

ACTION ITEM

Date: May 18, 2020

To: Kari Cremascoli, Ph.D.
Superintendent

From: Ellen Crispino
Business Manager/CSBO

Subject: Approval of Amendment to Student Transportation Agreements

Proposed Action by Board of Education

Approve the Amendment to the Student Transportation Services Agreements with North Shore Transit (NST) to pay \$7,583.59 per day for each scheduled school day not in session during the Statewide ordered school closure from March 17th – April 30th, 2020, and to pay \$3,507.41 per day for each scheduled school day not in session from May 1st – June 11th, 2020. In addition, approve amended Regular Transportation rate increases of 1.3% for FY 21 and 2% for FY 22.

Background

Due to the COVID-19 pandemic, Governor Pritzker's Executive Order ordered the closure of all public and private schools effective March 17, 2020. To ensure bus drivers continue to be paid during the school closure due to the COVID-19 pandemic, and in order to make sure buses and bus drivers are available when school returns to in-person instruction, the District desires to amend the Regular Transportation Agreement and the Special Education Transportation Agreement to allow for prorated payments to North Shore Transit. For each scheduled school day not in session during the Statewide ordered school closure from March 17th – April 30th, 2020, the District will pay 80% of normal costs and for each scheduled school day not in session from May 1st – June 11th, 2020, the District will pay 37% of normal costs. North Shore Transit's rate increase for Regular Transportation for FY 21 will be reduced from 4% to 1.3% and the increase for FY 22 will be reduced from 4.25% to 2% as indicated on the attached schedule

The Administration recommends approval of the Amendment to the Student Transportation Services Agreements with North Shore Transit.

Attachments

**Recommended for approval
by the Board of Education**



**Kari Cremascoli, Ph.D.
Superintendent**

**AMENDMENT TO TRANSPORTATION SERVICES AGREEMENTS
BETWEEN THE BOARD OF EDUCATION OF
WILMETTE SCHOOL DISTRICT NO. 39
AND
NORTH SHORE TRANSIT, INC.**

This Amendment is entered into this ___ day of May, 2020, by and between the Board of Education of Wilmette School District No. 39, Cook County, Illinois, (“District”) and North Shore Transit, Inc. (“Contractor”) (collectively referred to as “Parties”).

WITNESSETH:

WHEREAS, the Parties entered into a Transportation Services Contract, effective August 1, 2017 (“Regular Transportation Agreement”), under which Contractor must provide regular education transportation services to the District through the 2019-2020 school year; and

WHEREAS, the Parties entered into a previous amendment to extend the Regular Transportation Agreement and the terms thereof through the 2021-2022 school year (“Extension Agreement”); and

WHEREAS, the Parties entered into a separate Transportation Services Contract, effective August 1, 2018 (“Special Ed Transportation Agreement”), under which Contractor must provide special education transportation services to the District through the 2020-2021 school year; and

WHEREAS, the Agreements only require the District to pay for services provided for each and every day that school is convened; and

WHEREAS, on March 13, 2020, Governor Pritzker’s Executive Order 5 ordered the closure of all public and private schools in Illinois serving pre-kindergarten through 12th grade students from March 17, 2020, through March 30, 2020, due to the COVID-19 pandemic; and

WHEREAS, on March 20, 2020, Governor Pritzker’s Executive Order 10 ordered all individuals currently living within the State of Illinois to stay at home or at their place of residence and further extended the mandated statewide suspension of in-person instruction through April 7, 2020; and

WHEREAS, on April 1, 2020, Governor Pritzker’s Executive Order 18 extended his previous order mandating statewide suspension of in-person instruction through April 30, 2020; and

WHEREAS, on April 30, 2020, Governor Pritzker’s Executive Order 33 (2020) extended his previous order mandating statewide suspension of in-person instruction through May 29, 2020; and

WHEREAS, the District suspended in-person classes through June 11, 2020; and

WHEREAS, the Parties desire to amend the Agreements to allow for the continued payment of the salaries and benefits of Contractor's employees during the school closure period from March 17, 2020, through April 30, 2020, and to provide for continued payment of a lower amount representing fixed costs attributable to District during the remainder of the school closure period from May 1, 2020, through June 11, 2020, to ensure when the school closure order is lifted Contractor will be ready, willing and able to immediately commence transportation services to the District under the Agreements; and

WHEREAS, Contractor represents and warrants to the District that it has not fired, furloughed, reduced work hours or otherwise reduced the salaries and benefits of the Contractor's employees that provided services to the District since before the mandated school shutdown through April 30, 2020; and

WHEREAS, the Illinois State Board of Education has advised that school districts may amend contracts with existing bus vendor to continue to provide payments to said vendors to ensure that they are ready, willing and able to immediately commence transportation services upon the lifting of the order closing Illinois schools; and

WHEREAS, in further consideration of payments during this closure period, the Contractor is willing and the District agrees to amend compensation rates under the Extension Agreement to provide reduced price increases in future years.

NOW, THEREFORE, in consideration of the terms and conditions herein, and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

1. **Compensation**. From March 17, 2020, through April 30, 2020, the District shall pay Contractor at a rate of \$7,583.59 per day for each scheduled school day that was not in session during the Statewide ordered closure (a total of 26 school days). The payments made by the District through April 30, 2020, shall only be utilized by Contractor to pay employee salaries and benefits and for fixed costs attributable to the District. From May 1, 2020, through June 11, 2020, the District shall continue to pay Contractor at a rate of \$3,507.41 per day for each scheduled school day that is not in session during the Statewide ordered closure (a total of 29 days). The payments made by the District through June 11, 2020, shall only be utilized by Contractor to pay for employee salaries and benefits and for fixed costs attributable to District. In the event that a closure period continues past the regular 2019-2020 school year into the 2020 summer school term, the Parties shall renegotiate an equitable adjustment in compensation that would apply during the 2020 summer school term, if any. The compensation rates in this Paragraph 1 supercede and are intended to replace any conflicting compensation provisions in the Regular Transportation Agreement and Special Ed Transportation Agreement during the closure period.

2. **Continued Employment**. In exchange for the payments made under Paragraph 1 of this Amendment, Contractor will continue to employ all bus drivers, aides and other personnel necessary to operate the buses that would otherwise be servicing the District through April 30,

2020. The Contractor acknowledges that its representation to the District that it has not fired, furloughed, reduced work hours or otherwise reduced the salaries and benefits of the Contractor's staff that provided services to the District since before the mandated school shutdown through April 30, 2020, is a material inducement to the District entering into this Amendment and that without such representation, the District would not have entered into this Amendment.

3. **Invoices and Monthly Payment Reports.** Contractor shall invoice the District monthly for the compensation and fixed costs attributable to District to be paid hereunder and such invoices shall detail the total amount due and the method utilized by Contractor in calculating such amount. All invoices of Contractor for the period of March 11, 2020, through April 30, 2020, shall be accompanied by a certified payroll evidencing the amounts paid by Contractor to its employees for the period covered by the submitted invoice. All invoices of Contractor for the period of May 1, 2020, through June 11, 2020, shall be accompanied by a detailed breakdown of the fixed costs attributable to the District. All invoices submitted by Contractor shall be paid by the District in accordance with the *Local Government Prompt Payment Act* (50 ILCS 505/1 *et seq.*). If the amounts paid by the District under this Amendment exceed the amount actually paid by Contractor to the employees identified in Paragraph 1 above or the fixed costs attributable to the District, then Contractor shall promptly refund the difference to the District.

4. **Representations and Warranties.** Contractor represents and warrants that it has not received any insurance proceeds (e.g. business interruption insurance), grant funding, Federal, State or local aid or any other funds to be utilized by Contractor as a result of COVID-19 pandemic. It being understood by Contractor that the payments provided hereunder are solely intended to provide relief to the employees of Contractor in light of Contractor's loss of revenue due to the COVID-19 pandemic and that such payments are not a subsidy or any other form aid. Contractor agrees to seek reimbursement from any Federal, State or local aid available for the reimbursement of the expenses paid by it with the funds provided by the District hereunder. If, at any time, whether during the COVID-19 closures or thereafter, Contractor, or any subsidiary or parent corporation thereof, receives funding from another source for the reimbursement of the expenses paid with the funds provided by the District hereunder, Contractor shall promptly inform the District of such in writing and shall reimburse the District either in full, if the amount of such funding received by Contractor allows, or on a prorated basis, for the payments made by the District hereunder. If Contractor fails to notify the District of the receipt of such funding, Contractor shall, in addition to being liable to the District for the appropriate refund, shall also be liable for interest, at the rate of 1% per month, on all such amounts due and owing the District.

5. **Audit Rights.** During the term of this Amendment, and for ten years thereafter, the District shall have the right to inspect and copy Contractor's accounting records and other related documents to confirm that Contractor has complied with the terms and conditions of this Amendment. Any audit performed by the District shall be done at its expense; however, if such audit reveals that Contractor has failed to materially comply with the terms and conditions of this Amendment, the District shall, in addition to any other remedies available to it under the Agreements, this Amendment, at law or in equity, be entitled to recover all of the costs and expenses incurred by the District in performing such audit.

6. **Decreased Compensation for Regular Education Transportation for 2020-2022 School Years.** Contractor's rate increases for Regular Transportation for the 2020-2021 and 2021-2022 school years shall be 1.3% for 2020-2021 and 2% for 2021-2022, in lieu of the previously-agreed 4% and 4.25% under the Extension Agreement. Accordingly, Contractor shall be compensated for Regular Transportation for the 2020-2021 school year and the 2021-2022 school year at the rates shown on Exhibit A and dated 05/18/20.
7. **Termination.** The District may terminate this Amendment with or without cause at any time upon written notice to Contractor.
8. **Bankruptcy.** This Amendment shall terminate, without notice, (i) upon the institution by or against the Contractor of insolvency, receivership or bankruptcy proceedings or any other proceeding for the settlement of debts, (ii) upon Contractor's assignment for the benefit of creditors, or (iii) upon Contractor's dissolution for cessation of doing business. Said termination shall not impair the validity and enforceability of the District's rights under Paragraph 4, and the applicable provisions of said paragraph shall survive termination.
9. **Additional Services.** During the closure period, from March 17, 2020, through June 11, 2020, in further consideration for the payments in Paragraph 1, the Contractor shall be available to perform any and all runs, activities, and work that the District requests.
10. **Incorporation of Preambles.** The preambles are hereby incorporated into and made a part of this Amendment.
11. **Existing Contract.** It is the intent of the Parties that this Amendment shall control over the Agreements so long as it is in effect. Except as set forth herein, all other terms and conditions of the Agreements shall remain in full force and effect. Except as set forth in this Amendment, Contractor agrees to release any and all claims against the District for any additional compensation during the closure period(s) related to the COVID-19 pandemic.
12. **Third-Party Beneficiaries.** This Amendment is solely for the benefit of the signatories hereto and may not be relied upon by any third-party. Furthermore, no third-party may bring any action to enforce the terms and conditions of this Amendment.
13. **Attorneys' Fees.** In the event that the District brings an action to enforce the terms and conditions of this Amendment, it shall be entitled to recover from Contractor all fees, costs and expenses of any kind and nature whatsoever, related to such action.
14. **Assignment.** This Amendment may not be assigned or otherwise sold or transferred without the prior written consent of the District, which it may withhold in its sole and absolute discretion.
15. **Reopener.** In the event of any changes in laws, rules, regulations, or interpretations of agencies or courts, or based on economic considerations that affect this Amendment or the Agreements, the District shall have the right to request to renegotiate any of the impacted provisions hereunder at any time.

IN WITNESS WHEREOF, the Parties have executed this Amendment on the dates indicated below.

DISTRICT:

**BOARD OF EDUCATION OF
WILMETTE SCHOOL DISTRICT NO. 39,
COOK COUNTY, ILLINOIS**

By: _____

Its: _____

Date: _____

CONTRACTOR:

NORTH SHORE TRANSIT, INC.

By: _____

Its: _____

Date: _____

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NORTH SHORE TRANSIT
PROPOSAL FOR
WILMETTE DISTRICT 39
2020-2022

<u>Regular Education Transportation</u>	<u>2019/2020 Rate per Bus/Day</u>	<u>2020/2021 Rate per Bus/Day</u>	<u>2021/2022 Rate per Bus/Day</u>
Cost per single shuttle tier	\$113.06	\$114.53	\$116.82
Cost per single tier	\$319.60	\$323.75	\$330.23
Cost per triple tier- WJHS/HMS/Elementary	\$339.08	\$343.49	\$350.36
Cost per quadruple tier	\$339.08	\$343.49	\$350.36
Midday routes	\$120.02	\$121.58	\$124.01
Cost per double tier	\$329.36	\$333.64	\$340.31

<u>Activities, Charters & Field Trip Rates</u>	<u>2019/2020 Rate per Hour</u>	<u>2020/2021 Rate per Hour</u>	<u>2021/2022 Rate per Hour</u>
Rate per Hour	\$64.42	\$65.26	\$66.56
Minimum Trip Charge	\$193.26	\$195.77	\$199.68

<u>Athletic Trips Rates</u>	<u>2019/2020 Rate per Hour</u>	<u>2020/2021 Rate per Hour</u>	<u>2021/2022 Rate per Hour</u>
Rate per Hour	\$64.42	\$65.26	\$66.56
Minimum Trip Charge (may not exceed two hours)	\$128.84	\$130.52	\$133.12

<u>Summer School Transportation</u>	<u>2019/2020 Rate per Bus/Day</u>	<u>2020/2021 Rate per Bus/Day</u>	<u>2021/2022 Rate per Bus/Day</u>
Cost per trip tier	\$339.08	\$343.49	\$350.36

<u>Cost of Monitors</u>	<u>2019/2020 Rate per Bus/Day</u>	<u>2020/2021 Rate per Bus/Day</u>	<u>2021/2022 Rate per Bus/Day</u>
	\$87.79	\$88.93	\$90.71