

**AGREEMENT BETWEEN THE CITY OF HERMOSA BEACH AND TUMBLEWEED
TRANSPORTATION FOR DAILY TRANSPORTATION FROM THE COMMUNITY CENTER
TO VIEW ELEMENTARY SCHOOL AND BACK**

This Transportation Service Agreement ("Agreement") is entered into as of the _____ day of August, 2019, by and between TUMBLEWEED TRANSPORTATION, with offices located at 3025 E. Dominguez Street, Carson, CA 90810 (hereinafter referred to as "CONTRACTOR") and the City of Hermosa Beach, a California municipal corporation, having its principal office located at 1315 Valley Drive, Hermosa Beach, California 90254 (hereinafter referred to as "CITY").

RECITALS

- A. CITY desires to contract with a qualified bus transportation vendor to transport students from the Community Center to View Elementary School, and back for the STAR kindergarten enrichment program; and
- B. CONTRACTOR represents and warrants that it possesses the necessary qualifications, equipment and expertise to provide this service in a safe and reliable manner.

NOW THEREFORE, in consideration of the mutual covenants and conditions set forth herein, the parties hereby agree as follows:

- 1. **SCOPE OF AGREEMENT:** CONTRACTOR will furnish, operate and maintain CALIFORNIA certified school buses or SPAB to transport students and other persons from the Hermosa Beach Community Center to Hermosa View Elementary School and back.
- 2. **TERM OF AGREEMENT:** This agreement shall commence September 5, 2019 and continue through the end of the regular 2020/2021 school year. This agreement may be extended an additional one-year term, commencing at the end of the 2021/2022 school year, in the exclusive discretion of the City. The Agreement may be canceled by either party at any time, with or without cause, upon thirty (30) days written notice. In the event of such cancellation, CONTRACTOR shall be compensated for services performed through the effective date of cancellation.

3. COMPENSATION FOR SERVICES: CITY shall compensate CONTRACTOR monthly in arrears for services provided under this Agreement according to the following rate schedule:

COMMUNITY CENTER TO HERMOSA VIEW AND BACK SERVICE

CAPACITY	DAILY RATE
82 passenger bus or SPAB	\$200

4. INVOICES: CONTRACTOR shall submit an invoice to the CITY monthly for the services provided in the previous monthly period. CITY shall pay each invoice no later than thirty (30) days from the invoice date.
5. ROUTE AND ROUTE CHANGES: Prior to commencement of services under this Agreement, CONTRACTOR and CITY will jointly establish routes and schedules conforming to the CITY'S requirements. If at any time during the term of this Agreement it is determined that service may be improved by revisions to routing, scheduling or bus assignment, CITY and CONTRACTOR shall plan and institute such changes as necessary. Increased bus capacity or services necessitated by program or population changes may occur only when agreed to in writing by the parties.
6. TRAVEL TIME: No student shall be transported in excess of one (1) hour each day or more than one (1) hour each afternoon without prior approval of the CITY.
7. EMERGENCY TRANSPORTATION: No provision of the Agreement shall be construed in any manner to place CONTRACTOR under any obligation to perform emergency, ambulance or specialized medical transportation of any person.
8. EQUIPMENT REQUIREMENTS: All vehicles utilized under this Agreement shall be California Certified School Buses or SPAB, licensed and inspected as required by the California Highway Patrol and State Law. Buses shall be maintained in good operating condition. CITY reserves the right to inspect CONTRACTOR'S buses or SPAB upon request. In the event the CITY finds CONTRATOR buses unsafe or not in compliance with all applicable statutes, CONTRACTOR shall immediately cease using the vehicle for services under this Agreement and will provide an acceptable and fully certified replacement vehicle until it has made necessary repairs.

9. IMDEMNIFICATION: CONTRACTOR shall indemnify, defend and hold harmless CITY, its officers, officials and employees from and against all liability, loss, damage, expense, cost of every nature, including attorney fees, expert fees and costs of suit, arising out of or in connection with CONTRACTOR'S performance of services hereunder or its failure to comply with any of its obligations contained in this Agreement, excepting such liability, loss, damage, expense, or cost which arises out of or is connected with the negligence or willful misconduct of the CITY, its officer, officials, employees or other persons or entities acting on behalf of CITY. CONTRACTOR shall promptly pay any final judgment rendered against the CITY (and its officers, officials and employees) covered by the terms of this indemnity obligation. It is expressly understood and agreed that the foregoing provisions will survive termination of this Agreement.

10. INSURANCE

- A. Without limiting CONTRACTOR's obligations arising under Section 11 – Indemnification, CONTRACTOR shall not begin work under this Agreement until it obtains policies of insurance required under this section. The insurance shall cover CONTRACTOR, its agents, representatives and employees in connection with the performance of work under this Agreement and shall be maintained throughout the term of this Agreement. Insurance coverage shall be as follows:
- i. Automobile Liability Insurance with \$5,000,000 combined single limit.
 - ii. Public Liability and Property Damage Insurance, insuring CITY, its elected and appointed officers, agents and employees from claims for damages for personal injury, including death, as well as from claims for property damage which may arise from CONTRACTOR's actions under this Agreement. Such insurance shall have a combined single limit of not less than \$2,000,000.
 - iii. Worker's Compensation Insurance for all CONTRACTOR's employees to the extent required by the State of California.
- B. Deductibility Limits for policies referred to in subparagraphs A (i) (ii) and (iii) shall not exceed \$5,000 per occurrence
- C. Additional Insured. City, its elected and appointed officers, agents and employees shall be named as additionally insureds for claims arising under the Agreement on policies referred to in subparagraphs A (i) and (ii).

- D. Primary Insurance. The insurance requires in paragraphs A (i) (ii) and (iii) shall be primary and not excess coverage.
- E. Evidence of Insurance. Consultant shall furnish CITY, prior to the execution of this Agreement, satisfactory evidence of the insurance requires, issued by an insurer authorized to do business in California, and an endorsement to each such policy of insurance evidencing that each carrier is requires to give CITY at least 30 days prior written notice of the cancellation of any policy during the effective period of the Agreement. All required insurance policies are subject to approval of the City Attorney, which approval shall not be unreasonably withheld or delayed. Failure on the part of CONTRACTOR to procure or maintain said insurance in full force and effect shall constitute a material breach of this Agreement.

11. NOTICES: Notices shall be given pursuant to the Agreement by facsimile, email or first-class mail of the United States Postal Service addressed as follows:

CITY: Attention: City Clerk
 City of Hermosa Beach
 1315 Valley Drive, Hermosa Beach, CA 90254

CONTRACTOR: TUMBLEWEED TRANSPORTATION
 P.O. BOX 49291
 Los Angeles, CA 90049

- A. The notices shall be deemed to have been given as of the date of facsimile or email, or three days after deposit of the same in the custody of the United States Postal Service. Either party may change its address, facsimile number or email address with notice to the other party.

12. DRIVER REQUIREMENTS: All drivers utilized under this Agreement shall be licensed and certified required by California law. Drivers shall be neat in appearance, fit for duty and meet or exceed the applicant legal standards for bus drivers. Drivers must at all times be in uniform (official company shirt) and in possession of all documents required to operate a school bus under California Law. CITY has the right to reject any driver for cause and shall notify CONTRACTOR in writing of any such rejection.

13. SAFETY PROGRAM: CONTRACTOR shall provide regular and continuous formal safety instruction for all operations personnel assigned to provide service under this Agreement.
14. FORCE MAJEURE: CONTRACTOR shall be excused from performance, without penalty, during such time and to the extent prevented from performing by Acts of Nature, Fire Earthquake, Strike, Lockout, Civil Disorder, War or Commandeering by the government or any other circumstance beyond CONTRACTOR's control or any other force majeure act as defined by state law.
15. ASSIGNMENT OF AGREEMENT: CONTRACTOR shall not assign any portion of its responsibility under the terms of this Agreement without the prior written consent of CITY.
16. INDEPENDENT CONTRACTOR: While engaged in and carrying out this Agreement, CONTRACTOR is an independent contractor and not an officer, agent or employee of the CITY.
17. GOVERNING LAW: The rights and obligations of the parties hereunder shall be governed by, construed and enforced in accordance with the laws of the State of California.
18. DISPUTES: The parties shall attempt in good faith to resolve any dispute arising out of or relating to this Agreement promptly by negotiations between the Parties' authorized representatives. If the matter has not been resolved within thirty (30) days of the first meeting, either party may initiate a mediation of the dispute. The mediation shall be facilitated by a mediator that is acceptable to both parties and shall conclude within sixty (60) days of its commencement, unless the parties agree to extend the mediation process beyond such deadline. Upon agreeing on a mediator, the parties shall enter into a written agreement for the mediation services with each party paying a pro rata share of the mediator's fee, if any. In the event mediation fails, the parties may exercise available judicial remedies, in which event the prevailing party shall be entitled to reasonable attorney's fees and costs.
19. ENTIRE AGREEMENT: This agreement contains the full and entire agreement between and among the parties with respect to the entire subject matter hereof and supersedes any and all prior or contemporaneous agreements and discussions, whether written or oral. Any and

all prior or contemporaneous discussions, negotiations, writings, commitments, and/or undertakings are merged herein, and no representations by any party not embodied herein shall be valid or binding.

20. AUTHORITY TO EXECUTE: Each person signing this Agreement warrants and represents that, to the extent he or she is executing this Agreement for an on behalf of an entity, he or she has been fully empowered and properly authorized to execute this Agreement for and behalf of said entity, and instructed by those having the requisite authority to cause said entity to make and enter into this Agreement.

EXECUTED ON THE DATE FIRST WRITTEN, BY:

CITY OF HERMOSA BEACH

Mayor

Date

ATTEST

City Clerk

Date

APPROVED AS TO FORM

City Attorney

Date

CONTRACTOR

Contractor

Date