

## REPORT TO CITY COUNCIL

**DATE: MAY 8, 2013**

**TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL**

**FROM: GREG RAMIREZ, CITY MANAGER**

**BY: ZACH MILLER, RECREATION MANAGER**

**SUBJECT: 2013 SUMMER BEACH BUS AGREEMENT WITH DURHAM SCHOOL SERVICES**

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Using Proposition A Funds, the Department of Community Services has been operating the Summer Beach Bus Program since 1985. Each summer, the bus travels to Zuma Beach, through Las Virgenes/Malibu Canyon, from the middle of June through the middle of August. In 1991, the City Council approved the addition of a stop, at Leo Carrillo State Beach, in order to accommodate the community members taking part in the Junior Lifeguard program there. The program continues to be successful and a major component of the Summer Beach Bus Program. The entire summer program continues to be successful with all populations, running over 8,000 rides last summer.

The proposed program will require \$50,000 in Los Angeles County Metropolitan Transportation Authority (LACMTA) Proposition A Funds. The Summer Beach Bus Program would require a fare of \$2.00 each way. The Junior Lifeguard program would additionally require a bus pass, which would be \$50.00 per participant.

The proposed agreement has been reviewed by the City Attorney and approved as to form.

### RECOMMENDATION

Staff recommends the approval of the attached "Agreement for Contractor Services Between the City of Agoura Hills and Durham School Services, L.P., for the Operation of a Summer Beach Bus Service" and the following recommendations for the 2013 Summer Beach Bus Program:

1. Staff recommends the Summer Beach Bus Program start on the first Monday after school ends. For 2013, the program will begin on Monday, June 17, 2013, and end Friday, August 16, 2013.
2. Staff recommends continuing a fare of \$2.00 each way. This fare is to assist in cost efficiency of the rising transportation costs and minimize the reliance of the diminishing Proposition A Funds.
3. Staff recommends continuing a \$50 summer bus pass for the California State Junior Lifeguard Program to offset costs associated with the program.
4. Staff recommends continued marketing of the Beach Bus Program (i.e., flyers through local high schools, ads in newspapers, radio and cable station advertisements, etc).

AGREEMENT FOR CONTRACTOR SERVICES  
WITH THE CITY OF AGOURA HILLS

NAME OF CONTRACTOR:	Durham School Services, L.P.
RESPONSIBLE PRINCIPAL OF CONTRACTOR:	Attn: Amy O'Dell, Contracts Administrator
CONTRACTOR'S ADDRESS:	4300 Weaver Parkway, Suite 100 Warrenville, IL 60555
CITY'S ADDRESS:	City of Agoura Hills 30001 Ladyface Court Agoura Hills, CA 91301 Attn: City Manager
PREPARED BY:	Zach Miller, Recreation Manager
COMMENCEMENT DATE:	June 17, 2013
TERMINATION DATE:	August 16, 2013
CONSIDERATION:	Contract Price Not to Exceed: \$50,000/yr

**AGREEMENT FOR CONTRACTOR SERVICES BETWEEN  
THE CITY OF AGOURA HILLS AND DURHAM SCHOOL  
SERVICES, L.P FOR THE OPERATION OF A SUMMER  
BEACH BUS SERVICE**

**THIS AGREEMENT** is made and effective as of May 8, 2013, between the City of Agoura Hills, a municipal corporation ("City") and DURHAM SCHOOL SERVICES, L.P. ("Contractor"). In consideration of the mutual covenants and conditions set forth herein, the parties agree as follows:

**1. TERM**

This Agreement shall commence on June 17, 2013 , and shall remain and continue in effect until tasks described herein are completed, but in no event later than August 16, 2013 unless sooner terminated pursuant to the provisions of this Agreement.

**2. SERVICES**

Contractor shall perform the services and tasks described and set forth in Exhibit A, attached hereto and incorporated herein as though set forth in full. Contractor shall complete the tasks according to the schedule of performance which is also set forth in Exhibit A.

**3. PERFORMANCE**

In meeting its obligations under this Agreement, Contractor shall at all times faithfully and competently perform all tasks described herein in a manner satisfactory to CITY and consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing in the same locality under similar conditions.

**4. PAYMENT**

A. The City agrees to pay Contractor monthly, in accordance with the payment rates and terms and the schedule of payment as set forth in Exhibit B, Payment Rates and Schedule, attached hereto and incorporated herein by this reference as though set forth in full, based upon actual time spent on the above tasks. Any terms in Exhibit B other than the payment rates and schedule of payment are null and void. This amount shall not exceed \$50,000 ("Contract Price") for the initial Term of the Agreement unless additional payment is approved as provided in this Agreement.

B. Contractor shall not be compensated for any services rendered in connection with its performance of this Agreement which are in addition to those set forth herein, unless such additional services are authorized in advance and in writing by the City Manager. Contractor shall be compensated for any additional services in the amounts and in the manner as agreed to by the City Council and Contractor at the time City's written authorization is given to Contractor for the performance of said services.

C. Contractor shall submit invoices monthly for actual services performed. Invoices shall be submitted between the first and fifteenth business day of each month, for services provided in the previous month. Payment shall be made within thirty (30) days of receipt of each invoice as to all non-disputed fees. If the City disputes any of Contractor's fees, it shall give written notice to Contractor within thirty (30) days of receipt of an invoice of any disputed fees set forth on the invoice. For all reimbursements authorized by this Agreement, Contractor shall provide receipts on all reimbursable expenses in excess of Fifty Dollars (\$50) in such form as approved by the Director of Finance.

## **5. SUSPENSION OR TERMINATION OF AGREEMENT WITHOUT CAUSE**

A. The City may at any time, for any reason, with or without cause, suspend or terminate this Agreement, or any portion hereof, by serving upon the Contractor at least ten (10) days prior written notice. Upon receipt of said notice, the Contractor shall immediately cease all work under this Agreement, unless the notice provides otherwise. If the City suspends or terminates a portion of this Agreement, such suspension or termination shall not make void or invalidate the remainder of this Agreement.

B. In the event this Agreement is terminated pursuant to this Section, the City shall pay to Contractor the actual value of the work performed up to the time of termination, provided that the work performed is of value to the City. Upon termination of the Agreement pursuant to this Section, the Contractor will submit an invoice to the City pursuant to Section entitled "**PAYMENT**" herein.

## **6. DEFAULT OF CONTRACTOR**

A. The Contractor's failure to comply with the provisions of this Agreement shall constitute a default. In the event that Contractor is in default for cause under the terms of this Agreement, City shall have no obligation or duty to continue compensating Contractor for any work performed after the date of default and can terminate this Agreement immediately by written notice to the Contractor. If such failure by the Contractor to make progress in the performance of work hereunder arises out of causes beyond the Contractor's control, and without fault or negligence of the Contractor, it shall not be considered a default.

B. If the City Manager or his delegate determines that the Contractor is in default in the performance of any of the terms or conditions of this Agreement, it shall serve the Contractor with written notice of the default. The Contractor shall have ten (10) days after service upon it of said notice in which to cure the default by rendering a satisfactory performance. In the event that the Contractor fails to cure its default within such period of time, the City shall have the right, notwithstanding any other provision of this Agreement, to terminate this Agreement without further notice and without prejudice to any other remedy to which it may be entitled at law, in equity or under this Agreement."

## **7. OWNERSHIP OF DOCUMENTS**

A. Contractor shall maintain complete and accurate records with respect to sales, costs, expenses, receipts and other such information required by City that relate to the performance of services under this Agreement. Contractor shall maintain adequate records of services provided in sufficient detail to permit an

evaluation of services. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. Contractor shall provide free access to the representatives of City or its designees at reasonable times to such books and records, shall give City the right to examine and audit said books and records, shall permit City to make transcripts therefrom as necessary, and shall allow inspection of all work, data, documents, proceedings and activities related to this Agreement. Such records, together with supporting documents, shall be maintained for a period of three (3) years after receipt of final payment.

B. Upon completion of, or in the event of termination or suspension of this Agreement, all original documents, designs, drawings, maps, models, computer files containing data generated for the work, surveys, notes, and other documents prepared in the course of providing the services to be performed pursuant to this Agreement shall become the sole property of the City and may be used, reused or otherwise disposed of by the City without the permission of the Contractor. With respect to computer files containing data generated for the work, Contractor shall make available to the City, upon reasonable written request by the City, the necessary computer software and hardware for purposes of accessing, compiling, transferring and printing computer files.

## **8. INDEMNIFICATION**

Contractor shall defend, indemnify, and hold the City, its officials, officers, employees, agents and independent contractors serving in the role of City officials, and volunteers (collectively "Indemnitees") free and harmless from any and all claims, demands, causes of action, proceedings, costs, expenses, liabilities, losses, damages or injuries, in law or equity, to property or persons, including wrongful death (collectively "Claims"), in any manner arising out of or incident to any acts or omissions of Contractor, its officials, officers, employees, agents or subcontractors in connection with the performance of this Agreement, including without limitation the payment of all consequential damages, attorneys' fees, and other related costs and expenses, except for such Claims arising out of the sole negligence or willful misconduct of the Indemnitees. With respect to any and all such Claims, Contractor shall defend Indemnitees at Contractor's own cost, expense, and risk and shall pay and satisfy any judgment, award, or decree that may be rendered against Indemnitees. Contractor shall reimburse Indemnitees for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Contractor's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by Contractor or Indemnitees. All duties of Contractor under this Section shall survive termination of this Agreement.

## **9. INSURANCE REQUIREMENTS**

Prior to commencement of work, Contractor shall procure, provide, and maintain, at Contractor's own expense, for the duration of this Agreement, insurance against claims for injuries to persons or damages to property, which may arise from or

in connection with the performance of the work hereunder by the Contractor, its agents, representatives, or employees.

A. Minimum Scope of Insurance. Coverage shall be at least as broad as:

1) Insurance Services Office Commercial General Liability form No. CG 00 01 11 85 or 88, or equivalent.

2) Insurance Services Office Business Auto Coverage form CA 00 01 06 92, or equivalent, covering Automobile Liability, code 1 (any auto). If the Contractor owns no automobiles, a non-owned auto endorsement to the General Liability policy described above is acceptable.

3) Worker's Compensation insurance as required by the State of California and Employer's Liability Insurance. If the Contractor has no employees while performing under this Agreement, worker's compensation insurance is not required, but Contractor shall execute a declaration that it has no employees.

4) Professional Liability Insurance shall be written on a policy form providing professional liability for the Contractor's profession.

B. Minimum Limits of Insurance. Contractor shall maintain limits no less than:

1) General Liability: \$5,000,000 per occurrence for bodily injury, personal injury and property damage, including without limitation, blanket contractual liability. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

2) Automobile Liability: \$5,000,000 per accident for bodily injury and property damage for all activities of the Contractor arising out of or in connection with work to be performed under this Agreement, including coverage for any owned, hired, non-owned or rental vehicles.

3) Worker's Compensation as required by the State of California; Employer's Liability: One million dollars (\$1,500,000) per accident for bodily injury or disease.

4) Professional Liability coverage: One million (\$5,000,000) per claim and in aggregate.

C. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by the City Manager. At the option of the City Manager, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, officials, employees and

volunteers; or the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

D. Other Insurance Provisions. The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1) The City, its officers, officials, employees and volunteers are to be covered and named as additional insureds in respect to: liability arising out of activities performed by or on behalf of the Contractor; products and completed operations of the Contractor; premises owned, occupied or used by the Contractor; or automobiles owned, leased, hired or borrowed by the Contractor. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officers, officials, employees or volunteers.

2) For any claims related to this project, the Contractor's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees and volunteers. Any insurance or self-insured maintained by the City, its officers, officials, employees or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.

3) Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the City, its officers, officials, employees or volunteers.

4) The Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

5) Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice has been given to the City. Contractor agrees to oblige its insurance agent or broker and insurers to provide City with a thirty (30) day notice of cancellation (except for nonpayment for which a ten (10) day notice is required) or nonrenewal of coverage for each required coverage.

E. Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the City. Self insurance shall not be considered to comply with these insurance requirements.

F. Verification of Coverage. Contractor shall furnish the City with original endorsements, specifically naming the City of Agoura Hills as additional insured, effecting coverage required by this clause. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. The endorsements are to be on forms acceptable to the City. Insurance certificates and endorsements must be received and approved by City's Risk Manager prior to commencement of performance. Current insurance certificates and endorsements shall be kept on file with the City at all

times during the term of this agreement. City reserves the right to require complete, certified copies of all required insurance policies, at any time.

G. Mailing Instructions. Insurance documents shall be mailed with the signed Agreement to the attention of the staff person indicated on the cover sheet of this Agreement, to the City of Agoura Hills, 30001 Ladyface Court, Agoura Hills, CA 91301. Executed Agreement(s) cannot be released nor may any work commence on a project until the signed Agreement and appropriate insurance documents are on file with the City Clerk.

## **10. INDEPENDENT CONTRACTOR**

A. Contractor is and shall at all times remain as to the City a wholly independent contractor. The personnel performing the services under this Agreement on behalf of Contractor shall at all times be under Contractor's exclusive direction and control. Neither City nor any of its officers, employees, agents, or volunteers shall have control over the conduct of Contractor or any of Contractor's officers, employees, or agents except as set forth in this Agreement. Contractor shall not at any time or in any manner represent that it or any of its officers, employees or agents are in any manner officers, employees or agents of the City. Contractor shall not incur or have the power to incur any debt, obligation or liability whatever against City, or bind City in any manner.

B. No employee benefits shall be available to Contractor in connection with the performance of this Agreement. Except for the fees paid to Contractor as provided in the Agreement, City shall not pay salaries, wages, or other compensation to Contractor for performing services hereunder for City. City shall not be liable for compensation or indemnification to Contractor for injury or sickness arising out of performing services hereunder.

## **11. LEGAL RESPONSIBILITIES**

The Contractor shall keep itself informed of all local, State and Federal ordinances, laws and regulations which in any manner affect those employed by it or in any way affect the performance of its service pursuant to this Agreement. The Contractor shall at all times observe and comply with all such ordinances, laws and regulations. The City, and its officers and employees, shall not be liable at law or in equity occasioned by failure of the Contractor to comply with this section.

## **12. RELEASE OF INFORMATION**

A. All information gained by Contractor in performance of this Agreement shall be considered confidential and shall not be released by Contractor without City's prior written authorization. Contractor, its officers, employees, agents or subcontractors, shall not without written authorization from the City Manager or unless requested by the City Attorney, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this Agreement or relating to any project or property located



within the City. Response to a subpoena or court order shall not be considered "voluntary" provided Contractor gives City notice of such court order or subpoena.

B. Contractor shall promptly notify City should Contractor, its officers, employees, agents or subcontractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the work performed there under or with respect to any project or property located within the City. City retains the right, but has no obligation, to represent Contractor and/or be present at any deposition, hearing or similar proceeding. Contractor agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Contractor. However, City's right to review any such response does not imply or mean the right by City to control, direct, or rewrite said response.

### **13. NOTICES**

Any notices which either party may desire to give to the other party under this Agreement must be in writing and may be given either by: (i) personal service, (ii) delivery by a reputable document delivery service, such as but not limited to, Federal Express, that provides a receipt showing date and time of delivery, or (iii) mailing in the United States Mail, certified mail, postage prepaid, return receipt requested, addressed to the address of the party as set forth below or at any other address as that party may later designate by Notice. Notice shall be effective upon delivery to the addresses specified below or on the third business day following deposit with the document delivery service or United States Mail as provided above.

To City: City of Agoura Hills  
30001 Ladyface Court  
Agoura Hills, California 91301  
Attention: City Manager

To Contractor: Durham School Services, L.P.  
4300 Weaver Parkway, Suite #100  
Warrenville, IL 60555  
Attn: Contracts Administrator

### **14. ASSIGNMENT**

The Contractor shall not assign the performance of this Agreement, nor any part thereof, nor any monies due hereunder, without prior written consent of the City. Upon termination of this Agreement, Contractor's sole compensation shall be payment for actual services performed up to, and including, the date of termination or as may be otherwise agreed to in writing between the City Council and the Contractor.

### **15. LICENSES**

At all times during the term of this Agreement, Contractor shall have in full force and effect, all licenses required of it by law for the performance of the services described in this Agreement.

**16. GOVERNING LAW**

The City and Contractor understand and agree that the laws of the State of California shall govern the rights, obligations, duties and liabilities of the parties to this Agreement and also govern the interpretation of this Agreement. Any litigation concerning this Agreement shall take place in the municipal, superior, or federal district court with geographic jurisdiction over the City of Agoura Hills. In the event such litigation is filed by one party against the other to enforce its rights under this Agreement, the prevailing party, as determined by the Court's judgment, shall be entitled to reasonable attorney fees and litigation expenses for the relief granted.

**17. PROHIBITED INTEREST**

No officer, or employee of the City of Agoura Hills shall have any financial interest, direct or indirect, in this Agreement, the proceeds thereof, the Contractor, or Contractor's subcontractors for this project, during his/her tenure or for one year thereafter. The Contractor hereby warrants and represents to the City that no officer or employee of the City of Agoura Hills has any interest, whether contractual, non-contractual, financial or otherwise, in this transaction, or in the business of the Contractor or Contractor's subcontractors on this project. Contractor further agrees to notify the City in the event any such interest is discovered whether or not such interest is prohibited by law or this Agreement.

**18. ENTIRE AGREEMENT**

This Agreement contains the entire understanding between the parties relating to the obligations of the parties described in this Agreement. All prior or contemporaneous agreements, understandings, representations and statements, oral or written, are merged into this Agreement and shall be of no further force or effect. Each party is entering into this Agreement based solely upon the representations set forth herein and upon each party's own independent investigation of any and all facts such party deems material.

**19. AUTHORITY TO EXECUTE THIS AGREEMENT**

The person or persons executing this Agreement on behalf of Contractor warrants and represents that he or she has the authority to execute this Agreement on behalf of the Contractor and has the authority to bind Contractor to the performance of its obligations hereunder.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed the day and year first above written.

**CITY OF AGOURA HILLS**

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Denis Weber,  
Mayor

ATTEST:

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Kimberly M. Rodrigues, MMC  
City Clerk

*Date Approved by City Council* \_\_\_\_\_

APPROVED AS TO FORM:

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Candice K. Lee,  
City Attorney

**CONTRACTOR**

Durham School Services, L.P.  
4300 Weaver Parkway, Suite #100  
Warrenville, IL 60555  
Attn: Contracts Administrator  
(630) 435-8000

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**[Signatures of Two Corporate Officers Required]**

## EXHIBIT A

### TASKS TO BE PERFORMED

***The specific elements (scope of work) of this service include:***

CONTRACTOR shall perform the services hereinafter indicated strictly in accordance with the terms and conditions of this agreement.

Section 1. Equipment and Facilities.

A. CONTRACTOR, as an independent contractor, shall at its sole cost and expense, provide one handicapped accessible transit type bus or school bus (or a comparable vehicle approved by the CITY), with a minimum seating of 53 passenger seats to serve the route described in Exhibit C provided, however, in addition to such vehicle, CONTRACTOR shall provide from time to time a wheelchair lift-equipped vehicle to accommodate two wheelchairs to serve the route described in Exhibit C. For the purposes hereof, the phrases "bus," "buses," and "buses and bus equipment" shall refer to such wheelchair lift-equipped vehicles as well as regular buses.

In the event CITY exercises its right to increase the service hereinafter described, CONTRACTOR shall provide the necessary additional buses for said service. The minimum required seating capacity of the additional buses shall be 24 passengers.

B. CONTRACTOR shall provide the wheelchair lift-equipped vehicle described in Section A., above, from time to time upon telephone notice from the CITY, and as directed by CITY, for round trips on the route and on the days described in Section 3, below. CONTRACTOR shall not, however, be required to provide more than one such wheelchair lift-equipped vehicle per day. CITY shall encourage disabled patrons to make advance reservations for such vehicle. Nevertheless, CONTRACTOR shall respond within 45 minutes to any request for a wheelchair lift-equipped vehicle for service along the route.

C. All the buses required to be utilized in this Agreement shall be safe for operation on public roads and streets. CONTRACTOR shall, at its sole cost and expense, register and license such buses and bus equipment on public roads and streets.

D. All of the said buses, bus equipment and other equipment and facilities required by the Agreement shall, during the term hereof, be maintained by CONTRACTOR in good order and repair and in a condition satisfactory to the State of California.

E. Bus interiors shall be cleaned and swept prior to placing the bus in service on each day of operation specified herein, and the exterior shall be washed weekly.

F. Advertising on the buses is prohibited unless written authorization is obtained from CITY. The terms and conditions of any such advertising shall be subject to

approval by the CITY. Proceeds of the advertisement will be remitted to CITY. CITY'S decision on these matters shall be final.

G. CONTRACTOR shall provide additional buses as necessary, in the event of a bus breakdown or overload conditions. The maximum response time shall be 45 minutes for a bus to be made available for the bus patrons to continue on to their destination.

H. CONTRACTOR shall provide and maintain appropriate fixed maintenance facilities for the servicing of the buses and bus equipment utilized under this Agreement. Such facilities shall be subject to approval by CITY.

I. CONTRACTOR shall in the course of its operations under this Agreement comply with all current and applicable Federal and State Safety Regulations. In addition, CONTRACTOR shall also comply with General Order No. 98A of the Public Utilities Commission, State of California, relating to the operation and maintenance of buses and bus equipment.

### Section 2. Plan Route Frequency and Days of Service.

Included herewith and as a part hereof is Exhibit C describing the location and extent of the route to be served. The route shall operate five days a week (Monday through Friday), June 17, 2013 through August 16, 2013, holidays included (a total of 45 service days) at times and stops described in attached Exhibit C. If and when increased ridership calls for it, the CONTRACTOR shall provide additional round trips on the service days designated above, as directed by CITY. CITY may cancel bus trips with a one day notice without penalty to the CITY. Bus trips canceled on the same day as scheduled for operation will be subject to a cancellation charge, except in cases of Force Majeure as defined by Section 6 of this Agreement.

### Section 3. CONTRACTOR'S Service Requirements.

A. Monitoring of Schedules and Service (CONTRACTOR). CONTRACTOR shall monitor schedules, service and report ridership to CITY on a regular basis and indicate the need to maintain, reduce or increase the frequency of operations. Ridership shall be recorded daily and submitted weekly to the CITY. The records will include the number of people boarding at each stop location for each trip on all service days.

B. Monitoring of Schedules and Services (CITY). CITY shall have the right to have authorized CITY personnel board at no cost to CITY all buses utilized by CONTRACTOR in the performance of services herein for the purpose of monitoring the CONTRACTOR'S schedules and services.

C. Personnel. CONTRACTOR shall supply a sufficient number of properly trained, licensed and qualified persons to operate and maintain its equipment and to provide the services required hereunder. All of CONTRACTOR'S employees shall at all times while on duty in the performance of the services required herein by neatly and cleanly dressed, and shall at all times maintain a courteous cooperative attitude

in their contact with the public. CONTRACTOR shall be solely and fully liable for the negligence and/or misconduct of any of its personnel. All such personnel who are likely to be in contact with the public shall be evaluated and screened for suitability for the position and shall be trained by CONTRACTOR to give accurate information concerning the routes and schedules of operations of the bus system.

CONTRACTOR shall during the normal bus operating hours have a manned office to accept calls of emergency and informational nature as it relates to bus service. CONTRACTOR shall during normal bus operating hours have personnel carry pagers and cellular phones on bus.

Upon notice from CITY concerning the conduct, demeanor or appearance of such persons in the employ of CONTRACTOR, not conforming to the above, CONTRACTOR shall forthwith take steps necessary to remove or alleviate the cause of the objection.

D. Identification. CONTRACTOR shall furnish head signs to identify the service and, if requested by CITY, furnish and mount logos signs for identification and promotional material on the exterior of the buses. All signs shall be subject to the approval of CITY.

E. On Time Performance. CONTRACTOR shall operate buses strictly according to the most current bus schedules provided by CITY and to a reasonable on-time performance standard except where service is interrupted for those reasons stated in Section 6. If service is interrupted, CONTRACTOR shall notify CITY immediately of the situation and provide an estimate of schedule disruption.

#### Section 4. Changes in Routes, Frequency, Stops and Equipment.

CITY may from time to time require changes to be made on the route, frequency of service, stop locations and equipment. Said changes will be requested of CONTRACTOR in writing 5 days in advance of the implementation of the change. CONTRACTOR shall after receipt of written notice take the necessary steps to institute such change in the most expedient manner possible.

#### Section 5. Fares or Charges.

Passenger fares will be described in Exhibit A. CITY will notify the CONTRACTOR in writing of any changes in the fares during the term of this contract. CONTRACTOR shall charge and collect from the persons utilizing said transportation system the fares or charges, as may be established by CITY in fare boxes of a type approved by CITY.

CONTRACTOR shall not accept vouchers or tokens, from said persons in lieu of money unless authorized by CITY.

CONTRACTOR shall, upon such forms as shall be prescribed by CITY, furnish weekly to CITY a daily accounting of all revenues collected. The revenues collected

each month will be deducted from the amount due to CONTRACTOR for the services provided during that month.

#### Section 6. Force Majeure.

CONTRACTOR shall not be charged, nor shall CITY demand from CONTRACTOR damages because of failure in providing the services indicated in the Agreement due to unforeseeable cause beyond the control and without the fault or negligence of CONTRACTOR. Such causes of excusable delay may include acts of federal and/or state governments, acts of CITY, or anyone employed by them, acts of public enemy, fires, floods, snow storms, epidemic quarantine, restrictions, strikes, freight embargoes, and public road closures, but in every case the delay is excusable only for so long as, and to the extent that, the excusable delay continues.

In the event that the CONTRACTOR is unable to provide the services indicated due to any cause, it shall make a reasonable attempt at its expense, to so notify the public patronizing the service.

#### Section 7. Performance Bond.

CONTRACTOR shall procure, at its expense, and keep in effect at all times during the term hereof, a surety bond equivalent to 25% of the aggregate Agreement amount in favor of CITY and executed by a corporate surety authorized to conduct business as a surety in the State of California. Such bond shall be conditioned upon faithful performance by CONTRACTOR of the terms and conditions of the Agreement and shall be renewed to provide for continuing liability in the above amount notwithstanding any payment or recovery thereon. Said bond shall not be subject to cancellation except after notices to CITY by registered mail at least 45 days prior to the date of cancellation. CONTRACTOR shall submit said bond to CITY concurrently with the execution of this Agreement.

Upon failure of CONTRACTOR to keep such bond in effect at all times during the term hereof, CITY may terminate this Agreement by giving CONTRACTOR 5 days notice in advance of such termination.

Changes in services provided by CONTRACTOR, including but not limited to changes in routes, schedules and stops made pursuant to this Agreement shall in no way release CONTRACTOR or its surety herein from their obligations. Notice of such changes shall be waived by the surety.

#### Section 8. Taxes and Other Charges.

CONTRACTOR shall pay all taxes of whatever character that may be levied or charged upon its equipment, facilities, improvements, fixtures, or upon its operations hereunder. CONTRACTOR shall also pay all license or permit fees necessary or required by law for the conduct of its operations hereunder.

Section 9. Inspection.

CITY, or any person representing CITY, shall at all times have access and the right to inspect CONTRACTOR'S equipment and facilities utilized in the performance of this Agreement.

Section 10. Funding.

CITY's obligations under this Agreement are subject to availability of funds in its Fiscal Year 2013-2014 budget to support this service. CITY will utilize local sales tax funds obtained pursuant to Ordinance No. 16 (Proposition A) of the Los Angeles County Transportation Commission for the partial funding of the service described herein. CONTRACTOR agrees to be bound by applicable provisions of this Ordinance and regulations of the Los Angeles County Transportation Commission pertaining thereto.

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## EXHIBIT B

### PAYMENT RATES AND SCHEDULE

#### Rates and Compensation:

A. Payment to the CONTRACTOR for service provided on the specified route and any new routes will be based on cost computed as follows: the bus-hours of operation times the rate of \$62.00 per bus-hour. The cost will include furnishing of the buses, bus equipment, personnel and facilities as may be necessary or required by this Agreement for the operation of a public transportation systems for approximately 11.16 hours per day.

Rate schedules affecting wheelchair equipped buses - CONTRACTOR shall be compensated for such vehicles at the rate of \$242.75 per bus day minimum for the first 4.0 hours and 85 miles, and \$26.26 for each hour over the first 4.0, and \$1.63 per mile for every mile over the first 85. All charges shall be computed "portal-to portal", 2323 Moorpark Road, Thousand Oaks, California.

The monetary value shown above shall apply as follows:

1. To services herein described.
2. To increases in regular service up to 100% of the bus-hours noted herein, but shall be subject to negotiation for increases of more than 100%.
3. To the cancellation charge which is equivalent to 4 bus-hours.

#### B. Non-Compensation:

In the event CONTRACTOR is precluded from starting the service described herein for those excusable reasons cited in Section 6 hereinafter, CONTRACTOR shall not receive compensation under this Agreement for the period of the excusable delay. If the excusable delay occurs following the start of regularly scheduled service, on any day, CONTRACTOR shall be compensated as specified above.

#### Claims for Payment.

Claims for payment will be submitted monthly to the City of Agoura Hills (Recreation Manager) by CONTRACTOR for the bus-hours operated during the previous one month period. The basis of the claim for monthly payment will be substantiated by records kept by CONTRACTOR as described under Section 7 hereinafter. All claims for payment must be presented by the fifteenth of the month to allow their payment on or about the first of the month following.

CITY shall pay its proportionate share of the total claim for payment based on the number of passes received on the bus bearing the identification of the City.

**EXHIBIT C**  
**CITY OF AGOURA HILLS**  
**BEACH BUS 2013**  
**ROUTE & SCHEDULE**

s o u t h b o u n d	LCMS	7:50	9:15	11:00	1:10	3:20	
	AHS	8:00	9:25	11:10	1:20	3:30	
	LIB	8:10	9:35	11:20	1:30	3:40	
	ZUMA	~	10:05	11:50	2:00	4:10	
	LEO	9:00	~	~	~	~	~

n o r t h b o u n d	LEO	2:00	~	~	~	~	~
	ZUMA	~		12:10	2:20	4:20	6:10
	LIB	2:50		12:40	2:50	5:00	6:40
	AHS	3:00		12:50	3:00	5:10	6:50
	LCMS	3:10		1:00	3:10	5:20	7:00

<p><b>Junior Lifeguard Bus</b>          Mon-Fri          7/2-8/17  <i>Jr. Lifeguard Bus Pass Required</i></p>	<p><b>Beach Bus</b>          Mon-Fri          6/18-8/17  <i>\$2 exact cash each way</i></p>
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