-charge documents, all documents and records which involve cash, trade or volume discounts, insurance proceeds, rebates, or dividends received, payroll and personnel records, and supporting documentation for the aforesaid documents and records.

- 17. County User Access Program (UAP). User Access Fee.** Pursuant to Section 2-8.10 of the Code of Miami-Dade County, this Contract is subject to a user access fee under the County User Access Program (UAP) in the amount of two percent (2%). All sales resulting from this Contract, or any contract resulting from the solicitation referenced on the first page of this Contract, and the utilization of the County Contract price and the terms and conditions identified herein, are subject to the two percent (2%) UAP. This fee applies to all Contract usage whether by County Departments or by any other governmental, quasigovernmental or not-for-profit entity.

The Consultant providing goods or services under this Contract shall invoice the Contract price and shall accept as payment thereof the Contract price less the 2% UAP as full and complete payment for the goods and/or services specified on the invoice. The County shall retain the 2% UAP for use by the County to help defray the cost of the procurement program. Consultant participation in this invoice reduction portion of the UAP is mandatory.

- 18. Living Wage.** See Attachment A – Living Wages Supplemental General Conditions. Contractor is advised that the provisions of Section 2-8.9 of the Code of Miami-Dade County, (Code) as may be amended, will apply to this Contract. By executing a contract pursuant to these specifications, Contractor is hereby agreeing to comply with the provisions of Section 2-8.9, and to acknowledge awareness of the penalties for non-compliance. A copy of this Code Section may be obtained online at www.miamidade.gov.

- 18.1. Uber Inspection of Records.** During the Term of the Agreement, Uber may request in writing that County provide Uber all of County's relevant records, marketing materials, and communications (including but not limited to, email and SMS messages that County, or any other third party sent to County Users in connection with an Uber Voucher) that include the Uber Marks (collectively, the "**Records**"). County shall provide the Records to Uber within thirty (30) calendar days of Uber's request for such documents. If Uber, in its sole discretion, determines that County has not met its obligations under the Agreement with respect to authorized usage of Uber Marks, Uber may immediately suspend County's Corporate Account and suspend any or all access to Uber Vouchers by

County Users and take any additional measures afforded to it by law or under the Agreement. County shall preserve all of the documents listed in this paragraph for a period of at least two (2) years from the termination or expiration of the Agreement. Uber shall bear the costs arising from administrative processing and production of records.

- 18.2. **Independent Contractor.** County and Contractor are and shall remain independent contractors. Neither Party is the representative or agent of the other and neither Party shall have any power to assume any obligations on behalf of the other. Contractor's Staff shall not be deemed to be agents or employees of the County.
- 18.3. **Assignment.** Contractor may not assign this Agreement without the express written consent of the County, provided that both parties may assign this Agreement without such consent, but with notice to the other, in connection with a merger or a sale of all of the equity or assets of either party. Notwithstanding the foregoing, Uber may assign this Agreement to an Affiliate without the prior written consent of County. Subject to the foregoing, this Agreement shall be binding upon all successors and assigns of a party.
- 18.4. **Severability.** If any provision or provisions of this Agreement shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.
- 18.5. **Venue and Choice of Law.** This Agreement shall be subject to and governed by the laws of the State of Florida, without regard to its conflict of laws principles. The Parties agree that any action or proceeding arising out of or related in any way to this Agreement shall be brought solely in a court of competent jurisdiction in Miami-Dade County, Florida, and each Party hereto submits to the jurisdiction of such courts and waives any objection to the venue and jurisdiction of such courts.
- 18.6. **Entire Agreement.** This Agreement contains the entire agreement between the Parties hereto and shall not be modified or amended in any manner except by an instrument in writing agreed to and executed by the Parties hereto. All prior understandings and agreements heretofore had between the Parties with respect to this Agreement are merged into this Agreement, which alone fully and completely expresses the understandings of the Parties.
- 18.7. **Counterparts.** This Agreement may be executed simultaneously or in counterparts, each of which together shall constitute one and the same agreement. For purposes of this Agreement, a facsimile or PDF copy shall be deemed to be an original.

[Signatures appear on following page.]

[The remainder of this page is intentionally left blank]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their respective duly authorized officers as of the date first above written.

MIAMI-DADE COUNTY, a political subdivision of the State of Florida

By: _____
(Signature)
For: County Mayor or Mayor's Designee

Date Executed: _____

Approved by the County Attorney's
Office as to form and legal sufficiency

Annery Pulgar Alfonso

Name: Annery Pulgar Alfonso Sep 21, 2021

CONTRACTOR:

Uber Technologies Inc.

By: *Dmitriy Vanchugov*

Name: Dmitriy Vanchugov

Title: Head of Transit Partnerships

Date executed: September 20, 2021

APPENDIX A**SCOPE OF WORK, REQUIREMENTS AND SPECIFICATIONS****Exhibit 1**

Scope of Work	
Name of program	Late Night Service (Go-Nightly)
<i>Location of services</i>	Miami Dade County, Florida
Background / Purpose	Provide an alternative service for transit users along bus routes that will be impacted.
Scope / Objective	Subsidized UberX rides will be provided for transit users along County designated bus routes. Riders will be able to request the rides in the Uber App via Vouchers. Riders without smartphones or would like to utilize a call center will be able to call in to request a ride. The call center will be staffed by Miami Dade County and Uber will provide call center staff with access to the Uber Central dashboard to book rides on behalf of customers.
Total program budget	This contract shall not exceed the total sum of \$166,258
Deliverables	
Program start date	N/A - Continuation of services
Period of performance	The period of performance shall commence on September 13, 2021 and shall continue through October 15, 2021 or the date by which DTPW's budget of \$166,258 as related to services is exhausted. The County may terminate this Agreement at any time and for any reason by giving ten (10) days' prior written notice to the Contractor.
Products	✓ Uber Transit Vouchers ✓ Uber Central ☐ Uber Profiles

Vehicle Types Available	☒ Uber X ☐ UberPool ☐ Uber XL ☐ Uber WAV
Geographic restrictions <i>Please note for all geographic restrictions the agency should be prepared to provide Uber with a shapefile in KML or GeoJSON format.</i>	Eligible for trips to or from any point within a 500 feet buffer from a single route alignment. There are a total of 9 routes. Information provided in .shp format. Miami-Dade County Transit Routes: 3, 11, 27, 38, 77, 112/L, 119/S, 246, and 500 See Figure 1, Map of Geographical Restrictions
Days of operation	Seven days a week
Hours of operation	From 12:00 a.m. to 4:59 a.m.
Subsidy level per trip	☐ Trips are 100% subsidized within geographic zone ☐ Trips are 100% covered between locations/zones ☐ _____subsidy to/from geographic zones/locations ☒ \$35 subsidy within geographic zone (applied upon rider having paid a \$2.25 fare) ☐ If the rider should be responsible for an upfront fare, please define that fare here _____
Additional Subsidy Limitations	☐ No more than _____trips to/from geographic zone/locations ☐ per day ☐ per week ☐ per month ☒ No more than 2 trips within geographic zone ☒ per night ☐ per week ☐ per month

Program distribution	☒ Email from agency ☐ Email from Uber ☐ Agency Website or blog post ☒ Uber website or blog post ☒ Agency print media at eligible bus stops ☐ ☐ ☐ Other: _____ ☐ _____ ☐ Physical Mailer ☐ Special Eligibility Requirements (go to next Section)
Reporting	
Data reporting	Uber Dashboard Access ☒ Per Trip ☐ Date ☐ Cost to Agency ☐ Amount paid by Rider ☐ Origin & destination information ☐ ATA ☐ Distance ☐ Duration ☐ Other _____ Monthly Invoice ☐ Total trips ☐ ☐ Other (please define) _____ ☐ ☐ Missed trips (i.e., requested but not fulfilled)

Special conditions (if applicable) <i>Please note any requirements for reporting format, delivery method (API Integration)</i>	Available to all riders who meet the other requirements outlined above.
--	--

Figure 1. Map of Geographical Restrictions

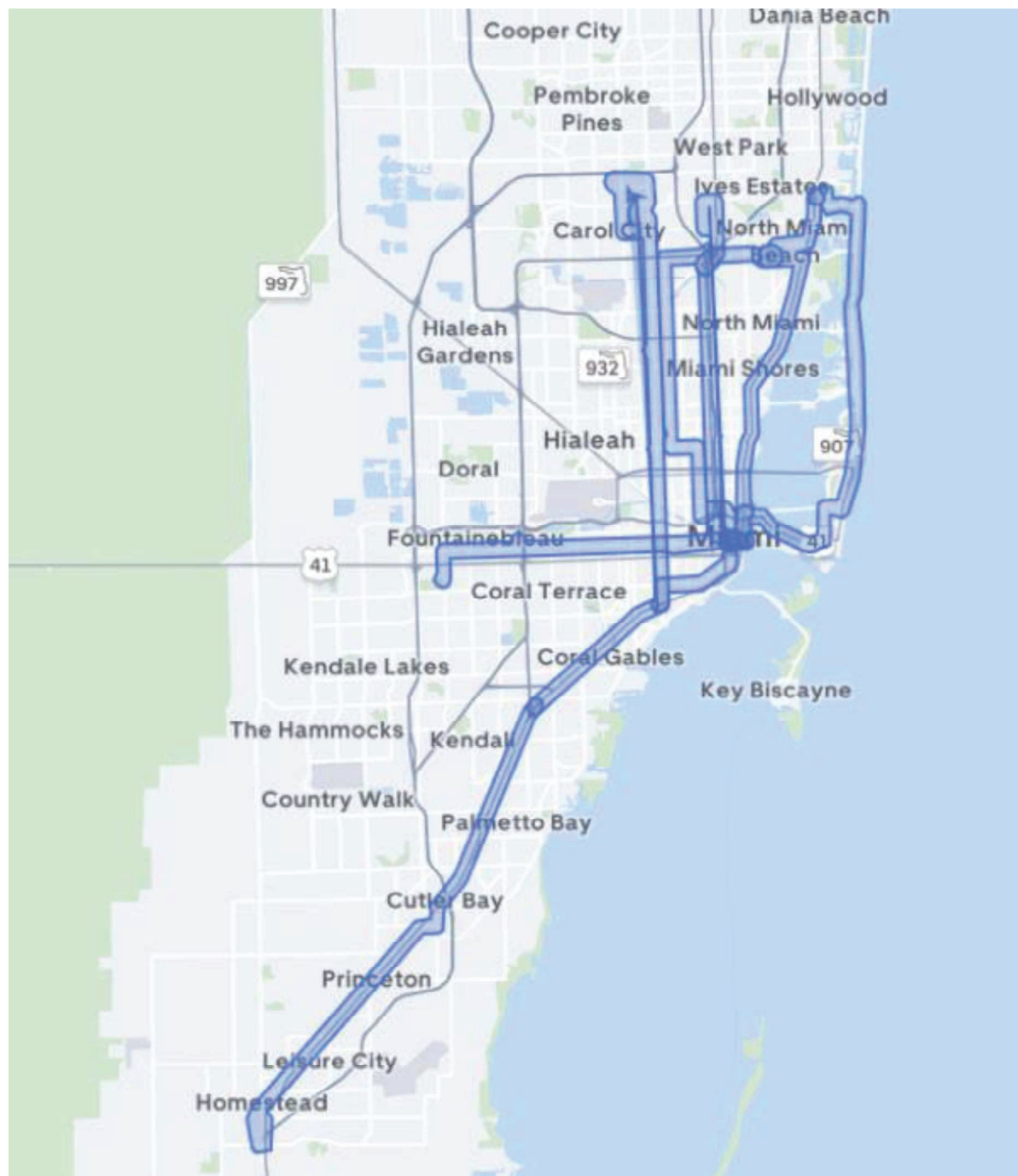


Exhibit 2

Trademarks and Territory

Uber Marks

<u>Trademark</u>	<u>Description</u>	<u>Territory</u>
UBER	Word mark	United States
	Rider Logo	United States



County Marks

<u>Trademark</u>	<u>Description</u>	<u>Territory</u>
Miami Dade County	Word Mark	United States



AGREEMENT TO PROVIDE ON-DEMAND AFTER-HOURS TRANSPORTATION SERVICES

THIS AGREEMENT (the “Contract” or “Agreement”) is made and entered into this 16th day of October, 2021 (the “Effective Date”), by and between Miami-Dade County, FLORIDA, a political subdivision of the State of Florida, through the Miami-Dade Department of Transportation and Public Works, a Department of the County (“DTPW”) (Miami-Dade County is hereinafter referred to as “County” or “DTPW”), and Uber Technologies Inc. (“Contractor” or “Uber”), with a location at 1515 3rd Street, San Francisco, CA 94158. County and Contractor are sometimes individually referred to herein as a “Party” and collectively as the “Parties.”

TERMS AND CONDITIONS

1. **TERM AND TERMINATION.** This Agreement shall commence on October 16, 2021 and shall continue through December 31, 2021 or the date by which DTPW’s budget of \$387,937 as related to services is exhausted. The County may terminate this Agreement at any time and for any reason by giving ten (10) days’ prior written notice to the Contractor.

2. **SCOPE OF WORK, REQUIREMENTS, AND SPECIFICATIONS.** Contractor shall provide access to Uber Vouchers services meeting DTPW’s System Requirements and Parameters, and all portions of **Appendix A**, which is incorporated fully herein by reference and made part hereof for all purposes.
 - 2.1. **Uber Vouchers.** Uber shall provide County with access to (a) Uber’s browser-based online dashboard for “*Uber Vouchers for Transit*” customers (“**Dashboard**”), and (b) the Vouchers for Transit Agencies product (“**Uber Vouchers**”) that will allow County to distribute Uber Vouchers in accordance with the terms of this Agreement. County agrees to: (i) maintain an “*Uber Vouchers for Transit*” account (“**Corporate Account**”) under the terms and conditions of this Agreement.

 - 2.2. **Service Area.** Vouchers shall be available for redemption on trips completed along Miami-Dade transit routes: 3, 11, 27 (including connection to Miami Intermodal Center), 38, 77, 112/L, 119/S, 246, and 500.

 - 2.3. **Time for Provision of Services.** Contractor shall ensure Vouchers are available from Monday through Sunday, Midnight (12:00 a.m.) to 5:00 a.m., including holidays.

 - 2.4. **Labor, Materials, and Equipment.** Contractor shall furnish access to Uber Vouchers and customer support services required to provide the services under this Agreement.

 - 2.5. **Safety & Safety Supplies.** Contractor shall be responsible for providing Contractor’s agents, staff, employees, and independent contractors who

will perform Services on behalf of Contractor under this Agreement (hereinafter "Contractor's Staff") with all personal protective equipment such as, hats gloves, masks, face shields, safety vest etc. that Contractor deems necessary for the safety of Contractor's Staff.

3. **FEES AND PAYMENT.** County shall pay the Contractor a not to exceed amount of **\$35** per ride. County's subsidy to be applied upon payment of \$2.25 fare by rider. The contractor should invoice monthly and to be paid within 30 days following the invoice date. Contractor will invoice or charge Agency for the full dollar amount of actual Codes redeemed by Agency or its Riders for the preceding month, in addition to a 2.25% platform fee in accordance with the Agreement.
4. **Access to Dashboard.** Uber shall provide County with access to the Dashboard under the Terms of this Agreement. Uber's primary contact with County shall be through the individual employee or agent that County identifies in writing to Uber ("**Administrator**"). The Dashboard will enable County to (a) view and pay Monthly Statements; and (b) view current, appoint new, and remove Administrators. Uber reserves the right to add, remove and update features and functionality of the Dashboard at any time. Subject to County's compliance with this Agreement, Uber agrees to use commercially reasonable efforts to provide access to the Dashboard and Uber Vouchers to County as stated in this Agreement.
 - 4.1. **Administration.** County may appoint additional administrators at its discretion. County agrees to (a) maintain all Dashboard login credentials in confidence, (b) only permit the lead Administrator and County's other authorized administrators to access the Dashboard, and (c) update all information of the lead Administrator and other authorized administrators to ensure that it is current, accurate, and complete. County shall be responsible for all activity that occurs under its Dashboard login credentials, including, but not limited to, all Uber Programs, and Uber Vouchers created for County use on the Dashboard.
 - 4.2. **County User Updates.** It is County's sole responsibility to keep and maintain an accurate list of current County Users authorized to receive and utilize Uber Vouchers.
 - 4.3. **Creating Uber Programs and Uber Vouchers; Limitations.**
 - 4.3.1. An Uber Account Manager will create the Uber Vouchers for County to distribute to County Users. Such vouchers may only be used where Uber makes Uber Vouchers available to County. County acknowledges and agrees that it is responsible for all marketing, promotion, and advertising of County programs for which Uber Vouchers are created, including but not limited to ensuring that such marketing, promotion, and advertising complies with all applicable laws, rules, regulations and ordinances and does not harm the goodwill or reputation of Uber.
 - 4.3.2. County can choose to either create a Program with: (a) one Uber Voucher to distribute to all County Users (a "**Single Code**"); or (b) individualized Uber Vouchers that County can distribute to each County User, with the following restrictions: limited to one code per person, only redeemable by the first person who redeems the code (an "**Individualized Code**"). County acknowledges that

Uber cannot prevent an County User from sharing a Single Code or an Individualized Code with a non-County User, and that Uber cannot disaggregate County User transactions from non-County User transactions when determining Utilization Amounts. County acknowledges and agrees to pay Utilization Amount generated from all redeemed Uber Vouchers under the terms stated in this Agreement up to the Uber Voucher Limit, even in the event that Utilization Amounts are impacted by code sharing or non-intended use.

4.3.2.1. **Single Codes**. For any Program that utilizes a Single Code, County may limit the number of times such code can be used; provided, however, that County must clearly and conspicuously disclose the material terms and conditions of each Single Code to each County User, including that use of the code is not guaranteed. County acknowledges and agrees that: (1) a Single Code may be used by consumers that County did not intend to target (including non-County Users), but County will be financially responsible for the number of times the Single Code is used to access Uber Services; and (2) Uber will direct all individuals that try to access a Single Code after County reaches the usage limitations to contact County. Notwithstanding section 6(a)(ii)1)(2) above, County acknowledges and agrees that Uber will not be liable (i) to County Users targeted to receive an Uber Voucher but unable to use their Single Code, or (ii) to County for Uber's non-fulfillment of the Uber Voucher because County usage limitations have been reached.

4.3.2.2. **Individualized Codes**. For any Program that utilizes Individualized Codes, it is County's responsibility to (1) correctly deliver such codes to County Users and (2) to clearly and conspicuously disclose the material terms and conditions of each Individualized Code to each County User. County acknowledges and agrees that Uber will direct all individuals that try to access an Individualized Code after such Code has expired to contact County.

4.4. **Uber Voucher Limitations**. County shall ensure that the maximum aggregate Redemption Value of Uber Vouchers that County has available at any given time during the Term shall not exceed the credit amount authorized by Uber for County's Monthly Billing, unless Uber agrees in writing to allow County to distribute a different amount of Uber Vouchers. Each Uber Voucher created by County shall:

(1) expire no later than the termination date; (2) have a minimum Redemption Value for each region for which an Uber Voucher was ordered as specified in the Dashboard; (3) be valid for redemption in areas where Uber Vouchers are available until such Uber Voucher expires; and (4) be usable for the County User receiving such Uber Voucher (i.e. County User cannot be located in New York, New York and have the code only valid for San Francisco, California).

4.5. **Restrictions of Use**. County cannot use Uber Vouchers with any third-party promotion, agreement, relationship, marketing event, partnership, or any other use case without Uber's prior written consent. County agrees it will not apply, or allow to be applied, the Uber Voucher to an County User account without first disclosing all of the disclaimers stated in Section 6(e)(iv) below.

4.6. Modification or Cancellation of Uber Vouchers. After a Program is created, County may: (1) update a Program to make the restrictions and/or value more permissive if the Uber Voucher code has not yet been distributed to County Users, or (2) cancel a Program, in which case County shall immediately notify all affected County Users that County has cancelled the Program and that Uber is not responsible for the Program cancellation. County acknowledges and agrees that if County modifies or cancels a Program: (1) County remains financially responsible to County Users who received an Uber Voucher from County, even if the County User utilized such Uber Voucher after County modified or cancelled the Program; and (2) County Users who contact Uber because they are unable to utilize an Uber Voucher code for a modified or cancelled Program will be directed by Uber to contact County about any modification or cancellation issues. County acknowledges and agrees that Uber will not be liable to: (i) County Users who received an Uber Voucher, but were unable to utilize the Uber Voucher following County's modifications to or cancellation of the Program, or (ii) County for Uber's non-fulfillment of the Uber Voucher as a result of modifications to or cancellation of the Program by County.

4.7. Marketing and Messaging Related to Uber Vouchers.

- 4.7.1. **Marketing Guidelines.** At all times during the Term, County shall follow the marketing guidelines that the parties have agreed to in this Agreement ("Transit County Marketing Toolkit"), which Uber may update from time to time in its discretion.
- 4.7.2. **Approved Use Cases.** County agrees to use Uber Vouchers only for the specific purposes described in Exhibit 1. During the Term, County shall obtain prior written consent from Uber to use Uber Vouchers for any purpose other than the approved use case.
- 4.7.3. **Delivery of Uber Vouchers to County Users.** County will receive Uber Vouchers in the form of code links, that County may deliver to County Users via email, SMS, social media, online in other digital media, in broadcast media, in print, or OOH, so long as County takes down any communication containing the delivery or distribution of an Uber Voucher after such Uber Voucher's expiration date. In the event that County delivers Uber Vouchers via email, County shall ensure that it is the sole sender of the email as defined by the CAN-SPAM Act and that Uber does not appear as the sender of such email. If County delivers Uber Vouchers via SMS, those messages are marketing text message and County shall ensure that it is in compliance with the TCPA by obtaining affirmative prior express written consent from all County Users to send them such messages and will make clear in the message that it is being sent by County (as opposed to Uber).
- 4.7.4. **Uber Vouchers for Transit Agencies Disclaimer.** County shall ensure that its delivery or distribution of an Uber Voucher to an County User, or any related communication, shall include a prominent disclaimer notifying the County User that the Uber Voucher: (a) may only be redeemed for rides requested via Uber's mobile application; (b) is subject to an expiration date; (c) is subject to specific, defined geographic restrictions; (d) is subject to a maximum Redemption Value; (e) value is non-transferrable to other Uber accounts,

users, or products once redeemed by an County User; and (f) has no cash value and may not be redeemed for cash, except as required by law. The following is a pre-approved disclaimer for a Single Code voucher:

“Limited Availability. No cash value. Maximum discount of \$[#] per [Uber product] trip. Maximum of [#] [Uber product] trips per person [per week/day/month]. To redeem discount, Uber Voucher code [INSERT LINK] must be applied to Wallet section of the Uber app before requesting the first ride [within area/along bus route] [until date/between time and date and time and date]. Expires on [DATE]. For details on eligible transit zones see HERE [<-- link]. Uber Voucher does not apply to tips. Terms subject to change or cancellation. Issues involving redemption and/or use of the Uber Voucher code should be directed to County at [INSERT COUNTY CONTACT INFO].”

For an Individualized Code voucher, County should use the pre-approved Single Code voucher disclaimer paragraph above and also add the following disclaimer at the beginning:

“Limited to one code per person. Can only be used by the first person who redeems the code. Non-transferrable.”

4.8. **Uber Account Required.**

4.8.1. **Active Uber Rider Account Required.** County acknowledges and agrees that before an individual can activate an Uber Voucher for access to Uber Services under this Agreement, such proposed County User must have an active Uber rider account for Uber Services (“**Rider Account**”).

4.8.2. **Violations.** County acknowledges that certain proposed County Users may be suspended or banned from use of Uber Services due to violating Uber’s End User Terms or Community Guidelines, available at <https://www.uber.com/legal/community-guidelines> (collectively, “**Violations**”), and that Uber is not obligated or liable to a prospective County User that is unable to utilize an County-generated Uber Voucher due to Violations. If an County User’s Rider Account is suspended or terminated in accordance with the End User Terms, that County User’s access to Uber Vouchers shall also be immediately suspended.

4.9. **Restrictions.** County agrees to use the Corporate Account, and Uber Vouchers, solely as stated in this Agreement. County shall not, and shall not authorize others to: (a) decompile, disassemble, reverse engineer or otherwise attempt to derive the source code or underlying technology, methodologies or algorithms of the Uber Voucher, Uber Service, or Uber App, except to the extent allowed by applicable law, (b) sublicense, lease, rent, sell, give, or otherwise transfer or provide the Uber Service or Uber App to any unaffiliated third party, (c) modify or alter any Uber Voucher unless permitted under this Agreement, or (d) otherwise impose any additional fees or charges on an County User related to their use of the Uber Vouchers. Uber reserves all rights not granted to County or County Users under this Agreement.

4.10. **Uber Voucher for Transit Agencies Usage.**

- 4.10.1. Uber Vouchers and the resulting discount codes may be used for personal purposes only by individuals that receive an Uber Voucher via either a Single Code or an Individualized Code.
- 4.10.2. County or County Users may not use or resell the Uber Vouchers and resulting discount codes in connection with any marketing, advertising, promotional or other commercial activities, including, without limitation, via websites, Internet advertisements, email, telemarketing, direct mail, newspaper and magazine advertisements, radio and television broadcasts, or otherwise, authorized under the Transit Voucher Terms of this Agreement.
- 4.10.3. County is responsible for lost, stolen, or misused Uber Vouchers and the resulting discount codes or Utilization Charges assessed on Billing Statement.
- 4.10.4. Uber reserves the right to close or suspend an County's or County User's account, to adjust balances and/or request alternative forms of payment if Uber determines in its sole discretion that an Uber Voucher is or has been fraudulently obtained or used.

Uber may cease offering the Uber Vouchers for Transit Agencies program at any time and for any reason.

5. Intellectual Property.

5.1. **License to Marks; Restrictions.** The term "**Uber Marks**" shall mean the trademarks identified as Uber Marks in Exhibit 2. The term "**County Marks**" shall mean the trademarks identified as County Marks in Exhibit 2. The term "**Territory**" shall mean the territory identified in Exhibit 2.

- 5.1.1. Uber hereby grants to County, solely during the Term and solely in the Territory, a limited, royalty-free, non-exclusive, non-transferable, non-assignable license, without the right to sublicense, to use and display the Uber Marks only as expressly permitted by Uber in each instance. All use of the Uber Marks by County will be in the form and format approved by Uber, and County will not otherwise use or modify the Uber Marks without Uber's prior written consent. All goodwill related to County's use of the Uber Marks shall inure solely to the benefit of Uber. The Uber Marks will at all times remain the exclusive property of Uber. Except as stated in this Agreement, Uber does not, and shall not be deemed to, grant County any license or rights under any intellectual property or other proprietary rights. All rights not granted in this Agreement are reserved by Uber.
- 5.1.2. County hereby grants to Uber, solely during the Term and solely in the Territory, a limited, royalty-free, non-exclusive, non-transferable, non-assignable license, without the right to sublicense, to use and display the County Marks only as permitted by County in each instance. All use of the County Marks by Uber will be in the form and format approved by County, and Uber will not otherwise use or modify the County Marks without County's prior written consent. All goodwill related to Uber's use of the County Marks shall inure solely to the benefit of County. The County Marks will at all times remain the exclusive property of County. Except as stated in this Agreement, County does not, and shall not be deemed to, grant Uber any license or rights under

any intellectual property or other proprietary rights. All rights not granted in this Agreement are reserved by County.

- 5.1.3. **Use of Uber Marks; Guidelines.** Any use by County of Uber Marks shall be subject to Uber's prior written approval, which shall be deemed granted with respect to such uses compliant with the Uber Trademark Usage Guidelines available at <https://developer.uber.com/docs/riders/guides/design-guidelines>, as may be amended from time to time by Uber in its sole discretion (the "**Design Guidelines**"). If County uses Uber Marks, County will comply with the Design Guidelines, including without limitation, all additional directions given by Uber to County as to the content, colors, size, "look and feel" and other elements of any and all representations of Uber's Marks. Uber reserves the right to immediately suspend County's Corporate Account and suspend any or all access to Uber Vouchers by County Users if Uber, in its sole discretion, determines at any time during the Term that County breached any of its obligations under this Agreement with respect to authorized usage of Uber Marks.
6. **Confidentiality.** The term "Confidential Information" shall mean any confidential or proprietary business, technical or financial information or materials of a party ("**Disclosing Party**") provided to the other party ("**Receiving Party**") in connection with the Agreement, whether orally or in physical form, and shall include the terms of the Agreement and be subject to applicable provisions of Florida's public records laws, Chapter 119, Florida Statutes (hereinafter "Public Records Disclosure Laws"). However, Confidential Information shall not include information (a) previously known by Receiving Party without an obligation of confidentiality, (b) acquired by Receiving Party from a third party which was not, to Receiving Party's knowledge, under an obligation of confidentiality, (c) that is or becomes publicly available through no fault of Receiving Party, or (d) that Disclosing Party provides written permission to Receiving Party to disclose, but only to the extent of such permitted disclosure.
 - 6.1. **Restrictions.** Receiving Party agrees that (a) it will use Confidential Information solely for the purposes permitted under this Agreement and (b) it will not disclose the Confidential Information to any third party other than Receiving Party's employees or agents who are bound by obligations of nondisclosure and restricted use at least as strict as those contained herein. In the event Receiving Party receives a subpoena, administrative or judicial order, or any other requests for disclosure of any Confidential Information of Disclosing Party, to the extent possible pursuant to applicable Public Records Disclosure Laws, Receiving Party will give Disclosing Party written notice of such subpoena, order, or request at least five (5) days before disclosure, and allow Disclosing Party to assert any available defenses to disclosure in the appropriate court or other applicable venue.
 - 6.2. **Public Records Laws.** Uber acknowledges that County may be subject to Public Records Disclosure Laws. County agrees to make diligent efforts to prevent the disclosure of confidential and/or exempt records pursuant to any available bases stated in the Public Records Disclosure Laws or other applicable law. To the extent possible pursuant to applicable Public Records Disclosure Laws, County agrees to notify Uber of such disclosure requirements at least five (5) days before disclosure, and to allow Uber reasonable opportunity to object to

production. If County determines the material is not exempt from disclosure pursuant to Public Records Disclosure Laws, County will notify Uber of the request and, to the extent possible pursuant to applicable Public Records Disclosure Laws, allow Uber twenty (20) business days to take whatever action it deems necessary to protect its interests. If County is required to release Uber's Confidential Information, it agrees to use any available authorities to redact personal or business Confidential Information from such records to the extent permissible by applicable law and final judgment.

6.3. Nonpublic Personal Information. If County mistakenly, inadvertently, or inappropriately obtains access to any Personal Data related to an Uber Voucher or the Uber Services utilized by a rider in connection with this Agreement, County shall immediately notify and return it to Uber (and shall cause its employees or agents to do the same). County shall not (i) copy, duplicate, or otherwise reproduce or retain any portion of any Personal Data in any form or manner whatsoever, nor permit any of its employees or agents to do so, nor (ii) enhance any database or any other files or other media by using any Personal Data. Personal Data shall mean data not subject to disclosure pursuant to Public Records Disclosure Laws

6.4. Confidential Information Security. Receiving Party will protect the Disclosing Party's Confidential Information in the same manner that it protects the confidentiality of its own proprietary and confidential information, but in no event using less than a reasonable standard of care.

7. Privacy and Data Security.

7.1.1. Uber Data Restrictions. Uber's collection and use of Uber Personal Data, including information Uber obtains from individuals to establish an Uber Rider Account, shall be treated by Uber in accordance with the Uber privacy statement, available at www.uber.com/legal/privacy, as may be updated by Uber from time to time. Uber agrees that County Personal Data shall be used solely for the authentication, verification, and linking purposes described in this Agreement and for no other purpose. Uber shall limit access to County Personal Data solely to Uber personnel who have a legitimate business need to access such County Personal Data. Uber will not disclose County Personal Data to any third party unless expressly authorized in writing by County, except for Uber service providers who have a legitimate business need to access County Personal Data to carry out work solely on Uber's behalf and for no other purpose, and who are in each case bound by privacy and security obligations regarding County Personal Data that are at least as restrictive as those contained herein.

7.1.2. Security. Uber and County agree to implement and maintain appropriate technical, physical, and organizational measures to protect the other's personal data against unauthorized or unlawful processing and against unauthorized loss, destruction, damage, alteration, or disclosure, keeping in mind the nature of the information. In the event of a data breach involving the other party's personal data, each party shall notify the other promptly after becoming aware that the data breach involved the other party's personal data.

Such notice shall include at least: (1) the nature of the breach of security measures; (2) the types of potentially compromised personal data; (3) the duration and expected consequences of the data breach; and (4) any mitigation or remediation measures taken or planned in response to the data breach. Upon any such discovery, each party will (a) take all reasonable steps to investigate, remediate, and mitigate the effects of the data breach, and (b) provide the other with assurances that such data breach will not recur.

8. **Contract Amendment.** All changes to the Agreement shall be made in writing through an amendment by mutual agreement. No oral statement or other conduct by either party shall change or modify the Agreement. The County may perform an analysis of cost, price or schedule to determine the reasonableness of the proposed change to the Agreement and if County is unsatisfied with the proposed change, County's sole remedy is to terminate the Agreement and pay Uber for all remaining invoiced amounts.
9. **INDEMNIFICATION AND INSURANCE.** Each party ("**Indemnifying Party**") will indemnify, defend and hold harmless the other party ("**Indemnified Party**"), its directors, officers, employees, agents, successors and assigns against all claims, damages, losses and expenses (including reasonable outside attorney fees) with respect to any third-party claim arising out of or related to: (a) a breach (or claim that, if true, would be a breach) of any of the Indemnifying Party's representations or warranties in this Agreement, or (b) the infringement of a third party's intellectual property rights by the Indemnifying Party's Marks, but only if such Marks have been used by the Indemnified Party in the manner authorized under this Agreement.
 - 9.1. Additionally, County, as an Indemnifying Party, will indemnify, defend and hold harmless Uber, as an Indemnified Party, its Affiliates and their respective directors, officers, employees, agents, successors and assigns against all claims, damages, losses and expenses (including reasonable outside attorney fees) with respect to any third-party claim arising out of or related to County's use and distribution of the Uber Vouchers, including but not limited to County's marketing, advertising, promoting, communicating, or delivering the Uber Voucher to County Users in any manner in any media. This means that if County Users are unable to redeem their Single or Individualized Codes because the funds attributable to such Codes have already been used, County shall indemnify Uber for any claims made by such County Users.
 - 9.2. The Indemnified Party shall provide prompt notice to the Indemnifying Party of any potential claim subject to indemnification hereunder. The Indemnifying Party will assume the defense of the claim through counsel designated by it and reasonably acceptable to the Indemnified Party. The Indemnifying Party will not settle or compromise any claim, or consent to the entry of any judgment, without written consent of the Indemnified Party, which will not be unreasonably withheld. The Indemnified Party will reasonably cooperate with the Indemnifying Party in the defense of a claim, at Indemnifying Party's expense.
10. **Limits of Liability.** OTHER THAN EITHER PARTY'S INDEMNIFICATION OBLIGATIONS OR OBLIGATIONS WITH RESPECT TO A BREACH OF CONFIDENTIALITY, (A) IN NO EVENT SHALL UBER OR COUNTY BE LIABLE FOR

ANY INDIRECT, PUNITIVE, INCIDENTAL, EXEMPLARY, SPECIAL OR CONSEQUENTIAL DAMAGES, OR FOR LOSS OF BUSINESS OR PROFITS, SUFFERED BY THE OTHER PARTY OR ANY THIRD PARTY ARISING OUT OF THIS AGREEMENT, WHETHER BASED ON CONTRACT, TORT OR ANY OTHER LEGAL THEORY, EVEN IF UBER OR COUNTY (OR THEIR AGENTS) HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND (B) IN NO EVENT SHALL EITHER PARTY BE LIABLE UNDER THIS AGREEMENT FOR ANY DIRECT DAMAGES IN AN AMOUNT EXCEEDING ONE HUNDRED THOUSAND DOLLARS (\$100,000).

The Contractor shall furnish to the Department of Transportation and Public Works Certificate(s) of Insurance meeting the following requirements:

- (a) Commercial General Liability (including contractual liability, personal and advertising injury and products and completed operations) with a limit of one million dollars (US\$1,000,000) per occurrence and two million dollars (US\$2,000,000) in the aggregate for bodily injury and property damage.
- (b) Workers Compensation Statutory (for all states of operation) including Employer's Liability with limits of not less than one million dollars (US\$1,000,000).
- (c) Commercial Auto Liability insurance for all owned, hired and non-owned vehicles for bodily injury, including death and property damage for limits of one million dollars (US\$1,000,000) each accident combined single limit.
- (d) The insurance obligations stated here are in addition to those that may be required of Transportation Network Companies by applicable law in Agency's jurisdiction.

All insurance policies required above shall be issued by companies authorized to do business under the laws of the State of Florida, with the following qualifications:

The company must be rated no less than "A-" as to management, and no less than "Class VII" as to financial strength, by Best's Insurance Guide, published by A.M. Best Company, Oldwick, New Jersey, or its equivalent, subject to the approval of the County Risk Management Division.

or

The company must hold a valid Florida Certificate of Authority as shown in the latest "List of All Insurance Companies Authorized or Approved to Do Business in Florida" issued by the State of Florida Department of Financial Services.

NOTE: CERTIFICATE HOLDER MUST READ: MIAMI-DADE COUNTY
111 NW 1st STREET
SUITE 2340
MIAMI, FL 33128

11. **Mutual Warranties.** Each party hereby represents and warrants that (a) it has full power and authority to enter into this Agreement and perform its obligations hereunder, (b) such party's acceptance of this Agreement, as well as such party's performance of the obligations set forth in this Agreement, does not and will not violate any other agreement to which such party is a party, (c) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its origin, (d) it shall comply with all applicable laws and regulations applicable to the performance of its obligations hereunder, and (e) such party's Marks as provided by such party pursuant to this Agreement and used in accordance herewith will not infringe or otherwise violate the intellectual property rights, rights of publicity or other proprietary rights of any third party.
12. **County Warranties.** County represents and warrants that: (a) as it relates to County's activities involving the Uber Vouchers, including but not limited to the Programs, and the marketing, promotion and any other form of communications regarding the Uber Vouchers, County will comply with the Design and Marketing Guidelines and all applicable law (including, without limitation, CAN-SPAM and TCPA); (b) County is responsible for the full cost of all Uber Vouchers used, whether Single Codes or Individualized Codes, and whether or not used as intended by County Users or others; and (c) County will comply with Uber's Terms of Use and Community Guidelines and other applicable terms and policies, including but not limited to not engaging in the following prohibited behaviors and uses: (i) using Uber to commit a crime, (ii) riders carrying firearms, and (iii) using Uber to facilitate nuisance, annoyance, inconvenience, property damage, or violations of state or federal law or regulation. County further represents and warrants that Company has obtained rights, permission and legally adequate consent from County Users: (a) to receive SMS messages and other communications from Uber in connection with Uber Vouchers and the Uber Service; and (b) for Uber to provide County with detailed trip information for the Uber Voucher that an County User has charged to County's program.
13. **Disclaimer.** EXCEPT AS EXPRESSLY PROVIDED HEREIN, UBER PROVIDES THE UBER SERVICE, UBER APP AND UBER VOUCHERS "AS IS" AND WITHOUT WARRANTY. UBER DOES NOT WARRANT THAT THE FUNCTIONS CONTAINED IN THE UBER SERVICE, UBER APP AND UBER VOUCHERS WILL MEET COUNTY'S REQUIREMENTS OR THAT THE OPERATION OF THE UBER SERVICE, UBER APP, OR UBER VOUCHERS WILL BE UNINTERRUPTED OR ERROR FREE. UBER HEREBY DISCLAIMS ALL OTHER WARRANTIES WITH RESPECT TO THIS AGREEMENT, WHETHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, (A) ANY IMPLIED OR STATUTORY WARRANTIES COVERING THE UBER SERVICE, THE UBER APP, OR UBER VOUCHERS, AND (B) ANY IMPLIED WARRANTIES OF MERCHANTABILITY, NONINFRINGEMENT OR FITNESS FOR A PARTICULAR PURPOSE. COUNTY ACKNOWLEDGES AND AGREES THAT THE UBER SERVICE IS A TECHNOLOGY SYSTEM THAT ENABLES ACCESS TO REQUEST ON-DEMAND GROUND TRANSPORTATION AND LOGISTICS SERVICES PROVIDED BY INDEPENDENT THIRD-PARTY PROVIDERS. UBER IS NOT A TRANSPORTATION OR LOGISTICS PROVIDER. UBER DOES NOT GUARANTEE AVAILABILITY OF

TRANSPORTATION OR LOGISTICS SERVICES, ON-TIME ARRIVALS OR DEPARTURES THEREOF, OR ANY OTHER SERVICES LEVELS RELATED TO INDEPENDENT TRANSPORTATION OR LOGISTICS PROVIDERS THAT MAY BE OBTAINED VIA THE UBER SERVICE.

14. Ownership. County agrees that Uber and its Affiliates are and shall remain the owners of all right, title and interest in and to the Uber Service, Uber App, including any updates, enhancements and new versions thereof, all data related to the use of the Uber Services, and all related documentation and materials provided or made available to County or any proposed County User or County User in connection with this Agreement. All rights not expressly granted are withheld.

15. NOTICES. All notices, demands, requests, consents, approvals and other instruments required or permitted to be given pursuant to this Agreement shall be in writing, signed by the notifying Party, or officer, agent or attorney of the notifying Party, and shall be deemed to have been effective upon delivery if served personally, including but not limited to delivery by messenger, overnight courier service or by overnight express mail, or on the third (3rd) business day after posting if sent by registered or certified mail, postage prepaid, return receipt requested, and addressed as follows:

To County:

**Miami-Dade County
Department of Transportation and Public Works
701 N.W. 1st Court, Suite 1700
Miami, Florida 33136-3922
Attn: Linda Morris
Email: Linda.Morris@miamidade.gov**

To Contractor:

**Uber Technologies Inc.
1515 3rd Street
San Francisco, CA 94158
Attention: Legal - Transactions
Email: transit-legal-us@uber.com**

16. MISCELLANEOUS PROVISIONS.

16.1 Independent Private Sector Inspector General (IG) Requirements.

Pursuant to Miami-Dade County Administrative Order No. 3-20, the County has the right to retain the services of an Independent Private Sector Inspector General (the "IPSIG"), whenever the County deems it appropriate to do so. Upon written notice from the County, the Contractor shall make available to the IPSIG retained by the County, all requested records and documentation pertaining to this Agreement for inspection and reproduction. The County shall be responsible for the payment of these IPSIG services, and under no circumstance shall the Contractor's prices

and any changes thereto approved by the County, be inclusive of any charges relating to these IPSIG services. The terms of this provision apply to the Contractor, its officers, agents, employees, Subcontractors, and assignees. Nothing contained in this provision shall impair any independent right of the County to conduct an audit or investigate the operations, activities, and performance of the Contractor in connection with this Agreement. The terms of this Article shall not impose any liability on the County by the Contractor or any third party.

16.2 Miami-Dade County Inspector General Review.

According to Section 2-1076 of the Code, Miami-Dade County has established the Office of the Inspector General which may, on a random basis, perform audits on all County contracts, throughout the duration of said contracts. The cost of the audit for this Contract shall be one quarter of one percent (0.25%) of the total Contract amount which cost shall be included in the total Contract amount. The audit cost will be deducted by the County from progress payments to the Contractor. The audit cost shall also be included in all change orders and all Contract renewals and extensions.

Exception: The above application of one quarter of one percent (0.25%) fee assessment shall not apply to the following contracts: (a) IPSIG contracts; (b) contracts for legal services; (c) contracts for financial advisory services; (d) auditing contracts; (e) facility rentals and lease agreements; (f) concessions and other rental agreements; (g) insurance contracts; (h) revenue-generating contracts; (i) contracts where an IPSIG is assigned at the time the contract is approved by the Board; (j) professional service agreements under \$1,000; (k) management agreements; (l) small purchase orders as defined in Miami-Dade County Implementing Order No. 3-38; (m) federal, state and local government-funded grants; and (n) interlocal agreements. Notwithstanding the foregoing, the Miami-Dade County Board of County Commissioners may authorize the inclusion of the fee assessment of one quarter of one percent (0.25%) in any exempted contract at the time of award.

Nothing contained above shall in any way limit the powers of the Inspector General to perform audits on all County contracts including, but not limited to, those contracts specifically exempted above. The Miami-Dade County Inspector General is authorized and empowered to review past, present, and proposed County and Trust contracts, transactions, accounts, records, and programs. In addition, the Inspector General has the power to subpoena witnesses, administer oaths, require the production of records, and monitor existing projects and programs. Monitoring of an existing project or program may include a report concerning whether the project is on time, within budget and in conformance with plans, specifications, and applicable law. The Inspector General is empowered to analyze the necessity of and reasonableness of proposed change orders to the Contract. The Inspector General is empowered to retain the services of IPSIGs to audit, investigate, monitor, oversee, inspect, and review operations, activities, performance and procurement process, including but not limited to project design, specifications, proposal submittals, activities of the Contractor, its officers, agents and employees, lobbyists, County staff and elected officials to ensure compliance with contract specifications and to detect fraud and corruption.

Upon written notice to the Contractor from the Inspector General or IPSIG retained by the Inspector General, the Contractor shall make all requested records and documents available to the Inspector General or IPSIG for inspection and copying. The Inspector General and IPSIG shall have the right to inspect and copy all documents and records in the Contractor's possession, custody or control which, in the Inspector General's or IPSIG's sole judgment, pertain to performance of the Contract, including, but not limited to original estimate files, change order estimate files, worksheets, proposals and agreements form and which successful and unsuccessful Subcontractors and suppliers, all project-related correspondence, memoranda, instructions, financial documents, construction documents, proposal and contract documents, back-charge documents, all documents and records which involve cash, trade or volume discounts, insurance proceeds, rebates, or dividends received, payroll and personnel records, and supporting documentation for the aforesaid documents and records.

- 17. County User Access Program (UAP). User Access Fee.** Pursuant to Section 2-8.10 of the Code of Miami-Dade County, this Contract is subject to a user access fee under the County User Access Program (UAP) in the amount of two percent (2%). All sales resulting from this Contract, or any contract resulting from the solicitation referenced on the first page of this Contract, and the utilization of the County Contract price and the terms and conditions identified herein, are subject to the two percent (2%) UAP. This fee applies to all Contract usage whether by County Departments or by any other governmental, quasigovernmental or not-for-profit entity.

The Consultant providing goods or services under this Contract shall invoice the Contract price and shall accept as payment thereof the Contract price less the 2% UAP as full and complete payment for the goods and/or services specified on the invoice. The County shall retain the 2% UAP for use by the County to help defray the cost of the procurement program. Consultant participation in this invoice reduction portion of the UAP is mandatory.

- 18. Living Wage.** See Attachment A – Living Wages Supplemental General Conditions. Contractor is advised that the provisions of Section 2-8.9 of the Code of Miami-Dade County, (Code) as may be amended, will apply to this Contract. By executing a contract pursuant to these specifications, Contractor is hereby agreeing to comply with the provisions of Section 2-8.9, and to acknowledge awareness of the penalties for non-compliance. A copy of this Code Section may be obtained online at www.miamidade.gov.

- 18.1. Uber Inspection of Records.** During the Term of the Agreement, Uber may request in writing that County provide Uber all of County's relevant records, marketing materials, and communications (including but not limited to, email and SMS messages that County, or any other third party sent to County Users in connection with an Uber Voucher) that include the Uber Marks (collectively, the "**Records**"). County shall provide the Records to Uber within thirty (30) calendar days of Uber's request for such documents. If Uber, in its sole discretion, determines that County has not met its obligations under the Agreement with respect to authorized usage of Uber Marks, Uber may immediately suspend County's Corporate Account and suspend any or all access to Uber Vouchers by

County Users and take any additional measures afforded to it by law or under the Agreement. County shall preserve all of the documents listed in this paragraph for a period of at least two (2) years from the termination or expiration of the Agreement. Uber shall bear the costs arising from administrative processing and production of records.

- 18.2. **Independent Contractor.** County and Contractor are and shall remain independent contractors. Neither Party is the representative or agent of the other and neither Party shall have any power to assume any obligations on behalf of the other. Contractor's Staff shall not be deemed to be agents or employees of the County.
- 18.3. **Assignment.** Contractor may not assign this Agreement without the express written consent of the County, provided that both parties may assign this Agreement without such consent, but with notice to the other, in connection with a merger or a sale of all of the equity or assets of either party. Notwithstanding the foregoing, Uber may assign this Agreement to an Affiliate without the prior written consent of County. Subject to the foregoing, this Agreement shall be binding upon all successors and assigns of a party.
- 18.4. **Severability.** If any provision or provisions of this Agreement shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.
- 18.5. **Venue and Choice of Law.** This Agreement shall be subject to and governed by the laws of the State of Florida, without regard to its conflict of laws principles. The Parties agree that any action or proceeding arising out of or related in any way to this Agreement shall be brought solely in a court of competent jurisdiction in Miami-Dade County, Florida, and each Party hereto submits to the jurisdiction of such courts and waives any objection to the venue and jurisdiction of such courts.
- 18.6. **Entire Agreement.** This Agreement contains the entire agreement between the Parties hereto and shall not be modified or amended in any manner except by an instrument in writing agreed to and executed by the Parties hereto. All prior understandings and agreements heretofore had between the Parties with respect to this Agreement are merged into this Agreement, which alone fully and completely expresses the understandings of the Parties.
- 18.7. **Counterparts.** This Agreement may be executed simultaneously or in counterparts, each of which together shall constitute one and the same agreement. For purposes of this Agreement, a facsimile or PDF copy shall be deemed to be an original.

[Signatures appear on following page.]

[The remainder of this page is intentionally left blank]

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their respective duly authorized officers as of the date first above written.

MIAMI-DADE COUNTY, a political subdivision of the State of Florida

By: _____
(Signature)
For: County Mayor or Mayor's Designee

Date Executed: _____

Approved by the County Attorney's
Office as to form and legal sufficiency

Name: _____

CONTRACTOR:

Uber Technologies Inc.

By: Dmitriy Vanchugov

Dmitriy Vanchugov
Name: _____

Title: Head of Transit Partnerships

Date executed: September 20, 2021

APPENDIX A**SCOPE OF WORK, REQUIREMENTS AND SPECIFICATIONS****Exhibit 1**

Scope of Work	
Name of program	Late Night Service (Go-Nightly)
<i>Location of services</i>	Miami Dade County, Florida
Background / Purpose	Provide an alternative service for transit users along bus routes that will be impacted.
Scope / Objective	Subsidized UberX rides will be provided for transit users along County designated bus routes. Riders will be able to request the rides in the Uber App via Vouchers. Riders without smartphones or would like to utilize a call center will be able to call in to request a ride. The call center will be staffed by Miami Dade County and Uber will provide call center staff with access to the Uber Central dashboard to book rides on behalf of customers.
Total program budget	This contract shall not exceed the total sum of \$387,937
Deliverables	
Program start date	N/A - Continuation of services
Period of performance	The period of performance shall commence on October 16, 2021 and shall continue through December 31, 2021 or the date by which DTPW's budget of \$387,937 as related to services is exhausted. The County may terminate this Agreement at any time and for any reason by giving ten (10) days' prior written notice to the Contractor.
Products	✓ Uber Transit Vouchers ✓ Uber Central ☐ Uber Profiles

Vehicle Types Available	☒ Uber X ☐ UberPool ☐ Uber XL ☐ Uber WAV
Geographic restrictions <i>Please note for all geographic restrictions the agency should be prepared to provide Uber with a shapefile in KML or GeoJSON format.</i>	Eligible for trips to or from any point within a 500 feet buffer from a single route alignment. There are a total of 9 routes. Information provided in .shp format. Miami-Dade County Transit Routes: 3, 11, 27, 38, 77, 112/L, 119/S, 246, and 500 See Figure 1, Map of Geographical Restrictions
Days of operation	Seven days a week
Hours of operation	From 12:00 a.m. to 4:59 a.m.
Subsidy level per trip	☐ Trips are 100% subsidized within geographic zone ☐ Trips are 100% covered between locations/zones ☐ _____subsidy to/from geographic zones/locations ☒ \$35 subsidy within geographic zone (applied upon rider having paid a \$2.25 fare) ☐ If the rider should be responsible for an upfront fare, please define that fare here _____
Additional Subsidy Limitations	☐ No more than _____trips to/from geographic zone/locations ☐ per day ☐ per week ☐ per month ☒ No more than 2 trips within geographic zone ☒ per night ☐ per week ☐ per month

Program distribution	☒ Email from agency ☐ Email from Uber ☐ Agency Website or blog post ☒ Uber website or blog post ☒ Agency print media at eligible bus stops ☐ ☐ ☐ Other: _____ ☐ _____ ☐ Physical Mailer ☐ Special Eligibility Requirements (go to next Section)
Reporting	
Data reporting	Uber Dashboard Access ☒ Per Trip ☐ Date ☐ Cost to Agency ☐ Amount paid by Rider ☐ Origin & destination information ☐ ATA ☐ Distance ☐ Duration ☐ Other _____ Monthly Invoice ☐ Total trips ☐ ☐ Other (please define) _____ ☐ ☐ Missed trips (i.e., requested but not fulfilled)

Special conditions (if applicable) <i>Please note any requirements for reporting format, delivery method (API Integration)</i>	Available to all riders who meet the other requirements outlined above.
--	--

Figure 1. Map of Geographical Restrictions

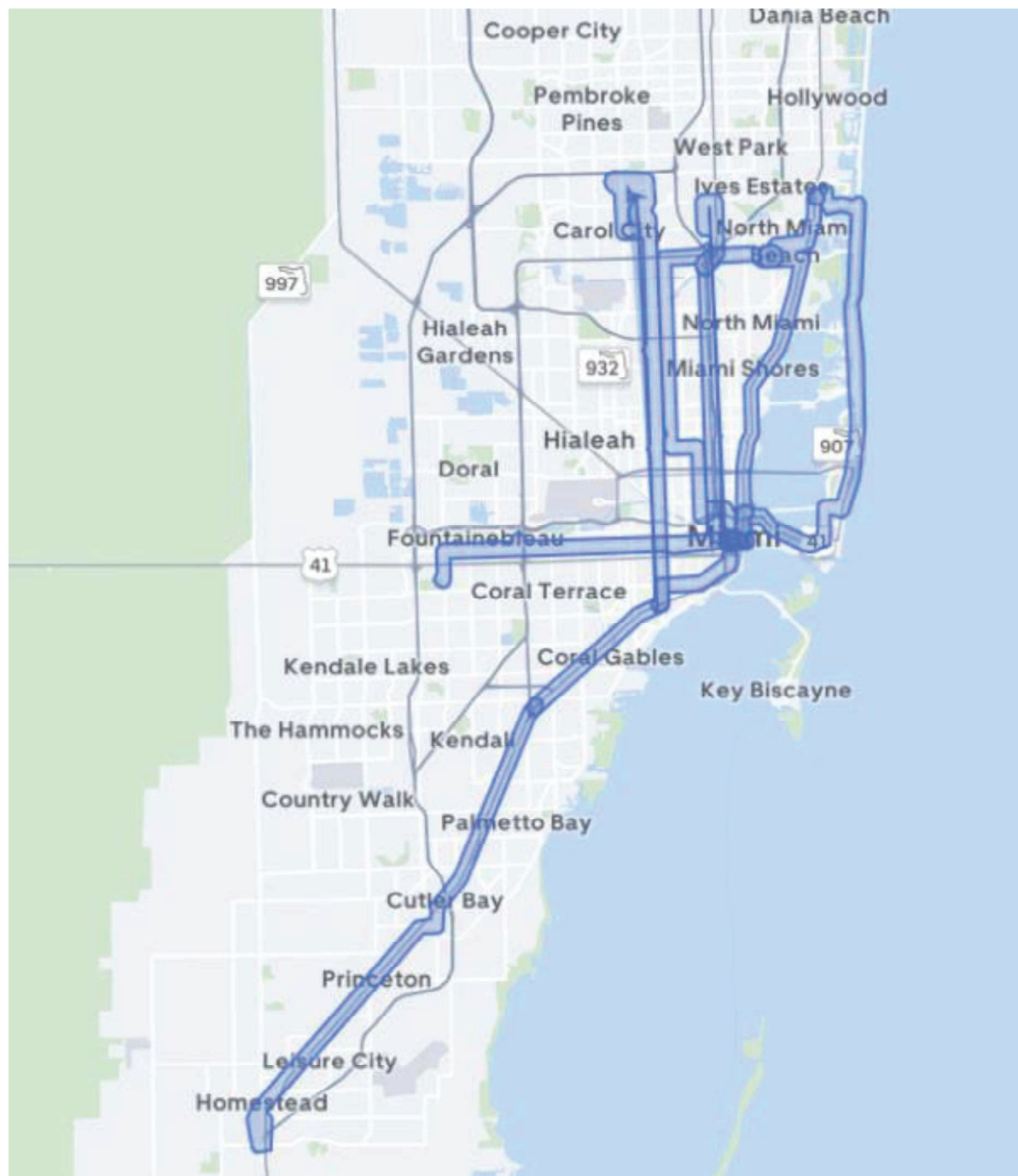


Exhibit 2

Trademarks and Territory

Uber Marks

<u>Trademark</u>	<u>Description</u>	<u>Territory</u>
UBER	Word mark	United States
	Rider Logo	United States



County Marks

<u>Trademark</u>	<u>Description</u>	<u>Territory</u>
Miami Dade County	Word Mark	United State

