

TRANSPORTATION SERVICES AGREEMENT

This agreement (hereinafter “Agreement”) is made and entered into this 1st day of July 2022, by and between MARTIN COUNTY BOARD OF COUNTY COMMISSIONERS (hereinafter referred to as the “SCHOOL BUS USER”), whose address is 2401 SE Monterey Road, Stuart, Florida 34996 and THE SCHOOL BOARD OF MARTIN COUNTY, FLORIDA (hereinafter referred to as the “SCHOOL BOARD”), whose address is 1939 SE Federal Hwy, Stuart, FL 34994 (SCHOOL BUS USER and SCHOOL BOARD hereinafter referred to collectively as “parties” and singularly as “party”). This Agreement is effective the 1st day of July, 2022 and expires on June 30th, 2023.

WHEREAS, SCHOOL BUS USER represents a number of persons residing in Martin County, Florida, who require transportation to and from locations to be designated by the parties in order to attend various programs sponsored by SCHOOL BUS USER.

WHEREAS, SCHOOL BOARD agrees to arrange for such transportation services on the terms and conditions hereinafter set forth.

AND NOW, THEREFORE, in consideration of the premises and of the mutual promises and covenants herein set forth, SCHOOL BOARD and SCHOOL BUS USER mutually agree to the following:

1. TERMS OF SERVICE

- A. SCHOOL BUS USER understands, acknowledges, and agrees that SCHOOL BOARD’s first priority is to fulfill its independent obligations to provide service to its own home-to-school and field trip transportation needs.
- B. SCHOOL BOARD has authority in its sole and exclusive discretion to limit the number of buses that SCHOOL BUS USER can request.
- C. If available, the SCHOOL BOARD shall provide up to five (5) buses with drivers per trip to transport eligible persons to and from designated locations in Martin County to attend sponsored programs. The transportation routing schedule, including pick-up and drop-off locations, will be designated by mutual agreement of the parties.
- D. SCHOOL BUS USER shall, at its own expense, obtain and place signs on each school bus stating: “The bus is contracted to the SCHOOL BUS USER.”
- E. SCHOOL BUS USER shall be responsible for all matters arising out of or relating to any misconduct or disciplinary action involving any person riding on the bus or participating in any part of the trip. SCHOOL BUS USER shall be solely responsible for any physical damage to the bus, including any interior or exterior damage to the bus, caused by SCHOOL BUS USER or any person riding on the bus or participating in any part of the trip. Notwithstanding the foregoing, SCHOOL BUS USER shall not be responsible for damage to a bus caused by third parties not under the direct supervision of SCHOOL BUS USER.

- F. SCHOOL BOARD will not be responsible or liable for any loss, damage or liability of any kind or nature whatsoever arising out of or relating to any claim or allegation that SCHOOL BOARD failed to provide a bus or driver service, such as in the event SCHOOL BOARD does not have any buses or bus drivers available.
- G. SCHOOL BUS USER will be solely responsible for scheduling each bus trip with the SCHOOL BOARD's transportation department at least twenty-one (21) days in advance of each trip. Upon scheduling a trip, the SCHOOL BUS USER shall be responsible to pay SCHOOL BOARD the Administrative Trip Charge (as described below) for each scheduled bus.
- H. SCHOOL BUS USER may reschedule any bus trip with the SCHOOL BOARD's transportation department at least twenty-one (21) days in advance of each trip. Upon rescheduling a trip, the SCHOOL BUS USER shall be responsible to pay SCHOOL BOARD the Administrative Trip Charge for each rescheduled bus.
- I. SCHOOL BUS USER will be solely responsible for cancelling each trip at least one (1) business day prior to the trip's scheduled date and time. If any trip is cancelled by SCHOOL BUS USER without providing at least one (1) business day's prior notice, SCHOOL BUS USER shall pay SCHOOL BOARD the Cancellation Charge for each cancelled bus.
- J. SCHOOL BUS USER shall pay SCHOOL BOARD in accordance with the Rate Schedule set forth below, plus all expenses, tolls, parking and/or entrance fees for applicable services performed, including those arising under SCHOOL BOARD Policies, Procedure Manuals and any applicable collective bargaining agreements.

2. RATE SCHEDULE AND INVOICING

- A. SCHOOL BUS USER agrees to pay the following charges and rates for each scheduled bus:
 - 1.) The Administrative Trip Charge shall be \$100.00 per bus per trip (one-way or to a destination and return).
 - 2.) The rate per mile driven and portions thereof shall be billed at \$5.00 per mile.
 - 3.) Bus Operator time shall be billed in 15-minute increments at \$28.00 per hour with a minimum trip of four (4) hours.
 - 4.) Bus Assistant time shall be billed in 15-minute increments at \$20.00 per hour with a minimum trip of four (4) hours.
 - 5.) A standard pre-trip inspection and post-trip cleaning shall be charged the sum of \$28.00 per trip (Note: additional, non-standard inspection time and clean up time shall be billed at the above rates).
 - 6.) If overtime is incurred by School Board, SCHOOL BUS USER shall pay one-and one-half times (1.5x) the hourly rates set forth above for each such billable hour,
 - 7.) The Cancellation Charge shall be \$215.00 per bus trip (one-way or to a destination and return).
- B. All mileage and time-based charges and rates to be charged to SCHOOL BUS USER shall be calculated by reference to the Mileage Check List and Log Sheet Reports based on the rate per mile and per hour listed above.

- C. The rates quoted herein are based upon a standard fuel cost of \$5.00 per gallon. In the event that the cost of fuel increases or decreases by more than 10%, SCHOOL BOARD reserves the right to increase or decrease the rates quoted herein by an amount equal to the change in the price of fuel upon providing ten (10) days written notice to SCHOOL BUS USER. In the event of such a change, the increased or decreased fuel price shall be considered the new standard fuel cost, and shall be subject to further change as provided in this paragraph.
- D. SCHOOL BUS USER shall be invoiced once per month for services rendered for the prior month. Payment shall be due within forty-five (45) days following the date of each such invoice in accordance with the Local Government Prompt Payment Act, as set forth in Section 218.74, Florida Statutes. Buses will not be provided if there any outstanding invoices.

3. INSURANCE

The SCHOOL BUS USER is a member of the Treasure Coast Risk Management Program (TRICO), which is a qualified self-insurer in the state of Florida and is granted immunity under Section 768.28, Florida Statutes (as it is now written and may be amended by the Legislature at future dates). Liability is limited to \$200,000 per claimant and \$300,000 per claim or occurrence for negligent acts of the SCHOOL BUS USER.

4. INDEMNIFICATION

As between the SCHOOL BOARD and the SCHOOL BUS USER, as limited by Section 768.28, Florida Statutes, the SCHOOL BOARD hereby assumes responsibility for claims for personal injury or property damage arising out of and attributable to the acts or omissions of the SCHOOL BOARD, its officers, employees, independent contractors and agents in connection with this Agreement, and the SCHOOL BUS USER hereby assumes responsibility for claims for personal injury or property damage arising out of and attributable to the acts or omissions of the SCHOOL BUS USER, its officers, employees, independent contractors and agents in connection with this Agreement. Provided, however, nothing herein shall be constructed as a waiver of either party's sovereign immunity, Section 768.28, Florida Statutes or as consent to be sued by third parties.

5. MISCELLANEOUS PROVISIONS

- A. The SCHOOL BUS USER's contact person for this Agreement shall be:

Martin County Parks & Recreation
Kevin Kirwin, Deputy Director
2401 SE Monterey Road
Stuart, Florida 34996
Telephone: 772-221-2328

- B. The SCHOOL BOARD's contact person for this Agreement shall be:

Martin County School District
Tom Hardin, Director of Transportation
2845 SE Dixie Hwy
Stuart, FL 34997

Telephone: (772) 219-1287 ext. 30101

- C. This Agreement may not be sold, transferred, or assigned without the written approval of SCHOOL BOARD. This Agreement may not be modified or amended except by written instrument executed by a duly authorized officer of each of the parties hereto.
- D. No waiver of either party hereto of any failure or refusal to comply with one or more of the terms and conditions of this Agreement shall be deemed a waiver of any other or subsequent failure or refusal to so comply.
- E. All Parties hereto agree that this Agreement shall be governed by and interpreted in accordance with the laws of the State of Florida without regard to conflict of law considerations, and any applicable state or federal law, act, rule or regulation. This Agreement is performable and shall be considered to be performed in Florida. In any and all disputes arising out of or related to this Agreement personal jurisdiction and venue shall be solely and exclusively proper in a court in Martin County, Florida, and the Parties hereto hereby irrevocably waive any challenge to such jurisdiction and venue. Should suit be brought in a federal court, and should there not be a federal court located in Martin County, Florida, then suit shall be brought in the federal Southern District of Florida, in the location within said District that is closest, geographically, to Martin County, Florida. No suit shall be maintained: (i) in any country other than the United States of America, (ii) in any state other than the State of Florida, or (iii) in any federal or state court whose geographical jurisdiction and venue does not specifically include Martin County, Florida. The parties waive the right to raise any claims of forum non conveniences and agree that the bringing of suit in any other forum, court or tribunal would be and is improper forum shopping. THE PARTIES EXPRESSLY WAIVE TRIAL BY JURY, INCLUDING AN ADVISORY JURY, IN ANY ACTION OR PROCEEDING ARISING OUT OF, OR RELATING TO THIS AGREEMENT. In any litigation permitted by this Agreement, each party shall bear their own costs and fees, including attorney fees.
- F. This Agreement shall not be construed against the party who drafted the Agreement. Both parties have obtained legal counsel as to the legality and enforceability of this Agreement.
- G. This Agreement may be cancelled by either party upon giving the other party thirty (30) days written notice to the contact person identified above.
- H. If any portion of this Agreement or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable shall not be affected thereby, and each term and provision of this Agreement shall be valid and enforced to the fullest extent permitted by law.

6. MAINTENANCE AND PUBLIC ACCESS TO RECORDS

The parties expressly acknowledge that each party is subject to the provisions of Chapter 119, Florida Statutes, and that each party shall comply with its requirements. In the event of a conflict between the requirements of the Florida Public Records Law and the requirements of this Agreement, the Public Records law shall prevail. Any provision herein in conflict with the Florida Public Records Law shall be deemed a nullity and void for all purposes.

7. ENTIRE AGREEMENT & EXECUTION

This Agreement represents the entire agreement of the parties with respect to the subject matter hereof. No other agreements, past or present, change, modify, alter, add to, or delete from the terms of this Agreement. By signing below, the Parties hereby enter into this Agreement as of the effective date hereof and for the full duration of this Agreement.

[Signature page follows]

SCHOOL BOARD OF MARTIN COUNTY, FLORIDA

Christia Li Roberts, Chair

Date: _____

Dr. John D. Millay, Superintendent

Date: _____

**BOARD OF COUNTY COMMISSIONERS
MARTIN COUNTY, FLORIDA**

ATTEST:

Carolyn Timmann, Clerk of the
Circuit Court and Comptroller

Doug Smith, Chairman

APPROVED AS TO FORM & LEGAL SUFFICIENCY:

Sarah W. Woods, County Attorney

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