

OK AS TO FORM
KCB 5.31.2024

MEMORANDUM OF AGREEMENT BETWEEN JEFFERSON COUNTY BOARD OF EDUCATION AND TRANSIT AUTHORITY OF RIVER CITY

THIS MEMORANDUM OF AGREEMENT ("Contract") is entered into between the JEFFERSON COUNTY BOARD OF EDUCATION, a political subdivision of the Commonwealth of Kentucky doing business as the Jefferson County Public Schools, with its principal place of business at 3332 Newburg Road, Louisville, Kentucky 40218 ("JCPS") and the TRANSIT AUTHORITY OF RIVER CITY ("TARC"), with its principal place of business at 1000 West Broadway, Louisville, KY 40203.

WITNESSETH:

WHEREAS, JCPS desires to procure certain services of TARC, which are more fully described below; and

WHEREAS, TARC has held itself out to be competent and capable of performing the services desired by JCPS;

NOW, THEREFORE, in consideration of the premises, the mutual promises, covenants and conditions contained in this Contract, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound, JCPS and TARC (individually, a "Party" and collectively, the "Parties") agree as follows:

ARTICLE I

Entire Agreement; Amendments

This Contract is the entire agreement between the Parties and supersedes any and all agreements, representations and negotiations either oral or written between the Parties before the Effective Date, as defined below of this Contract. This Contract may not be amended or modified except in writing as provided in Article VI.

ARTICLE II

Services

During the Term as defined below, TARC will perform (a) the services set forth below, and (b) such other services that are agreed in writing by JCPS and TARC during the Term in an addendum to this Contract as provided in Article VI (collectively, the "Services").

1. Engagement

JCPS agrees to lease the services of certain TARC employees (hereinafter "leased bus drivers"), in accordance with the terms and conditions of this Contract, and TARC agrees to make available such services according to the terms and conditions of

this Contract. A listing of the names of the leased bus drivers will be created by TARC and updated monthly throughout the Term of this Contract. That list of leased bus drivers will be referred to herein as “The Leased Bus Driver List”, which shall contain up to seventy (70) TARC eligible bus drivers. Only drivers that are employed by TARC at the time of execution of this Contract can be included on the initial Leased Bus Driver List.

2. Covenants, Promises and Agreements of JCPS

- A. Compensation.** JCPS shall compensate TARC for the leased bus drivers’ services, including salary and benefits. JCPS shall pay TARC for the leased bus drivers as if the leased bus drivers were JCPS employees in regard to salary (including overtime based on JCPS overtime rules), FICA, and retirement contribution. This means TARC will be paid an hourly rate (plus retirement contribution and FICA) for each leased bus driver equal to the rate a JCPS bus driver of similar experience would be paid pursuant to JCPS’s Board Approved Salary Schedule and Salary Placement Rules related to bus drivers represented under the contract with Teamsters Local 783 (using the rates in effect at the time the payment is to be made; those rates shall be no lower than those set forth in the “Proposed Current Rate + \$6.00” column of Exhibit D hereto), including any incentives or other compensation in the JCPS Salary Schedule for which bus drivers are eligible. Other fringe benefits for the leased bus drivers will be paid for by JCPS to TARC based on the leased driver’s paid wages. Only those additional fringe benefits set forth on Exhibit C will be paid and they will be paid at the rates set forth in Exhibit C unless modified as a result of renegotiation between TARC and the Amalgamated Transit Union Local 1447 (“ATU”) or due to provider price changes up to no more than an 8% increase for any benefit listed in Exhibit C during the term of this Agreement. Each leased bus driver will be expected to provide services to JCPS for 200 days during the initial term of this Contract. TARC shall submit the payroll information above at the beginning of each month for each leased bus driver from the previous month, and JCPS shall process this payroll as soon as administratively practicable, but no less than fourteen (14) business days from submission by TARC.

JCPS will separately reimburse TARC the full salary and benefits of two TARC employees, one of which shall be a manager and the other an administrative assistant, to address administrative duties and obligations arising from this Contract, along with any necessary software additions or upgrades, such reimbursement not to exceed \$22,728 per month over the eleven month contract term. TARC shall

submit to JCPS an invoice on a monthly basis detailing the costs associated with such employees (in the same manner as it submits reimbursement requests for the leased bus drivers) and software and JCPS shall reimburse TARC the invoiced amounts as soon as administratively practicable, but no less than fourteen (14) business days from submission by TARC.

JCPS shall pay TARC as outlined directly above (hereinafter "Contract Amount"). The Contract Amount shall be for total performance of this Contract and includes all fees, costs and expenses incurred by TARC including but not limited to labor, materials, taxes, profit, overhead, travel, insurance, subcontractor costs and other costs, unless otherwise stated below. To receive payment, TARC must submit itemized invoices on a monthly basis detailing the leased bus drivers provided, the hours worked by those drivers, and the costs of any benefits provided to those drivers. JCPS will only provide payment to TARC based on hours actually worked by the leased bus drivers. As a result, JCPS will make no payments to TARC for the leased bus drivers in relation to periods where school is not in session, including summer and winter recesses, other holidays, and days school is cancelled due to inclement weather or for any other reason.

B. Request for Performance. JCPS, in its sole and complete discretion, may remove a bus driver from The Leased Bus Driver List, and request a replacement leased bus driver from TARC for the removed driver, at any time and TARC shall make a reasonable good faith effort to supply a replacement to JCPS as soon as reasonably practicable upon receiving notice of the removal of a leased bus driver. Once a leased bus driver is removed from The Leased Bus Driver List at JCPS's request, he/she may only be placed back on The Leased Bus Driver List with JCPS's express written consent. Any discipline for misconduct by a leased bus driver while performing services for JCPS shall be the sole responsibility of TARC (and subject to terms of the Collective Bargaining Agreement between TARC and the Amalgamated Transit Union Local 1447); however, JCPS may in the course of any investigation it is conducting interview a leased bus driver at any time (including after removal from The Leased Bus Driver List) and TARC shall assist with making the leased bus driver available for such an interview.

C. Notice of Inadequate Performance and Opportunity to Cure. JCPS will not be considered in breach of this Contract unless it fails to cure any failure or deficiency in the performance of its obligations here under within twenty (20) business days following its receipt of written notice of such failure or deficiency from TARC.

3. Covenants, Promises and Agreements of TARC

A. Performance of Services. TARC agrees to make available to JCPS the services of the leased bus drivers listed on The Leased Bus Driver List. TARC will, to the best of its ability, cause its leased bus drivers to render performance in accordance with the criteria specified by JCPS to TARC.

TARC is an independent contractor leasing the services of the leased bus drivers to JCPS. TARC shall be fully responsible for compensating the leased bus drivers supplied to perform the services. JCPS shall pay directly to TARC reimbursement for the cost of providing the services in the amounts specified in Section 2-A hereof, and shall not provide any salary, benefits, or other payments to the leased bus drivers of TARC assigned to perform the work for JCPS.

B. Compliance with JCPS Policies. In performing its obligations under this Contract, TARC agrees to comply, and to instruct all its leased bus drivers to comply, with all applicable state and federal laws, rules, and regulations, as well as any JCPS policies or procedures currently in effect or here after instituted. This includes compliance with Exhibit A hereto regarding safety issues and Exhibit B hereto regarding call-in procedures for leased bus drivers. The leased bus drivers must comply with all JCPS health safety guidelines, in addition to those listed in Exhibit A. Further, the leased bus drivers will need to become eligible to drive a school bus pursuant to all applicable state and federal laws and policies and procedures and the training cost and licensure to ensure the leased bus drivers are eligible shall be the responsibility of JCPS.

C. Notice of Inadequate Performance and Opportunity to Cure. TARC will not be considered in breach of this Contract unless it fails to cure any failure or deficiency in the performance of its obligations hereunder within twenty (20) business days following its receipt of written notice of such failure or deficiency from JCPS.

D. Workers' Compensation Insurance. TARC agrees to maintain Workers' Compensation Insurance covering the leased bus drivers.

ARTICLE III Term of Contract

This Contract shall be effective for a period commencing as of July 1, 2024 and ending on May 31, 2025 (the "Term"). At or before the end of the Term, the parties may agree to extend the Contract for an additional similar period in accordance with the terms and conditions of this Contract, or on other conditions to be then negotiated by and between the Parties.

ARTICLE IV
Performance of Services by TARC

A. The Services shall be of a quality and shall be performed in a manner that is within the highest standards of TARC's profession or business. The Services shall be performed by TARC, and in no event shall TARC subcontract with any other person or entity to aid in the completion of the Services without the prior written approval of the Contract Administrator, as defined below.

B. As this contract requires TARC and/or employees of TARC to perform services on the premises of JCPS schools during JCPS school hours, all individuals performing such services under this Contract are required to submit per KRS 160.380 to a national and state criminal history background check by the Department of Kentucky State Police and the Federal Bureau of Investigation and have a letter, provided by the individual, from the Cabinet for Health and Family Services stating no findings of substantiated child abuse or neglect found through a background check of child abuse and neglect records maintained by the Cabinet for Health and Family Services.

C. TARC shall appoint one person who shall be responsible for reporting to JCPS on all Services performed under the term of this Contract and who shall be available for consultation with the Contract Administrator.

D. TARC shall be an independent contractor of JCPS for all purposes of this Contract. Nothing in this Contract is intended to create an employer-employee relationship, joint venture relationship, or partnership between JCPS and TARC or any personnel assigned to this project by TARC, and the Parties shall characterize their relationship as an independent contractor relationship for tax purposes and all other purposes. JCPS shall have the right to exercise control and direction as to the results only and not as to the methods by which TARC performs or otherwise provides the Services, it being recognized that TARC will be exercising TARC's independent judgment. TARC and any personnel assigned to this project by TARC shall have no claim under this Contract or otherwise against JCPS for workers' compensation, unemployment compensation, vacation pay, sick leave, retirement benefits, Social Security benefits, disability insurance benefits, unemployment insurance benefits, or any other benefits. JCPS shall not withhold on behalf of TARC, or in any way be responsible for the payment of, any federal, state, or local income taxes, F.I.C.A. taxes, F.U.T.A. taxes, unemployment compensation or workers' compensation contributions, Social Security, or any other payments or withholdings pursuant to any law or requirement of any governmental body or agency on behalf of TARC, and all such withholdings, payments, or obligations shall be the sole responsibility of TARC. JCPS shall issue to TARC a Form 1099 statement for TARC's federal and state income tax reporting purposes. TARC warrants that TARC will not take a position that is inconsistent with such independent contractor status, including in any court proceeding. This Article IV(D) shall survive the termination of this Contract.

E. TARC shall at all times during the Term (a) comply with all applicable federal, state and local statutes, regulations, ordinances, and (b) obtain and keep in force all licenses, permits and certificates necessary for the performance of the Services.

F. TARC shall maintain during the Term workers compensation coverage for the leased bus drivers with limits required by law. TARC shall furnish certificates of insurance evidencing this coverage to the Contract Administrator.

ARTICLE V Equal Opportunity

During the Term, TARC shall not discriminate against any employee, applicant or subcontractor because of race, color, national origin, age, religion, marital or parental status, political affiliations or beliefs, sex, sexual orientation, gender identity, gender expression, veteran status, genetic information, or disability. If the Contract Amount is paid from federal funds, this Contract is subject to Executive Order 11246 of September 24, 1965 and in such event the Equal Opportunity Clause set forth in 41 Code of Federal Regulations 60-1.4 is incorporated by reference into and made a part of this Contract.

ARTICLE VI Changes

JCPS and TARC may at any time, by mutual agreement set forth in a written addendum to this Contract, make changes in (a) the definition of the Services, (b) the scope of the Services, (c) the Contract Amount, (d) the time within which the Services are to be performed, (e) the schedule of progress payments, if progress payments are, and (f) the Term.

ARTICLE VII Termination for Convenience

This Agreement may be terminated prematurely by either party at any time giving sixty (60) days written notice sent by registered mail to the other party. Upon termination, the rights and obligations of the Parties shall be as set forth in Article VIII.

ARTICLE VIII Obligations Upon Termination

Upon the termination of this Contract under Article VII (a) each Party shall be required to carry out any provisions which contemplate performance by or impose obligations on such Party after the effective date of termination (b) termination shall not affect any liability or other obligation which has accrued prior to the effective date of termination, including, with limitation, any liability or loss or damage on account of a breach of this Contract, and (c) JCPS shall have no obligation to pay any compensation

to TARC for periods after the effective date of termination, except the obligation to pay any compensation that accrued before the effective date of termination.

ARTICLE IX Proprietary Information

At all times during the Term and thereafter, TARC and all personnel assigned by TARC to this project will hold in strictest confidence and will not disclose, use, or publish any Proprietary Information, as defined below, of JCPS except as such disclosure, use or publication may be required in connection with TARC's performance of the Services, or unless JCPS expressly authorizes such disclosure, use or publication in writing or is otherwise required by law. The term "Proprietary Information" shall mean all information, data and records relating to JCPS's business, business plans, trade secrets, financial statements, services, personnel information, student information, and any other proprietary information of JCPS which JCPS treats as confidential with respect to the general public. For purposes of this Article IX, the term "Proprietary Information" shall not include information that TARC can show by competent proof (a) was known to TARC prior to disclosure by JCPS and not subject to a duty or obligation of confidentiality or nondisclosure on the part of TARC; (b) was generally known to the public at the time JCPS disclosed the information to TARC; (c) became generally known to the public at the time JCPS through no act or omission of TARC; (d) was disclosed to TARC by a third party having a bona fide right both to possess the information and to disclose it to TARC; or (e) is otherwise public information under applicable law. Upon the termination of this Contract for whatever reason, TARC will deliver to JCPS, or if agreed by JCPS in writing will destroy, all data, records, reports, summaries, plans, notes, memoranda and documents, together with all copies thereof (whether in tangible or intangible form), and any other material containing or disclosing any Proprietary Information of JCPS. This Article IX shall survive the termination of this Contract.

ARTICLE X Contract Administrator

JCPS shall appoint a Contract Administrator for the purposes of daily administrative decision-making pertaining to this Contract. If JCPS fails to give notice to TARC of the appointment of a Contract Administrator, the Contract Administrator shall be JCPS's Chief Financial Officer.

ARTICLE XI Right to Audit

TARC shall retain all records relating to the performance of the Services for five (5) years after the end of the Term. During such period, JCPS shall have the right to inspect and audit all accounting reports, books or records which concern the performance of the Services, including but not limited to all payments made pursuant to this Contract.

Inspection shall take place during normal business hours at TARC's place of business. This Article XI shall survive the termination of this Contract.

ARTICLE XII
Miscellaneous

A. All Articles shall be construed as read, and no limitation shall be placed on any Article by virtue of its descriptive heading.

B. Any notices or reports by one Party to the other Party under this Contract shall be made in writing, to the address shown in the first paragraph of this Contract, or to such other address as may be designated in writing by one Party to the other. Notices shall be effective when received if personally delivered, or three days after mailing if mailed.

C. If any part of this Contract is held to be void, against public policy or illegal, the balance of this Contract shall continue to be valid and binding.

D. This Contract shall be governed and construed in accordance with the laws of the Commonwealth of Kentucky. Any action or claim arising from, under or pursuant to this Contract shall be brought in the Jefferson County, Kentucky Circuit Court, and the Parties expressly waive the right to bring any legal action or claim in any other courts.

E. No delay or omission by either Party in exercising any right under this Contract shall operate as a waiver of that or any other right or prevent a similar subsequent act from constituting a violation of this Contract.

F. To any extent TARC has access to student records, TARC shall at all times (a) comply with the Family Educational Rights and Privacy Act of 1974, and (b) limit the access to those records by TARC's employees and other personnel assigned to this project to those persons for whom access is essential to perform this Contract. The leased bus drivers will receive training regarding FERPA and FERPA compliance similar to that given to JCPS bus driver by JCPS.

G. This Contract is subject to the following prohibitions on conflicts of interest:

1. IT SHALL BE A BREACH OF ETHICAL STANDARDS FOR THE TARC OR ANY JCPS EMPLOYEE TO PARTICIPATE DIRECTLY OR INDIRECTLY IN ANY PROCEEDING OR APPLICATION, REQUEST FOR RULING OR OTHER DETERMINATION, CLAIM OR CONTROVERSY OR OTHER PARTICULAR MATTER PERTAINING TO ANY CONTRACT OR SUBCONTRACT AND ANY SOLICITATION OF PROPOSAL THEREFOR WHICH TO HIS KNOWLEDGE:

(a) HE/SHE, OR ANY MEMBER OF HIS/HER IMMEDIATE FAMILY HAS A FINANCIAL INTEREST THEREIN; OR

(b) A BUSINESS OR ORGANIZATION IN WHICH HE/SHE OR ANY MEMBER OF HIS/HER IMMEDIATE FAMILY HAS A FINANCIAL INTEREST AS AN OFFICER, DIRECTOR, TRUSTEE, PARTNER OR EMPLOYEE, IS A PARTY; OR

(c) ANY OTHER PERSON, BUSINESS OR ORGANIZATION WITH WHOM HE OR ANY MEMBER OF HIS IMMEDIATE FAMILY IS NEGOTIATING OR HAS AN ARRANGEMENT CONCERNING PROSPECTIVE EMPLOYMENT, IS A PARTY, DIRECT OR INDIRECT PARTICIPATION SHALL INCLUDE, BUT NOT BE LIMITED TO INVOLVEMENT THROUGH DECISION, APPROVAL, DISAPPROVAL RECOMMENDATION, PREPARATION OR ANY PART OF A PURCHASE REQUEST INFLUENCING THE CONTENT OF ANY SPECIFICATION OR PURCHASING STANDARD RENDERING OF ADVICE, INVESTIGATION, AUDITING OR IN ANY OTHER ADVISORY CAPACITY.

2. IT SHALL BE A BREACH OF ETHICAL STANDARDS FOR ANY TARC OR ANY OTHER PERSON TO OFFER GIVE OR AGREE TO GIVE, ANY JCPS EMPLOYEE OR FORMER EMPLOYEE, OR FOR ANY JCPS EMPLOYEE OR FORMER EMPLOYEE TO SOLICIT, DEMAND ACCEPT OR AGREE TO ACCEPT FROM ANOTHER PERSON, A GRATUITY OR AN OFFER OF EMPLOYMENT IN CONNECTION WITH ANY DECISION, APPROVAL, DISAPPROVAL, RECOMMENDATION, PREPARATION OF ANY PART OF A PURCHASE REQUEST, AUDITING OR IN ANY OTHER ADVISORY CAPACITY IN ANY PROCEEDING OR APPLICATION, REQUEST FOR RULING OR ANY OTHER DETERMINATION, CLAIM OR CONTROVERSY, OR OTHER PARTICULAR MATTER PERTAINING TO ANY CONTRACT OR SUBCONTRACT AND ANY SOLICITATION OR PROPOSAL THEREFOR.

3. IT SHALL BE A BREACH OF ETHICAL STANDARDS FOR ANY PAYMENT, GRATUITY OR OFFER OF EMPLOYMENT TO BE MADE BY OR ON BEHALF OF A SUBCONTRACTOR UNDER A CONTRACT TO THE PRIME CONTRACTOR OR HIGHER TIER CONTRACTOR OR ANY PERSON ASSOCIATED THEREWITH, AS AN INDUCEMENT FOR THE AWARD OF A SUBCONTRACT OR ORDER.

4. IT SHALL BE A BREACH OF ETHICAL STANDARDS FOR ANY PUBLIC EMPLOYEE OR FORMER EMPLOYEE KNOWINGLY TO USE CONFIDENTIAL INFORMATION FOR HIS/HER ACTUAL OR ANTICIPATED PERSONAL GAIN, OR THE ACTUAL OR ANTICIPATED PERSONAL GAIN OF ANY OTHER PERSON.

IN WITNESS WHEREOF, the Parties hereto have executed this Contract to be effective as of June ____, 2024 (the "Effective Date").

TARC's Federal Tax ID Number: _____

JEFFERSON COUNTY BOARD OF
EDUCATION

TARC:

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

EXHIBIT A

1. Leased bus drivers shall be responsible for reporting observed unsafe or hazardous practices or conditions to the immediate supervisor or appropriate administrator who shall contact duly qualified personnel who will make a timely inspection and take steps to remedy the condition.
2. JCBE shall investigate reports by leased bus drivers of unsafe or hazardous practices or conditions.
3. Leased bus drivers shall not be required to work under conditions determined by qualified administrative personnel to be detrimental to their health, safety and well-being. To this end, each leased bus driver has the responsibility to cooperate and to encourage others to work in a safe manner.
4. Leased bus drivers shall use and maintain the safety equipment and protective devices furnished and required by JCBE necessary to meet recognized safety standards. Infectious clean-up kits will be included on all school buses.
5. Leased bus drivers shall be entitled to present advice and make recommendations to JCBE with respect to improving safety awareness and practices associated with their work assignments.
6. JCBE and the leased bus drivers shall work together in a cooperative and mutually supportive manner to fairly and equitably enforce the Student Support and Behavior Intervention Handbook.
7. Leased bus drivers will be notified of any and all lawful information that impacts safe transportation of students assigned to their routes.
8. Leased bus drivers will contact the bus compound immediately should a student be delivered to the bus who he/she believes is unsafe to transport. Bus compound personnel will contact school staff for resolution.

EXHIBIT B

Leased bus drivers shall communicate with their administrative unit director/designee at JCPS no later than one (1) hour before the beginning of their shift to advise they will be absent due to sickness or for any other reason. A leased bus driver shall not be required to call each day of a prolonged absence provided the leased bus driver has informed the administrative unit director/designee at JCPS during the initial notification of the specific days of anticipated absence. Failure to follow these notice requirements may result in removal of a leased bus driver from The Leased Bus Driver List.

EXHIBIT C

Medical	\$13.21
Dental	\$0.32
Vision	\$0.09
Work Comp	\$3.25
Short Term Dis.	\$0.13
Life	\$0.04
EAP	\$0.01
Felonious Assault	\$0.01
Uniform	\$0.24

EXHIBIT D



Salary Reference Guide For TARC Proposal

Basic Information
It is possible to bid up to six (6) Kindergarten through 12th-grade routes per day, which includes three (3) morning routes and three (3) afternoon routes.
Additionally, you can bid an Early Childhood Route each day.
All routes a slightly different in length.
The overtime rate will be 1.5 times your hourly rate.

Example Scenarios
I have been a TARC driver for 10 years, and after the bidding process, I have 2 challenging routes. My salary for the 2024-25 school year would be \$39.3386 (\$31.8386+\$7.50) per hour worked.
I have been with TARC for 13 years and chose not to bid on any challenging routes. My salary for the 2024-25 school year would be \$34.0001 per hour worked.

Types of routes that qualify for the Challenging Bus Route Stipend	
Early Childhood routes	Open routes
Routes that run past 6 p.m.	Routes that serve schools with students that have potential behavior challenges and/or disabilities
<ul style="list-style-type: none"> Stipend for ONE Challenging Bus Route: \$5.00 per hour Stipend for TWO Challenging Bus Routes: \$7.50 per hour Stipend for THREE Challenging Bus Routes: \$10.00 per hour 	

Years of Experience	Current Rate <small>(2023-2024)</small>	Proposed Current Rate + \$6.00 <small>(July 1, 2024-2025)</small>
0-5 Years Experience	\$22.7777	\$28.81*
6 Years Experience	\$23.8145	\$29.8145
7 Years Experience	\$24.8515	\$30.8515
8 Years Experience	\$24.8515	\$30.8515
9 Years Experience	\$25.8386	\$31.8386
10 Years Experience	\$25.8386	\$31.8386
11 Years Experience	\$26.9006	\$32.9006
12 Years Experience	\$26.9006	\$32.9006
13 Years Experience	\$28.0001	\$34.0001

**For drivers with 0-5 years of experience, the hourly rate will be a minimum of \$28.81 pending new negotiated hourly rates.*