

## **SCHOOL PUPIL TRANSPORTATION SERVICES AGREEMENT**

This Agreement is made and entered into as of the 7th day of June, 2022, by and between Morgan Hill Unified School District, ("District"), with business office located at 15600 Concord Circle, Morgan Hill, California 95037, and Charter School of Morgan Hill, ("CSMH"), with its business office located at 9530 Monterey Road, Morgan Hill, California 95037. The District and CSMH may be collectively referred to as the "Parties" or individually as a "Party."

CSMH has requested that the District provide pupil transportation services described herein and the District has agreed to provide such transportation services; therefore, in consideration of the covenants hereinafter contained the parties agree as follows:

### **1. TERM**

The term of this Agreement shall commence July 1, 2022 and shall continue through June 30, 2023. This Agreement may be extended by mutual written agreement, subject to terms and conditions as set forth in this Agreement.

### **2. SCOPE OF SERVICES**

The District shall provide during the term of this Agreement, the following services:

1. Use of District's fueling system including two (2) card lock keys
2. Parking of no more than one (1) CSMH owned bus at the District's transportation yard as long as space is available
3. Mechanic services, and the forwarding of all maintenance records
4. Field trips

### **3. COMPENSATION AND BILLING**

In consideration for services rendered, CSMH shall pay to the District all sums due and calculated in accordance with the rates and payment terms set forth in Exhibit A, attached hereto and made a part hereof. The rate(s) of compensation payable hereunder may be adjusted upon each extension of the term of this Agreement.

In the event CSMH transportation requirements substantially change during the term of this Agreement, including any extensions or renewals thereof, then at the request of either party, the rate(s) of compensation payable hereunder may be renegotiated.

### **4. INDEMNIFICATION**

CSMH agrees to defend, indemnify, and hold harmless the District, its Board of Education, officers, employees and agents, individually and collectively, from and against all costs, losses, claims, demands, suits, actions, payments, liabilities and judgments, including attorney's fees, arising from personal or bodily injuries, property damage or otherwise, regardless of and however caused that may arise for any reason from the District's performance of this

Agreement.

## **5. INSURANCE**

During the term of this Agreement, the District and CSMH shall procure and maintain general liability, automobile liability, and professional liability (errors and omissions) from a California licensed insurer acceptable to the District with per-occurrence limits of \$2 million. Both parties shall also provide an Additional Insured Endorsement, naming the other party as Additional Insured. Such insurance coverage shall be primary insurance and any insurance or self-insurance maintained by the other party shall be noncontributory. These certificates shall contain a provision that coverage afforded under the policy will not be canceled or allowed to expire until at least thirty (30) days prior written notice has been delivered to the other party.

## **6. FORCE MAJEURE**

In the event the District is unable to provide the transportation services as specified in this Agreement because of any act of God, civil disturbance, fire, riot, war, terrorism, picketing, strike, labor dispute, governmental action or any condition or cause beyond the District's control, CSMH shall excuse the District from performance under this Agreement.

## **7. PERSONNEL**

The District shall employ personnel who shall be responsible for the transportation services furnished hereunder and who shall be the District's liaison to CSMH. By August 1st of each calendar year, the District shall inform CSMH of the name(s), contact telephone number(s) and email address(es) of such personnel.

CSMH shall employ personnel who shall be responsible for coordinating the student transportation requirements of CSMH to be furnished under this Agreement who shall be the CSMH liaison to the District. By August 1st of each calendar year, CSMH shall inform the District of the name(s), contact telephone number(s) and email address(es) of such personnel.

## **8. ASSIGNMENT**

The District shall not assign this Agreement without prior consent of CSMH. The parties agree that assignment by the District of any sums due and owing the District under this Agreement shall not constitute an assignment of the Agreement.

## **9. TERMINATION**

### **9.1 Without cause**

Either party may, at any time, terminate this Agreement without cause upon a thirty (30) day notice. The parties acknowledge that this thirty (30) day notice period is acceptable so that CSMH can procure the services from another source and the District can adjust staffing.

### **9.2 With cause**

Either party may, at any time, terminate this Agreement upon giving of written notice of intention to terminate for cause.

Cause shall include:

- 9.2.1 Material violation of this Agreement by either party; or
- 9.2.2 Any act by either party exposing the other party to liability; or
- 9.2.3 Insolvency

Written notice shall contain the reasons for such intention to terminate and unless within three (3) calendar days after that notice the condition or violation shall cease, or satisfactory arrangements for the correction thereof be made, this Agreement shall upon the expiration of the three (3) calendar days cease and terminate.

#### 10. **SEVERABILITY**

If any provision of this Agreement shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining portions hereof shall not in any way be affected or impaired thereby, except where enforcement is inconsistent with the parties' intent.

#### 11. **INDEPENDENT CONTRACTOR STATUS OF THE DISTRICT**

In the interpretation of this Agreement and the relations between the District and CSMH, the District shall be construed as being an independent contractor employed to provide transportation services only. Neither the District nor any of its employees shall be held or deemed in any way to be an agent, employee or official of CSMH.

#### 12. **EXTENSION AND MODIFICATION**

The District and CSMH may extend or otherwise modify the terms of this Agreement in whole or in part as circumstances may justify by mutual written agreement executed by the duly authorized representatives of the parties.

#### 13. **NOTICES TO PARTIES**

Any notice required or permitted to be given under this Agreement shall be deemed to have been given, served, and received if given in writing and either personally delivered or deposited in the United States mail, registered or certified mail, postage prepaid, return receipt required, or sent by overnight delivery service, or facsimile transmission, addressed as follows:

**DISTRICT:**

Morgan Hill Unified School District  
15600 Concord Circle  
Morgan Hill, CA 95037  
ATTN: Deputy Superintendent

**CSMH:**

Charter School of Morgan Hill 9530  
Monterey Road  
Morgan Hill, California 95037  
ATTN: Business Administrator

CSMH or the District may change its address of record for receipt of official notice by giving the other written notice of such change and any necessary mailing instructions.

#### 14. **RELEASE, DISCHARGE OR WAIVER**

No release, discharge or waiver of any provision hereof shall be enforceable against or binding

upon either party hereto unless in writing and executed by both parties hereto. Neither the failure to insist upon strict performance of any of the agreements, terms, covenants or conditions hereof, nor the acceptance of monies due hereunder with knowledge of a breach of this Agreement, shall be deemed a waiver of any rights or remedies that either party hereto may have or a waiver of any subsequent breach or default in any of such agreements, terms, covenants or conditions.

**15. RESOLUTION OF DISPUTES AND ATTORNEY FEES**

The laws of the State of California will apply in interpreting this Agreement. In the event of any disagreement or dispute concerning the terms of this Agreement or the services to be provided under this Agreement, the parties shall attempt to reach resolution through mediation involving administrators of each party. Any suit filed with respect to this Agreement shall be filed in the state courts located in the County of Santa Clara of California. Should litigation be necessary to enforce any terms or provisions of this Agreement, then each party shall bear its own litigation and collection expenses, witness fees, court costs and attorney's fees.

**16. ENTIRE AGREEMENT**

This Agreement sets forth the entire agreement between CSMH and the District concerning the subject matter hereof. There are no representations; either oral or written, between CSMH and the District other than those contained in this Agreement.

**17. EXECUTION IN COUNTERPARTS**

This Agreement may be executed in several counterparts each of which shall be an original and all of which shall constitute but one and the same agreement.

IN WITNESS WHEREOF, the parties hereto have executed the Agreement through their duly authorized representatives, in duplicate, the day and year first hereinabove written.

**Morgan Hill Unified School District**

Signed: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

BOE Approval: \_\_\_\_\_

**Charter School of Morgan Hill**

Signed: Paige Cisevski

Print Name: PAIGE CISEWSKI

Title: EXECUTIVE DIRECTOR

Date: 5/17/2022

**EXHIBIT A - RATES AND CHARGES APPLICABLE**  
**Services Available**

**Fuel** The District shall provide CSMH with fueling services and shall bill CSMH for fuel costs (based on a monthly average of fuel cost by fuel type), inclusive of all fuel taxes, plus ten and one eighth percent (10.125%) overhead charge to account for fuel procurement and ongoing fuel system maintenance.

**Parking** The District shall provide space for up to one (1) CSMH bus at the District's transportation yard at no cost (\$0.00) per month as long as space is available. CSMH shall not hold the District responsible for any theft or damage to any bus or vehicle parked at the transportation yard unless such theft or damage is directly caused by District employees negligence.

**Field Trips** CSMH may procure field trips from the District. The rates for services are determined by an hourly charge which reflects the labor costs of the bus driver(s) plus a mileage charge. If such services are desired, CSMH shall email the District's personnel contact to receive an estimate and confirm availability.

**Mechanic Shop Price** CSMH may procure mechanic services from the District at a rate of one hundred dollars (\$100.00) per hour which includes all mechanical labor, labor times are based on published labor guides and our internal time rates. In addition to the labor costs, CSMH is also responsible for all part costs. Typical services and labor hours are provided below for informational purposes.

**45 Day Service** **2.00 hrs. labor plus parts**  
This includes labor to perform the inspection, make adjustments to brakes, tire pressure and any minor adjustments as needed. Includes labor for changing engine oil and filter, lubing chassis, checking and filling all fluids, replacing light bulbs and lens as needed.

**Hydraulic System Service** **1.0 hrs. labor plus parts**  
This includes changing hydraulic oil and filter and inspecting system hoses and seals.

**Transmission Service** **1.0 hrs. labor plus parts**  
This includes draining and refilling transmission where drains are provided changing filters and adjustments to external linkage.

**Engine Cooling System Service** **1.2 hrs. labor plus parts**  
This includes drain and refill cooling system, replace coolant filter if equipped, inspect radiator, coolant hoses, water pump seals, radiator fan and drive system, recovery system and cap and clean radiator external fins.

**Brakes** **2.0 hrs. labor per axel plus parts**  
This includes labor to replace brake parts as needed to keep brakes in serviceable condition; we will machine drums if they are serviceable or replace them if they are not.

**Tires** **One tire 0.8 hrs. plus parts**  
**Two or more 1.2 hrs. labor**  
This includes labor to mount and balance.

## **PAYMENT TERMS**

Not later than the 10th of each month, the District will invoice CSMH for all services rendered during the prior billing period, net of any adjustments for services rendered in prior months, which were not previously invoiced or credited to CSMH.

After verification of the invoice, CSMH will pay all amounts invoiced no later than 20 days after the date invoice was received. Late payments may be assessed a late payment fee equal to interest at two percent (2.0%) per annum.