

DATE
6-23, 10
REVIEWED BY
PREPARED BY
CITY ATTORNEYS OFFICE

DOCU-
MENT


APPROVED


A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
ROCK HILL APPROVING A VEHICLE LEASE AGREEMENT BETWEEN THE CITY
AND YORK COUNTY COUNCIL ON AGING

WHEREAS, The City of Rock Hill ("City") and the York County Council on Aging ("YCCOA") are parties to an Agreement dated July 2, 2009, as amended, pertaining to YCCOA providing certain Demand Response and Peak Period transit services;

WHEREAS, the City was awarded a grant to purchase six new vehicles for use in transportation of persons in or around the Rock Hill urbanized area by mass transit; and

WHEREAS, the City wishes to lease the six vehicles to YCCOA for transit services in accordance with the terms and provisions of the Vehicle Lease Agreement, attached hereto as Exhibit "A" and made a part hereof.

NOW THEREFORE, the City Council of the City of Rock Hill hereby determines and directs:

1. That the recitals set forth above are true and correct in all respects.
2. That the Vehicle Lease Agreement, as described above, between the City and YCCOA, all pursuant to the terms fully set forth in the Vehicle Lease Agreement, a copy of which is attached hereto and incorporated herein, is hereby approved, authorized, directed, ratified and confirmed in all respects.

3. The City Manager shall be authorized to make such beneficial changes to the Vehicle Lease Agreement as are deemed necessary to effect the intent of this Resolution.

DONE AND RATIFIED in meeting assembled this _____ day of _____, 2010.

A. Douglas Echols, Jr., Mayor

Susie B. Hinton, Mayor Pro Tempore

John A. Black, III, Councilmember

Kathy S. Pender, Councilmember

James C. Reno, Jr., Councilmember

Osbey Roddey, Councilmember

Kevin H. Sutton, Councilmember

ATTEST:

David B. Vebaun
Municipal Clerk

Johnston Street, Rock Hill, South Carolina, in the same condition and appearance as when received, ordinary wear and tear excepted. Any holding over after the expiration of the Lease shall be on a week-to-week basis and subject to all the terms of this Lease.

3. **Rent.** As consideration for use of the Vehicles, YCCOA agrees to (i) paint and decal the Vehicles in a like manner of other vehicles used to provide the Transit Services; (ii) operate and maintain the Vehicles; (iii) use the Vehicles for the Transit Services at the rates set forth in the Transit Agreement; and (iv) operate the Vehicles in compliance with federal, state and local requirements for public transportation.

4. **Use of Vehicles.** YCCOA shall use the Vehicles in accordance with the Transit Agreement to provide Transit Services. YCCOA shall not use or permit the Vehicles to be used for any other purpose without the written consent of City. YCCOA recognizes and agrees to comply with all of the use requirements imposed by the Federal Transportation Administration ("FTA"), as the Vehicles were acquired from an FTA grant. YCCOA will use the Vehicles in a careful, non-abusive manner, and not beyond its capacity, and YCCOA shall not make any alterations to the Vehicle without City's prior written consent. Subject to the terms of this Lease, from the time of delivery to YCCOA of any Vehicle covered by this Lease, YCCOA shall have exclusive possession, control, supervision and use of the Vehicle until its return to City. YCCOA agrees that all Vehicles shall be operated by safe, qualified, properly licensed drivers, who shall conclusively be presumed to be YCCOA's agent, servant or employee only, and subject to its exclusive direction and control. The Vehicles shall not be operated: (a) by a driver in possession of or under the influence of alcohol or any controlled drug, substance, or narcotic; (b) in a reckless or abusive manner; (c) off an improved road; (d) on an underinflated tire; (e) improperly loaded or loaded beyond maximum capacity; or (f) in violation of any applicable laws, ordinances, or rules; and YCCOA shall protect, defend, indemnify and hold City harmless from and against all fines, claims, forfeitures, judgements, seizures, confiscations or penalties arising out of any such occurrence. YCCOA will cause each Vehicle to be stored in a safe location. The

drivers shall be selected and employed by YCCOA. City will have no responsibility for compensation, supervision or control of such drivers.

5. **Maintenance of Vehicles.** City shall have no responsibility for any repair or service to the Vehicles during the term of this Lease. YCCOA agrees, at its own cost and expense, to provide in accordance with manufacturer specifications: (a) all preventive maintenance, replacement parts, and repairs to keep the Vehicles in good repair and operating condition; (b) oil and lubricants necessary for the efficient operation of the Vehicles; (c) all necessary tires and tubes; (d) road service due to mechanical and tire failures; (e) periodic exterior washing; (f) initial painting and lettering of each Vehicle according to YCCOA specifications at the time the Vehicle is placed into service. YCCOA shall maintain records to ensure that the Vehicles are being properly maintained in accordance with the terms hereof and all warranty requirements for said Vehicles. In the event any Vehicle shall be disabled for any reason, YCCOA and/or its driver shall notify City within 24 hours. YCCOA agrees that it will not cause or permit any person other than qualified persons to make any repairs or adjustments to a Vehicle. In the event a Vehicle is disabled, YCCOA shall, within 24-48 hours after receipt of notification, properly repair or cause the repair of the Vehicle. YCCOA will cause its drivers to report any trouble concerning the Vehicle not later than the date of occurrence to its management and to check oil and coolant levels in each Vehicle on a daily basis to prevent damage.

6. **City's Right of Inspect.** YCCOA shall permit City and its agents to enter into and upon the Vehicles at all reasonable times for the purpose of inspecting, testing or assessing the Vehicles, without any liability to YCCOA for any loss of use of the Vehicles occasioned by the entry. YCCOA shall further permit the City to review, inspect and/or copy maintenance records no less than quarterly.

7. **Damage to Vehicles; Insurance.** YCCOA assumes the risk of loss of, or damage to, the Vehicles covered by this Lease from any and every cause whatsoever, including, but not limited to, casualty, collision, upset, fire,

theft, malicious mischief, vandalism, graffiti, glass breakage, and mysterious disappearance. YCCOA shall, at its sole cost, procure and maintain an automobile collision and comprehensive insurance policy protecting City against any and all loss or damage to the Vehicles covered by this Lease, in form and amount satisfactory to City, which policy shall provide that losses, if any, shall be payable to City and/or its assignee. YCCOA shall further, at its sole cost, provide liability coverage for YCCOA and its agents, servants and employees, in accordance with the standard provisions of a basic automobile liability insurance policy against liability for bodily injury, including death, and property damage arising out of the ownership, maintenance, use and operation of the Vehicles to the fullest extent allowed by the South Carolina Insurance Reserve Fund.

YCCOA shall deliver to City all policies of insurance, or evidence satisfactory to City of such coverage, prior to delivery to YCCOA of any Vehicle covered by this Lease. Each insurer shall agree, by endorsement upon the policy issued by it, or by an independent document provided to City, that it shall give City thirty (30) days prior written notice of the effective date of any alteration or cancellation of such policy, and that such notice shall be sent by registered or certified mail postage prepaid, return receipt requested, to City Manager, P.O. Box 11706, Rock Hill, SC 29731.

YCCOA shall notify City as well as YCCOA's insurance company, of any loss of, or damage to, or accident involving any Vehicle, immediately by telephone, and in writing as soon as practicable thereafter, and to cooperate fully in the investigation, prosecution and/or defense of any claim or suit and to do nothing to impair or invalidate any applicable liability, physical damage or cargo coverage. YCCOA shall provide in each vehicle proof of financial responsibility.

8. **Indemnification.** YCCOA agrees to and shall indemnify, defend, save and hold harmless City from and against any and all loss, liability, expense or damage of any kind or nature and from any suits, causes of action, claims or demands, including reasonable attorneys' fees and any other costs associated therewith, involving, arising from or related to YCCOA's use or operation of any Vehicle

9. **Title to Vehicles; Registration Fees.** Title to the Vehicles shall remain in City or its designee. YCCOA shall, at all times, at its sole cost, keep the Vehicles free and clear from all liens, encumbrances, levies, attachments or other judicial process from every cause whatsoever, and shall give City immediate written notice thereof and shall indemnify and hold City harmless from any loss or damage, including attorneys' fees, caused thereby. YCCOA shall be responsible for all license fees, registration fees, title and taxes for the Vehicles during the term of the Lease.
10. **FTA RULES.** YCCOA shall comply with all federal requirements regarding use of equipment obtained by federal grants. Without limiting the foregoing, YCCOA agrees to comply with FTA Circular C 5010D dated November 1, 2008 regarding Grant Management Requirements and maintain requisite records for proof thereof.
11. **Disclaimer.** CITY MAKES NO WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, AS TO THE MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OF ANY VEHICLE COVERED BY THIS LEASE. CITY SHALL NOT BE LIABLE FOR LOSS OF YCCOA'S PROFITS OR BUSINESS, LOSS OR DAMAGE TO THIRD PARTIES, DRIVER'S TIME, OR ANY INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES.
12. **Assignment and Subletting.** YCCOA shall not assign or sublet its rights under this Lease without the express written consent of City.
13. **Default.** YCCOA's failure to comply with the terms and provisions of this Lease shall constitute an event of default. Upon default, the City may terminate this Lease, require YCCOA to return Vehicles, hold YCCOA liable for any damages and exercise any remedy allowed by law.
14. **Proper Authority; Acknowledgment.** By the respective signatures on this Lease, City and YCCOA represent, declare and warrant that each has the proper legal authority to execute and enter into this Lease, and to become bound by the terms hereof.

IN WITNESS WHEREOF, City and YCCOA have caused this Lease to be executed and sealed as of date set forth below.

IN THE PRESENCE OF:

YORK COUNTY COUNCIL ON AGING

By: _____ (Seal)

Date: _____

CITY OF ROCK HILL

By: _____ (Seal)

Date: _____

Exhibit A

Six 2010 Starcraft Allstar 14 px Commercial Buses

Vehicle Identification Numbers:

- (1) 1FDFF4FS4ADA62888
- (2) 1FDFF4FSXADA62894
- (3) 1FDFF4FS9ADA58612
- (4) 1FDFF4FS2ADA58614
- (5) 1FDFF4FS9ADA58576
- (6) 1FDFF4FS6ADA62889