

**LICENSE AGREEMENT BY AND BETWEEN THE CITY OF SANTA ANA AND
GREYHOUND LINES, INC. FOR USE OF THE SANTA ANA REGIONAL
TRANSPORTATION CENTER FACILITIES**

This LICENSE AGREEMENT (“**Agreement**”) by and between the City of Santa Ana, a municipal corporation of the State of California (“**City**”) and Greyhound Lines, Inc., a California Corporation (Referred to as “**Licensee**”) is dated as of February 1, 2022 (“**Effective Date**”). Licensee and City are sometimes individually referred to as “**Party**” and collectively as “**Parties.**”

RECITALS

A. Licensee is a provider of interstate bus transportation services throughout the state of California.

B. Licensee desires the use of and access to the Santa Ana Regional Transportation Center Facilities (“**SARTC**” or “**Facilities**”), located at 1000 East Santa Ana Boulevard in the City of Santa Ana, for a bus stop for the purpose of drop off and pick up of its Invitees (defined below) that utilize Licensee’s bus services (“**Transit Services**”). City desires to allow Licensee the use of and access to the Facilities for a bus stop for the purpose of drop off and pick up of its Invitees and allowing its Invitees to utilize the Transit Services.

AGREEMENTS

NOW, THEREFORE, in consideration of the above recitals and the mutual covenants hereinafter contained and for good and valuable consideration, the receipt of which is hereby acknowledged, the Parties agree as follows:

1. TERMS

1.1 **Facilities Subject to License.** City owns the real property commonly known as the Santa Ana Regional Transportation Center (SARTC). Subject to the terms and conditions of this Agreement, City hereby agrees to allow Licensee the non-exclusive use of and access to one (1) bus bay at the Facilities as a bus stop for the purpose of drop off and pick up of its Invitees (defined below). - THE BUS BAY SUBJECT TO THIS LICENSE IS BUS BAYS #5 and #6 (“**License Area**”). **See Exhibit A** for description of License Area. The parties understand that the City may unilaterally reassign the License for Bus Bays #5 and #6 to another bus bay in the future upon written notice by the City and that all terms and conditions of this license will likewise apply to any replacement bus bays.

1.2 **Term, Grant of License, Terms of License, Term.** City hereby grants to Licensee a non-exclusive license (“**License**”), during the term of this Agreement, for vehicular and pedestrian ingress to and egress from the Facilities and vehicular and pedestrian use of the Facilities for its regularly scheduled passenger service. Licensee shall offer patrons the ability to pay in cash or by credit card. THIS AGREEMENT IS INTENDED AND SHALL BE CONSTRUED ONLY AS A REVOCABLE LICENSE TO USE THE LICENSE AREA AND NOT AS A LEASE OR GRANT OF ANY POSSESSORY OR OTHER INTEREST. The Parties understand that the Licensee is not authorized to begin business operations until the conditions in Section 1.5 of this Agreement have been fully complied with by Licensee.

1.3 **Term.** The term of this License (the “**Term**”) shall be for a period of one (1) year, which shall commence on February 1, 2022 (the “**Effective Date**”) and end on January 31, 2023, with the option for the City to grant up to one (1) one (1) year renewal, exercisable by a writing by the City Manager and the City Attorney, unless terminated earlier in accordance with Section 1.10 of this Agreement.

1.4 Restrictions on Use of Facilities. Licensee shall not use, and shall prohibit its Agents (defined as follows) or Invitees (defined as follows) from using the Facilities other than for the purposes specified herein. The term “**Agents**” shall mean Licensee’s officers, directors, members, agents, employees, invitees, contractors, subcontractors, and any employees of such parties. The term “**Invitees**” shall mean Licensee’s invitees, guests, customers or business visitors.

The Invitees shall have access, during normal operating hours, to the Licensed Area by way of the common areas of SARTC. Notwithstanding the foregoing, the public and Licensee's Invitees shall not block any paths in ingress or egress or the permitted areas of any other licensee or tenant of SARTC.

1.5 City Approval of Licensee’s Buses.

Licensee shall provide the City with documentation listing for each and every bus providing services at the SARTC:

- (1) Registered owner;
- (2) VIN number;
- (3) License plate number;
- (4) USDOT number;
- (5) Proof of authorization from the Federal Motor Carrier Safety Administration (“FMCSA”);
- (6) Proof of insurance; and

(7) An annual list of all licensed drivers who may operate the buses, provided that Licensee may utilize drivers not identified on the list in case of unavailability so long as all substitute drivers have all applicable licenses and qualifications and the names and qualifications of the substitute drivers are provided to the City within fourteen (14) days.

In the event such information is the subject of a request under the California Public Records Act, City will refrain from disclosing personal contact or other information that may be private, but only to the extent permissible under the Act and its interpreting authorities. Additionally, Licensee shall ensure that use of the Bus Bays shall be by clearly marked buses identifying the Licensee company name and USDOT number. Licensee agrees that it will provide the City with a list of buses that will use Bus Bays #5 and #6 as a precondition for use of the Bus Bays. Any additional buses must be approved by the City prior to beginning service. The use of any non-approved bus at the SARTC by Licensee or Licensee’s failure to have the required authorizations from USDOT and FMCA, or any other applicable government or regulatory body, shall constitute a breach of this Agreement and will result in immediate termination thereof.

1.6 Compensation. As consideration for its use of the License Area and related Facilities, Licensee agrees to pay a monthly fee of Three Thousand Dollars (\$3,000.00) per month for the first six months from the Effective Date of this Agreement. Effective August 1, 2022, the monthly fee shall be increased to Five Thousand Four Hundred Ninety Eight Dollars (\$5,498) for the remainder of the Term, including any extension periods exercised under Section 5. Such payment shall be made payable to the City of Santa Ana, in advance for each month, and at the following address: payable to “The City of Santa Ana” and remitted to: City of Santa Ana M-13, 20 Civic Center Plaza, PO Box 1988, Santa Ana, CA 92702. A late charge of ten percent (10%) shall be

applied to any payment hereunder due but unpaid after the 10th of the month. The consideration for this License shall be subject to a CPI adjustment annually for the most current period (for All Urban Consumers) annually on the anniversary of the Effective Date of this Agreement.

1.7 AS-IS Condition. City makes no representation or warranty of any kind as to the condition of the License Area or any other matter relating to Licensee's use of the License Area. Licensee hereby disclaims and waives any and all objections to the physical and other characteristics and conditions of the License Area. Licensee acknowledges and agrees that the use of the License Area will be on the basis of Licensee's own investigation of the condition of the License Area. The license to use the License Area shall be granted on an "AS-IS," "WITH ALL FAULTS" basis, without representation or warranty expressed or implied by City, or by operation of law. City expressly disclaims, which Licensee hereby acknowledges and accepts, any implied warranty of condition or fitness for a particular purpose or use. Licensee's use of the License Area shall be subject to the License Area being in a usable and safe condition at the time of Licensee's use and Licensee shall be responsible for determining whether the License Area is in such condition. In connection therewith, in the event that the License Area or access thereto is damaged or obstructed or the use by Licensee is otherwise impaired, prevented or limited, City shall have no obligation or duty to repair the damage or rectify the condition to make the License Area usable or safe.

1.8 No assignment of License. The permission, rights and privileges granted hereunder are nonexclusive and nontransferable. Licensee shall not, either voluntarily or by action of law, assign or transfer this License or any obligation, right, title or interest assumed by Licensee herein without the prior written consent of the City. If Licensee attempts an assignment or transfer of this License or any obligation, right, title or interest herein, City may at its option, terminate the License pursuant to Section 1.10 below and shall thereupon be relieved from any and all obligations to Licensee or its assignee or transferee.

1.9 Agreement to Protect and Maintain Facilities. Licensee, on behalf of its Agents and Invitees, agrees to take all prudent action to protect the Facilities from any damage or injury caused by the exercise of this License. Licensee shall immediately notify City of any damage or injury to the Facilities caused by its use of the Facilities.

No temporary or permanent signs or awning shall be erected or maintained upon or attached to the outside of the premises except such signs which have been approved in advance by City.

1.10 City's Right of Suspension, Termination. City reserves the right to immediately suspend all activities or terminate this Agreement upon Licensee's non-compliance with any of the terms or conditions of this Agreement or the Lease Agreement attached hereto as **Exhibit B**, and incorporated herein by reference. Such suspension or termination shall be effective immediately.

City may temporarily suspend access to and use of all or any portion of the License Area for operational, maintenance, repair, security, emergency or other purposes at City's discretion. City will provide Licensee with as much notice as is reasonably possible prior to any such suspension, which notice will include: (a) the date when such suspension of access and use will commence; (b) the anticipated duration of such suspension of access and use; (c) the reason for such suspension of access and use; and (d) that portion of the License Area subject to such suspension of access and use. During such periods of suspension, Licensee will be unable to access, use or operate on that portion of the License Area to which City has suspended access and use. If, during such periods, Licensee desires or needs to continue to operate its bus service, it shall be solely responsible for the provision of the same without the use of that portion of the License Area over which access and use have been suspended. City shall not be liable for any cost or damage incurred by Licensee as a result of any suspension of access or use pursuant to this Section 1.10, including, without limitation, any consequential damages resulting therefrom. City shall use reasonable commercial efforts to provide alternate space in the License Area during the period of suspended access and use.

Licensee may at any time terminate the license created by this Agreement by prior written notice pursuant to Section 2.1 of this Agreement to the City.

1.11 Compliance with Laws; Regulatory Approvals. Licensee shall, at its sole expense, conduct and cause to be conducted all activities on the Facilities in compliance with all laws, regulations, codes, ordinances and orders of any governmental or other regulatory entity, and whether or not in the contemplation of the parties.

1.12 Indemnification. Licensee shall indemnify, defend, and hold harmless City, and its respective agents, representatives, employees, subsidiaries and affiliates (“Covered Parties”) from and against any and all actions, suits, claims, demands, judgments, losses, expenses, or liabilities, injuries and damages to persons and property, including death, arising out of or related to Licensee’s use of the License Area, the entry by any Licensee Party on the License Area or any portion of the Property or surrounding property, or Licensee’s breach or default in the performance of any of its obligations under this Agreement; provided, however, that Licensee will not be obligated to indemnify the Covered Parties from any claims arising solely from the gross negligence or willful misconduct of a Covered Party. If any action or proceeding is brought against any Covered Party by reason of any such claim, Licensee, upon receipt of written notice from Covered Party, shall defend the same at Licensee’s expense with legal counsel reasonably acceptable to Covered Party. Payment of any settlement or judgment by Covered Parties shall not be a condition precedent to recovery under any indemnification in this Agreement, and a finding of liability or an obligation to indemnify shall not be a condition precedent to the duty to defend. The provisions of this Section 1.12 shall survive the termination or expiration of this Agreement.

1.13 Commercial General Liability Insurance. Licensee shall maintain commercial general liability insurance which shall include, but not be limited to, protection against claims arising from bodily and personal injury, including death resulting therefrom and damage to property, resulting from any act or occurrence arising out of Licensee’s use of the license area, including, without limitation, acts involving vehicles. The amounts of insurance shall be not less than the following: single limit coverage applying to bodily and personal injury, including death resulting therefrom, and property damage, in the total amount of \$2,000,000 per occurrence and \$5,000,000 in the aggregate. Such insurance shall (a) name the City, its officers, employees, agents, volunteers and representatives as additional insured(s); (b) be primary and not contributory with respect to insurance or self-insurance programs maintained by the City; and (c) contain standard separation of insured’s provisions.

1.14 Certificates of Insurance; Additional Insured Endorsements. Prior to execution of this Agreement, Licensee shall furnish to City certificates of insurance and additional insured status on Licensee’s commercial general liability insurance policy, evidencing the foregoing insurance coverages as required by this Agreement. These certificates shall:

- a. provide the name and policy number of each carrier and policy;
- b. shall state that the policy is currently in force; and
- c. shall promise to provide that such policies will not be canceled, suspended, voided, reduced in coverage or in limits, or modified without notice to City as soon as reasonably practicable or in accordance with policy provisions, whichever is earlier.

Licensee shall maintain the foregoing insurance coverages in force throughout the term of this Agreement. The requirement for carrying the foregoing insurance coverages shall not derogate or serve to limit from the provisions for indemnification of City by Licensee under the Agreement. City or its representatives shall at all times have the right to demand the original or a copy of all these policies of insurance, which Licensee shall provide within five (5) days of City’s request.

2. MISCELLANEOUS TERMS

2.1 Notices, Demands and Communications between the Parties.

2.1.1 Formal notices, demands and communications between Licensee and City shall be deemed sufficiently given if: (i) dispatched by registered or certified mail via the United States Postal Service, postage prepaid, return receipt requested, as designated in this Section; or (ii) by messenger service for immediate personal delivery; or (iii) by electronic transmittal, including fax transmissions with telephonic verification receipt. Such written notices, demands and communications may be sent in the same manner to such other addresses as either Party may from time to time designate by written notice to the other Party.

2.1.2 All notices, demands and communications shall be sent, as follows:

TO LICENSEE:

Greyhound Lines, Inc.
350 N. Saint Paul Street
Dallas, TX 75201

TO CITY:

Public Works Agency
City of Santa Ana
20 Civic Center Plaza (M-22)
Santa Ana, California 92701
Attention: Executive Director of Public Works

AND

City Attorney's Office
City of Santa Ana
20 Civic Center Plaza (M29)
Santa Ana, California 92701
Fax: (714) 647-6515

2.1.3 Notices that are dispatched by registered or certified mail through the United States Postal Service shall be deemed to be received, regardless of whether or when any return receipt is received by the sender or the date set forth on such return receipt, five (5) calendar days after deposit with the United States Postal Service. Notices that are dispatched by messenger for immediate personal delivery services shall be deemed received upon the day dispatched. Notices dispatched by express delivery services shall be deemed received upon execution of the delivery receipt by the Party receiving such notices. Notices dispatched through electronic transmittals shall be deemed received upon telephonic verification of such receipt.

2.2 Amendment. With the exception of a reassignment of the License Area as described in section 1.1, this Agreement may be amended at any time by the mutual consent of the Parties by an instrument in writing signed by both Parties.

2.3 Further Actions and Instruments. Each of the Parties shall cooperate with and provide reasonable assistance to the other to the extent contemplated hereunder in the performance of all obligations under this Agreement and the satisfaction of the conditions of this Agreement.

2.4 Counterparts. This Agreement may be signed in counterparts, each of which shall constitute an original.

2.5 Time is of the Essence. For each provision of this Agreement which states a specific amount of time within which the requirements thereof are to be satisfied, time shall be deemed of the essence.

2.6 Governing Law. This Agreement shall be governed by the laws of the State of California without regard to conflicts of laws principles. This Agreement shall be deemed to have been made in the County of Orange, California, regardless of the order of the signatures of the Parties affixed hereto. Any litigation or other legal proceedings which arise under or in connection with this Agreement shall be conducted in a federal or state court located within or for Orange County, California. The Parties consent to the personal jurisdiction and venue in federal or state court located within or for the County of Orange, California and hereby waive any defenses or objections thereto including defenses based on the doctrine of forum non conveniens.

2.7 Litigation Expenses. If either party to this Agreement commences an action against the other party to this Agreement arising out of or in connection with this Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees, expert witness fees, costs of investigation, and costs of suit from the losing party.

2.8 Construction; References; Captions. Since the Parties or their agents have participated fully in the preparation of this Agreement, the language of this Agreement shall be construed simply, according to its fair meaning, and not strictly for or against any Party. Any term referencing time, days or period for performance shall be deemed calendar days and not work days, except as otherwise specified in this Agreement. All references to City include all officials, officers, employees, personnel, agents, volunteers, contractors and subcontractors of City, except as otherwise specified in this Agreement. All references to Licensee include its officials, officers, employees, personnel, agents, volunteers, contractors and subcontractors, except as otherwise specified in this Agreement. The captions of the various articles and paragraphs are for convenience and ease of reference only, and do not define, limit, augment, or describe the scope, content, or intent of this Agreement.

2.9 Waiver. No delay or omission in the exercise of any right or remedy of a non-defaulting Party on any default shall impair such right or remedy or be construed as a waiver. Either Parties' consent or approval of any act by the other Party requiring its consent or approval shall not be deemed to waive or render unnecessary its consent to or approval of any subsequent act of the other Party. Any waiver by either Party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.

2.10 Rights and Remedies are Cumulative. Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the Parties are cumulative and the exercise by either Party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other Party. All warranties and promises to indemnify shall survive the termination, abandonment, or completion of this Agreement.

2.11 Legal Counsel. Each Party acknowledges that: (i) it has read this Agreement; (ii) it has had the opportunity to have this Agreement explained to it by legal counsel of its choice; (iii) it is aware of the content and legal effect of this Agreement; and (iv) it is not relying on any representations made by the other Party or any of the employees, agents, representatives, or attorneys of the other Party, except as expressly set forth in this Agreement.

2.12 Severability. In the event that any one or more of the phrases, sentences, clauses, paragraphs, or sections contained in this Agreement shall be declared invalid or unenforceable by a valid judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining phrases, sentences, clauses, paragraphs, or sections of this Agreement which are hereby declared as severable and shall be interpreted to carry out the intent of the parties hereunder.

2.13 Binding Effect. The terms of this Agreement shall inure to the benefit of, and shall be binding upon, each of the Parties and their respective successors and assigns.

2.14 Authorized Representatives. The person or persons executing this Agreement on behalf Licensee and City warrants and represents that he/she has the authority to execute this Agreement on behalf of that Party and that he/she has the authority to bind that Party to the performance of its obligations hereunder.

2.15 Entire Agreement. This Agreement constitutes the entire and integrated agreement of Licensee and City with respect to the subject matter hereof and supersedes any and all prior and contemporaneous oral or written negotiations, representations or agreements.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by and through their authorized officers the day, month and year first written above.

ATTEST:


CITY OF SANTA ANA

Daisy Gomez
Clerk of the Council

Kristine Ridge
City Manager

APPROVED AS TO FORM:

Sonia R. Carvalho
City Attorney


By: 

Jose Montoya
Deputy City Attorney

RECOMMENDED FOR APPROVAL:

GREYHOUND LINES, INC.

Nabil Saba
Executive Director
Public Works Agency



David S. Leach
President, Chief Executive Officer

EXHIBIT “A”

EXHIBIT A
Santa Ana Regional Transportation Center- Site Plan

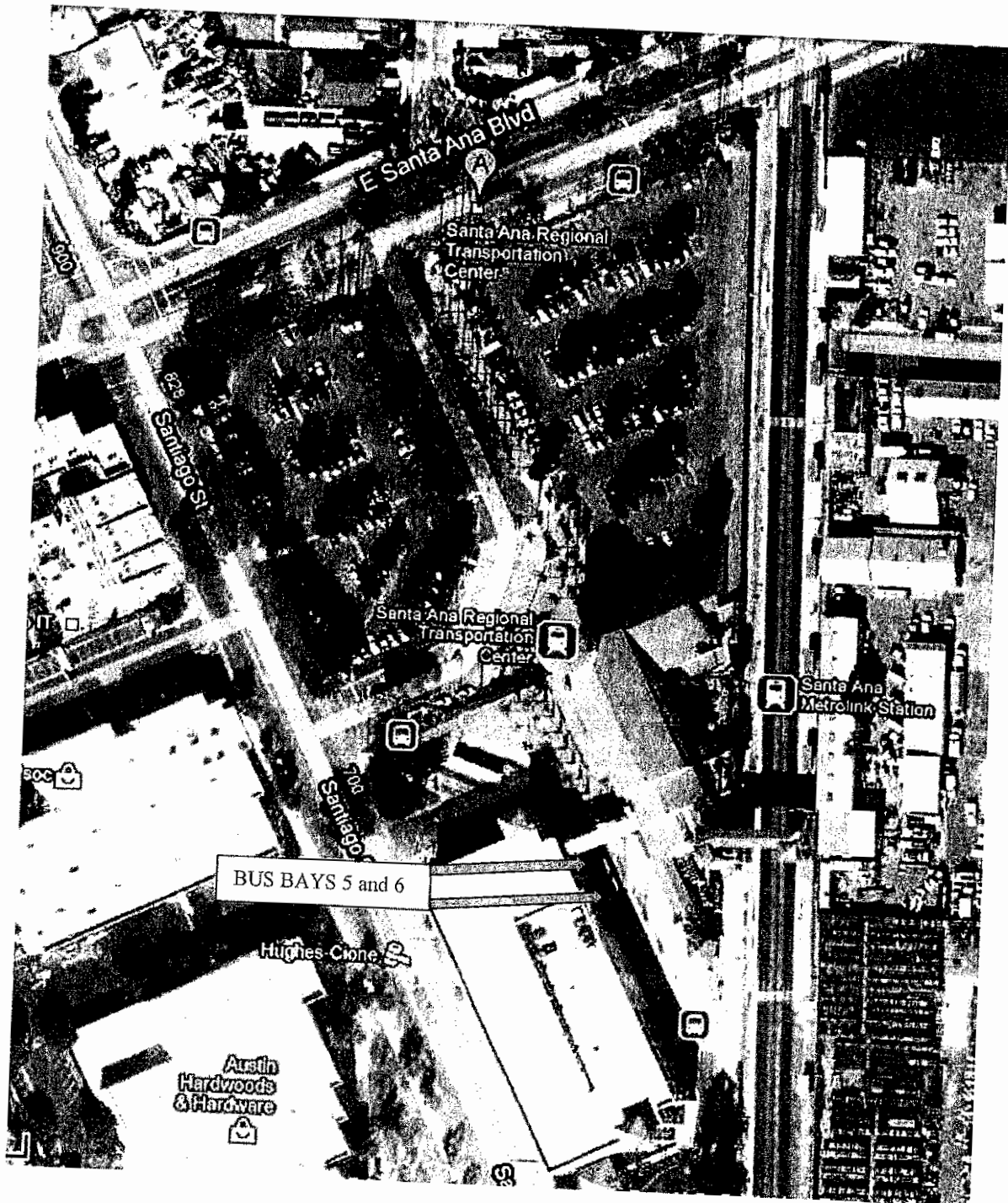


EXHIBIT “B”

**LEASE AGREEMENT BY AND BETWEEN THE CITY OF SANTA ANA AND
GREYHOUND LINES, INC. FOR USE OF THE SANTA ANA REGIONAL
TRANSPORTATION CENTER FACILITIES**

THIS LEASE AGREEMENT (the “**Lease**”) is dated as of November 16, 2021, by and between the City of Santa Ana, a Municipal Corporation (“**Landlord**” or “**City**”), and Greyhound Lines, Inc., a California Corporation (“**Tenant**”). City and Tenant are sometimes individually referred to as “**Party**” and collectively as “**Parties**.”

1. EXHIBITS: The following exhibits are attached hereto and incorporated herein by reference:

Exhibit "A" The Premises

Exhibit “B”: License Agreement

Exhibit "C" Additional Lease Conditions

2. PREMISES: Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, upon the terms, covenants and subject to the conditions set forth herein, a portion of the property located at 1000 East Santa Ana Boulevard in the City of Santa Ana, commonly known as the Santa Ana Regional Transportation Center (SARTC). Specifically, Tenant will be leasing the portion identified as **Suite 105**, consisting of approximately 580 square feet of interior office space, for the purpose of selling tickets to patrons in order to utilize the Tenant’s services (hereinafter referred to as the “PREMISES”). The PREMISES are more particularly described in **Exhibit “A”** attached hereto and incorporated herein by reference. The Landlord reserves the right to reconfigure the lease space or relocate the Tenant within SARTC by providing Tenant with a 30-day notice of such reconfiguration or relocation.

3. TERM: The term of this Lease (the “Term”) shall be for a period of one (1) year, which shall commence on December 1, 2021 (the “Effective Date”) and end on November 30, 2022, unless sooner terminated or extended as provided herein. If, at the sole determination of the City, the Tenant has not fully complied with Section 1.5 of **Exhibit “B”** attached hereto and incorporated herein by reference, any rights granted to the Tenant under this Lease shall terminate, and this Lease Agreement shall be automatically terminated as of that date without any further action by the City.

Tenant acknowledges that a condition precedent to occupancy of the Premises is the following:

At all times, Tenant shall provide the Landlord with documentation listing for each and every bus providing services at the SARTC in accordance with the terms and conditions outlined Section 1.5 of **Exhibit “B”**. Notwithstanding Section 20 of this Agreement, Tenant’s failure to abide by Section 1.5 of **Exhibit “B”** constitutes a breach and will result in the immediate termination of this Lease Agreement.

4. ADDITIONAL LEASE CONDITIONS: Tenant acknowledges that this lease is subject to compliance with the additional lease conditions attached hereto as **Exhibit “C”** attached

hereto and incorporated herein by reference. These additional lease condition are a material part of this lease agreement and any default of these conditions will be deemed a major breach and will subject this lease to immediate termination.

5. EXTENSION PERIODS: Landlord shall have the right, but not the obligation, to provide Tenant the option to extend the Term for one (1) additional period of one (1) year on the same terms and conditions as set forth in this Lease. Each option shall be agreed to in writing by the City Manager and Tenant prior to the expiration of the Term or any Extension Period then in effect.

6. RENT: Upon the Effective Date (a) Tenant shall pay to Landlord, as rent ("Rent"), the monthly sum of two thousand six hundred sixty eight dollars (\$2,668) in advance, on the 1st day of each calendar month and continuing for the first six months of the Term. Effective June 1, 2022, rent shall be increased to three thousand four hundred ninety five dollars (\$3,495) for the remainder of the Term, including any extension periods exercised under Section 5. Tenant shall commence the payment of Rent and other charges payable pursuant to this Lease on the Effective Date. All payments of Rent and other sums due to Landlord hereunder shall be made payable to "The City of Santa Ana" and remitted to: City of Santa Ana M-13, 20 Civic Center Plaza, PO Box 1988, Santa Ana, CA 92702. A LATE CHARGE OF TEN PERCENT (10%) SHALL BE APPLIED TO ANY PAYMENT HEREUNDER DUE BUT UNPAID AFTER THE 10TH OF THE MONTH. Landlord and Tenant hereby agree that Rent for any Extension Period, if the option for such is exercised, shall be subject to a CPI adjustment annually on the anniversary of the Effective Date of this Agreement.

7. HOLDOVER: Tenant has no right to retain possession of the Premises or any part thereof beyond the expiration or termination of this Lease. In the event that Tenant holds over, then the Rent shall be increased to 150% of the Rent applicable immediately preceding the expiration or termination. Nothing contained herein shall be construed as consent by Landlord to any holding over by Tenant. Any holding over by Tenant of the Premises after the expiration or termination of this Lease shall operate and be construed as a tenancy from month to month on all terms of this Lease, terminable by either party upon thirty (30) days prior written notice to the other.

8. LANDLORD'S TITLE: (a) Landlord hereby covenants, represents and warrants to Tenant that Landlord has fee simple title to the Premises and has the full right and lawful authority to make this Lease. Notwithstanding anything contained herein to the contrary, if there are any liens, security interests, restrictions, leases, encumbrances, encroachments, laws, ordinances, governmental rules or regulations, title restrictions, zoning, endangered species or any other matters which in fact interfere with Tenant's use of the Premises, then Tenant may terminate this Lease without owing any liability to Landlord. Landlord covenants that so long as Tenant is not in monetary default hereunder, Tenant shall have quiet and peaceful possession and enjoyment of the Premises, all improvements located thereon and of all easements, rights and appurtenances thereunto belonging.

9. DELIVERY OF POSSESSION UPON TERMINATION OR EXPIRATION OF TERM: Tenant agrees to deliver to Landlord physical possession of the Premises upon the termination or expiration of this Lease in good condition excepting, however, ordinary wear and tear, damage by fire or any other casualty, or damage from any other cause unless such other cause is attributable to the negligence of Tenant.

10. ASSIGNMENT AND SUBLETTING: Tenant may not assign this Lease or sublet the Premises or any part thereof without the prior written consent of Landlord.

11. TENANT'S REPAIRS, ALTERATIONS, FIXTURES: Except for reasonable wear and tear, Landlord agrees at Landlord's expense to (1) construct a wall to separate Suite 105 from the remainder of the Premises such that Suite 105 is a standalone suite, (2) provide general building maintenance, and (3) maintain in good repair the foundation, retaining walls and structural soundness of the Premises. Landlord agrees to keep the Premises in good repair, including the plumbing, electrical wiring, air-conditioning and heating equipment. Subject to Landlord approval, Tenant may make and pay for any renovations, alterations and improvements to the Premises as Tenant deems desirable and Tenant agrees that all such alterations and improvements shall be made in a good and workmanlike manner and in such fashion as not to diminish the value of the building, and that no such alterations shall compromise the structural integrity of the Premises. All improvements, additions, alterations, and repairs shall be in accordance with applicable laws and at Tenant's own expense. Tenant shall indemnify and defend Landlord for all liens, claims, or damages caused by remodeling, improvements, additions, alterations, and major repairs made by Tenant. It shall be Tenant's duty to keep the Premises free and clear of all liens, claims, and demands for work performed, materials furnished, or operations conducted on the Premises at the request of Tenant. On surrendering possession of the Premises to Landlord at the expiration or sooner termination of this Lease or any Extension Period, Tenant shall be required to return the premises in the same condition upon commencement of lease except for normal wear and tear.

Tenant may paint the interior of the Premises and may also paint, erect or authorize the installation of "temporary signs" in accordance with a signage plan that is pre-approved by the Landlord. Landlord shall not install or maintain, or permit anyone other than Tenant to install or maintain, any signs on any part of the Premises or within the air space above the Premises during the Term or any Extension Period of this Lease.

12. COMPLIANCE WITH LAWS: Tenant shall make and pay for nonstructural improvements and alterations to comply with all applicable laws, rules, regulations and ordinances of any and all applicable governmental entities (the "Governmental Laws") applying to the physical condition of the premises arising from Tenant's conduct of business. TENANT ACKNOWLEDGES THAT THE PREMISES HAS NOT UNDERGONE AN INSPECTION BY A CERTIFIED ACCESS SPECIALIST (CASP).

13. Intentionally Omitted.

14. ESTOPPEL CERTIFICATES: Landlord and Tenant shall, from time to time upon thirty (30) days' request by the other (but not to exceed more than three (3) times in any given calendar year), execute, acknowledge and deliver a statement, dated currently, certifying that this Lease is unmodified and in full, force and effect (or, if there have been modifications, that this Lease is in full effect as modified, and identifying such modifications) and the dates to which the Rent have been paid, and that no default exists in the observance of this Lease and no event of default has occurred and is continuing, or specifying each such default or event of default of which Landlord or Tenant may have knowledge, it being intended that any such statement may be relied upon by Landlord's or Tenant's Mortgagees, any prospective purchaser of the interest of Landlord or Tenant in their respective premises described herein.

15. LIABILITY INSURANCE: Throughout the Term or any Extension Period, Tenant shall maintain insurance as described below:

a. Commercial General Liability Insurance: Commercial general liability insurance for injury to person (including death) or damage to property occurring within the building arising out of the use and occupancy thereof by Tenant, its licensees, employees, invitees, agents and customers. The amounts of insurance shall be not less than the following: single limit coverage applying to bodily and personal injury, including death resulting therefrom, and property damage, in the total amount of \$2,000,000 per occurrence and \$5,000,000 in the aggregate. Such insurance shall (a) name the City, its officers, employees, agents, volunteers and representatives as additional insured(s); (b) be primary and not contributory with respect to insurance or self-insurance programs maintained by the City; and (c) contain standard separation of insureds provisions.

b. Business automobile liability insurance, or equivalent form, with a combined single limit of not less than \$5,000,000 per occurrence. Such insurance shall include coverage for owned, hired and non-owned automobiles.

c. Worker's Compensation Insurance. In accordance with the provisions of Section 3300 of the Labor Code, Tenant, if Tenant has any employees, is required to be insured against liability for worker's compensation or to undertake self-insurance. Prior to commencing the performance of the work under this Agreement, Tenant agrees to obtain and maintain any employer's liability insurance with limits not less than \$1,000,000 per accident.

d. Property Insurance. Tenant shall maintain not less than \$1,000,000 Fire Legal liability on all real property being leased, including improvements and betterments owned by the Landlord, and shall name the Landlord as a loss payee. Tenant shall also provide fire insurance on all personal property contained within or on the leased premises. The policy must be written on an "all risks" basis, excluding earthquake and flood. The Tenant shall name the Landlord as additional insured.

e. The following requirements apply to the insurance to be provided by Tenant pursuant to this section:

- i. Tenant shall maintain all insurance required above in full force and effect for the entire period covered by this Agreement.
- ii. Certificates of insurance shall be furnished to the Landlord upon execution of this Agreement.
- iii. Certificates and policies shall state that the policies shall not be cancelled or reduced in coverage or changed in any other material aspect without thirty (30) days prior written notice to the City, except for 10 days' notice for non-payment of premium.
- iv. If Tenant fails or refuses to produce or maintain the insurance required by this section or fails or refuses to furnish the Landlord with required proof that insurance has been procured and is in force and paid for, the Landlord shall have the right, at the Landlord's election, to forthwith terminate this Agreement.

16. DAMAGE BY CASUALTY:

- i. In the event of a fire or other casualty in the Premises, Tenant shall immediately give notice thereof to Landlord.
- ii. If the Premises, through no fault of Tenant, its agents, employees, invitees, or visitors, shall be partially destroyed by fire or other casualty so as to render the Premises untenable as reasonably determined by Landlord, Rent shall abate in proportion to the percentage of square footage of the Premises rendered unusable until such time as the Premises are made tenantable as reasonably determined by Landlord.
- iii. Except where Landlord is not obligated to repair or rebuild the Building or the Premises, Landlord will use due diligence to repair the same (except that Landlord will have no obligation to repair or replace any alteration, addition, or improvements to the Premises other than the Tenant Improvements installed at Landlord's expense which will be repaired only to the level of Building Standard Improvements).
- iv. In the event of (i) the total destruction of the Premises, (ii) the partial destruction of the Premises or the Building where the same is so damaged that it cannot, in Landlord's reasonable opinion, be repaired within ninety (90) days of the occurrence of such damage, or (iii) damage or destruction as a result of any casualty for which insurance proceeds are not available to pay 100% of the cost of repair or rebuilding, Landlord will have no obligation to repair or rebuild the Premises or the Building. Landlord will make its determination whether to repair or rebuild within ninety (90) days of the occurrence of such damage or destruction. Upon notification to

Tenant of Landlord's decision not to repair or rebuild, this Lease shall terminate.

17. EMINENT DOMAIN: (a) If (i) all or part of the Premises, the building located thereon, or (ii) so much of any rights in the Premises or the building located thereon shall be taken or appropriated under any right of eminent domain or under any other legal right whereby the taking authority is obligated to compensate Landlord therefor so that there does not remain premises suitable in the sole opinion of Tenant for the operation of its business, then Tenant may terminate and cancel this Lease without owing any liability to Landlord as of the date on which the condemning authority takes physical possession upon giving to Landlord written notice of such election. Landlord agrees immediately within ten (10) days after any notice of intended or actual taking or appropriation to give Tenant written notice thereof, providing to Tenant full details of such taking or appropriation, including, without limitation copies of all condemnation plans or surveys submitted by the condemning authority, a statement of the nature of the project to be conducted by the condemning authority, and such other information as might be necessary to enable Tenant to determine its future course of conduct. **TENANT ACKNOWLEDGES THAT LANDLORD'S EXERCISE OF ITS RIGHT TO TERMINATE THIS LEASE UNDER ANY OF THE PROVISIONS OF THIS LEASE SHALL NOT ENTITLE TENANT TO ANY RIGHTS OR CLAIMS FOR RELOCATION BENEFITS OR ANY OTHER CLAIMS RELATED TO CONDEMNATION OR INVERSE CONDEMNATION.**

(b) If this Lease shall be terminated and canceled as a result of any taking or appropriation, Tenant shall be released from any further liability and Rent and other sums for the last month of Tenant's occupancy shall be prorated and Landlord shall immediately refund to Tenant any sums paid in advance.

(c) Tenant reserves unto itself the right to prosecute Tenant's claim for an award for damages for the termination of this Lease caused by such appropriation or taking, together with damages based on the value of Tenant's improvements and Tenant's fixtures and other personal property erected or installed on the Premises and damages Tenant may sustain to the interest in the business operated by Tenant on the Premises, including, but not limited to, goodwill, patronage, and the removal, relocation, and replacement costs and expenses caused by such appropriation or taking, and Tenant may file such claims as are permitted by law for the loss of its leasehold interest, business dislocation damages, moving expense, or other damages caused by such taking or appropriation. Tenant's right to receive compensation or damages for its fixtures or its personal property shall not be affected in any manner by this Lease.

18. LIENS: Tenant shall promptly remove and discharge, at its cost and expense, all mechanic's liens, or other liens, for labor performed or materials furnished with respect to the Premises by or for Tenant.

19. PARKING AREA: Tenant acknowledges that Landlord has entered into an agreement with the Orange County Transportation Authority for the operations of the OC Streetcar at SARTC, which is under construction. Such operations may affect the number of parking spaces available at any one time, though it is not possible to determine the precise effect at the time of this Lease. Surface Parking Lots 1 and 2 allow up to 72-hour parking. Landlord will provide parking passes to identify all Tenant vehicles parked at SARTC at no cost to Tenant. If the parking structure at SARTC is full, Tenant and Tenant's agents, employees, customers and invitees must use the surface lots at SARTC.

20. TENANT'S DEFAULT: (a) If Tenant shall default in payment of Rent, when due, Landlord shall forward written notice, pursuant to Section 22, of such default to Tenant, and the failure of Tenant to cure such default within three (3) days after the date of receipt of such notice shall, at the option of Landlord, cause the termination of this Lease.

(b) If Tenant shall default in the performance of any other terms or provisions of this Lease, and if Landlord shall give to Tenant written notice, pursuant to Section 22, of such default, and if Tenant shall fail to cure such default within thirty (30) days after receipt of such notice, Landlord at its option, shall cause the termination of this Lease immediately.

21. HAZARDOUS SUBSTANCES: (a) As used herein, the term "Hazardous Substances" shall mean, without limitation, any substance that is biologically or chemically active or any hazardous, toxic, or dangerous waste, substance (including, but not limited to, lead-based paint, asbestos or petroleum derivative substances), or material defined as such in (or for purposes of) (i) any state, federal or local environmental laws, interpretive letters, regulations, decrees or ordinances, (ii) the Comprehensive Environmental Response, Compensation and Liability Act, as amended, (iii) the Resource Conservation and Recovery Act, (iv) any of the state or local "Super Fund", "Super Lien" or "Cleanup Lien" laws or (v) any other federal, state or local statute, law, ordinance, code, rule, interpretive letter, regulation, order or decree regulating, relating to or imposing liability or standards of conduct concerning any such substances or materials or any amendments or successor statutes with respect to any of the foregoing.

(b) During the Term of this Lease, Tenant represents and warrants that no Hazardous Substances will be stored on the Premises and no Hazardous Substances will be discharged on the Premises by Tenant. Tenant agrees that such representations and warranties shall survive any termination of this Lease, and Tenant agrees to indemnify and hold harmless Landlord from any and all costs, expenses, claims and damages, including, but not limited to, attorneys' fees and costs of remediation, arising from Tenant's breach of any of the representations and warranties contained in this Section.

22. NOTICE: All notices or demands required or permitted to be given or served pursuant to this Lease shall be deemed to have been given or served only if in writing, postage and/or delivery fees pre-paid and shall be sent by U.S.P.S. Certified Mail, Return Receipt Requested or via an overnight (or 2-day) delivery service maintaining a record of delivery (e.g. FedEx or UPS), which notices and demands shall be deemed served when delivered (or when

delivery is first attempted and refused), and which notices and demands shall be forwarded to the following addresses:

TO TENANT:

Greyhound Lines, Inc.
350 N. Saint Paul Street
Dallas, TX 75201

TO CITY:

Public Works Agency
City of Santa Ana
20 Civic Center Plaza (M-22)
Santa Ana, California 92701
Attention: Executive Director of Public Works Agency

AND

City Attorney's Office
City of Santa Ana
20 Civic Center Plaza (M29)
Santa Ana, California 92701
Fax: (714) 647-6515

Such addresses may be changed from time to time by either party by serving notice as above provided.

23. USE: For the purposes of this Lease, Tenant's proposed initial intended use of the Premises strictly for the purpose of selling tickets to patrons in order to utilize the Greyhound Transit Services.

24. The Tenant may at any time terminate the Lease by providing the City thirty (30) days advance prior written notice in accordance with Section 22 of this Lease.

25. GENERAL PROVISIONS:

(a) This Lease (and the documents referred to herein) constitutes the entire agreement between the parties pertaining **to the lease of Suite 105** contained herein and supersedes any and all prior and contemporaneous agreements, representations and understandings, oral or otherwise, between or among the parties with respect to the matters contained herein.

(b) This Lease shall be binding upon, and inure to the benefit of, the parties hereto and their respective heirs, legatees, distributees, legal representatives, successors and assigns.

(c) This Lease shall not be modified, amended or supplemented, in whole or part, without the prior written consent of all parties hereto. Each and every waiver of any covenant, representation, warranty or any other provision hereof must be in writing and signed by each party whose interests are adversely affected by such waiver. No waiver granted in any one instance shall be construed as a continuing waiver applicable in any other instance.

(d) If any legal action or other proceeding is brought for the enforcement hereof, or because of an alleged dispute, breach, default or misrepresentation in connection with any provisions hereof, the successful or prevailing party or parties shall be entitled to recover attorneys'

fees, court costs and all expenses even if not taxable as court costs (including, without limitation, all such fees, costs and expenses incident to appeals), incurred in that action or proceeding, in addition to any other relief to which such party or parties may be entitled.

(e) The parties hereby agree that each party and its attorneys have reviewed and revised this Lease and that the normal rule of construction, to the effect that any ambiguities are resolved against the drafting party, shall not be employed in the interpretation of this Lease and no other rule of strict construction shall be used against any party. All exhibits and schedules attached or to be attached hereto, and all other agreements and instruments referred to herein, are hereby incorporated herein by reference, as fully as if copied herein verbatim.

(f) This Lease shall be governed by the internal laws of the State of California without regard to and excluding its principles of conflicts of laws.

(g) The parties further agree that upon request, they shall do such further acts and deeds, and shall execute, acknowledge, deliver and record such other documents and instruments, as may be reasonably necessary from time to time to evidence, confirm or carry out the intent and purposes of this Lease.

(h) Unless the context in which used clearly requires another construction, throughout this Lease, the masculine gender shall be deemed to include the neuter or feminine or both, the neuter gender shall include the masculine or both, and the singular of terms shall include the plural and vice versa. The section headings are for convenience only and shall not affect the construction hereof.

(i) If any one or more of the provisions hereof shall for any reason be held invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect the validity or enforceability of any other provision hereof, which shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein. The parties intend that if any provision hereof is capable of two constructions, one of which would render the provision void and the other of which would render the provision valid, then the provision shall have the meaning which renders it valid.

(j) Time is of the essence in the performance of each party's respective obligations.

(k) This Lease may be executed simultaneously in one or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one in the same instrument, and it shall not be necessary that any single counterpart bear the signatures of all parties.

(l) Unless expressly stated to be exclusive, no remedy conferred herein shall be deemed to be exclusive of any other remedy conferred herein or any other remedy now or hereafter available at law or equity. All remedies conferred herein, and all remedies now or hereafter available at law or equity, shall be deemed to be cumulative and not alternative, and may be enforced concurrently or successively.

(m) All provisions of this Lease shall be construed as covenants and agreements where used in each separate provision hereof and shall bind and inure to the benefit of the parties hereto, their respective heirs, legal representatives, successors and assigns.

(n) All periods of time shall include Saturdays, Sundays and legal holidays; provided that, if the last day to perform any act or give notice falls on a Saturday, Sunday or legal holiday, then such act or notice shall be timely performed if given on the next succeeding business day.

(o) Any holding over by Tenant of the Premises after the expiration or termination of this Lease shall operate and be construed as a tenancy from month to month on all terms of this Lease, terminable by either party upon thirty (30) days prior written notice to the other.

(p) Nothing contained in this Lease shall be deemed or construed by the parties hereto or by any third party to create the relationship of principal and agent or of partnership or of joint venture or of any association between Landlord and Tenant, and no provision contained in this Lease nor any acts of the parties hereto shall be deemed to create any relationship between Landlord and Tenant other than the relationship of landlord and tenant.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by and through their authorized officers the day, month and year first written above.

ATTEST:

CITY OF SANTA ANA

Daisy Gomez
Clerk of the Council

Kristine Ridge
City Manager

APPROVED AS TO FORM:

Sonia R. Carvalho
City Attorney


By: _____
Jose Montoya
Deputy City Attorney

Type text here

RECOMMENDED FOR APPROVAL:

GREYHOUND LINES, INC.

Nabil Saba
Public Works Agency



David S. Leach
President, Chief Executive Officer

EXHIBIT A
THE PREMISES
SARTC – Suite 105

EXHIBIT A
(Premises)

EXHIBIT A
(Premises)

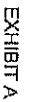


EXHIBIT B

Intentionally Omitted

EXHIBIT C

ADDITIONAL LEASE CONDITIONS

- Tenant will provide best-in-class local/regional transportation services to SARTC patrons.
- Tenant, at its expense, shall comply with all applicable federal, state, and local laws, ordinances, regulations, rules, and orders with respect to the use of any permitted areas.
- Tenant shall maintain all vehicles in neat, clean, mechanically sound, and painted condition at all times.
- Tenant shall adhere to a transit schedule and provide on-time pick-up and drop-off to SARTC patrons.
- Tenant shall maintain all proper registration for its vehicles.
- Tenant shall maintain all proper insurance for its vehicles.
- Tenant must meet or exceed all governmental requirements regarding the inspection and maintenance of its vehicles and provide a monthly log upon request.
- Tenant shall have a strong financial background with a multi-year successful operating history and the resources to pay any fees promptly and in full.
- Tenant shall adhere to all rules and regulations regarding the flow of bus/shuttle traffic at SARTC.
- Tenant shall work with SARTC management to ensure all safety protocols are strictly adhered to.
- Tenant shall work with SARTC management to manage ridership during peak and high volume hours.
- Tenant shall employ best-in-class drivers with all proper credentials necessary to operate a bus/shuttle service.
- Tenant shall employee the appropriate security protocols to operate for the public good within a facility of the scale and prominence of SARTC.
- Tenant shall receive payment from patrons via cash and/or debit/credit card.
- Selected Proposer must ensure their business name and DOT number is clearly identified on all buses accessing SARTC. Buses with a business name and DOT number different from the Proposer will not be allowed.

- Provide, if any, information regarding online ticket purchase capabilities for patrons.
- Tenant must notify the City as soon as the Federal Motor Carrier Safety Administration classifies high alert statuses of any reason.