

*McK
After school
PEP
Program*

**SPECIAL SERVICES AGREEMENT
BETWEEN
MCKINNEY INDEPENDENT SCHOOL DISTRICT
AND
TEXOMA AREA PARATRANSIT SYSTEM, INC.**

McKinney Independent School District ("MISD"), a public school district and political subdivision of the State of Texas, and Texoma Area Paratransit System, Inc. ("TAPS"), a rural transit district and political subdivision of the State of Texas, hereby enter into this Special Services Agreement ("Agreement") for the provision of transit services, specifically after-school transit services relating to MISD's Pregnancy, Education & Parenting (PEP) program (the "PEP Program"). MISD and TAPS may be referred to jointly herein as the "Parties," and individually as a "Party."

RECITALS

WHEREAS, MISD is a public school district, per Chapter 11 of the Texas Education Code, with campuses located in McKinney, Texas; and

WHEREAS, TAPS is a rural transit district, per Chapter 458 the Texas Transportation Code, that provides transit services within the State of Texas in the counties of Clay, Collin, Cooke, Fannin, Grayson, Montague, and Wise; and

WHEREAS, MISD seeks to provide after-school transit services for its students participating in the PEP Program; and

WHEREAS, the PEP Program provides educational support, parenting, counseling, life planning, transportation/transit, and related services for MISD students who are at risk of dropping out of school because they are parents and/or pregnant; and

WHEREAS, MISD has requested transit services from TAPS, and TAPS agrees to provide the requested services, ~~by means of this Agreement~~ pursuant to this Agreement, to support the PEP Program; and

WHEREAS, the Parties acknowledge and find that it will increase the efficiency and effectiveness of their respective entities, ~~per~~ by entering into an interlocal agreement pursuant to Chapter 791 of the Texas Government Code, as amended (also known as the Texas "Interlocal Cooperation Act" ("the Act")), and will be in their best interests and the interest of the public to cooperate in the provision of transit services as set forth in this Agreement.

NOW, THEREFORE, the Parties hereby make and enter into this Agreement for and in mutual consideration of the covenants and agreements set forth herein.

Article 1.

1.1 Purpose: Pursuant to Section 791.011 of the Act, MISD and TAPS are local governmental entities and enter into the Agreement for the purpose of providing services in which the parties are mutually interested and with each Party performing services it would be authorized to perform

individually. Further, pursuant to Section 11.1511 of the Texas Education Code, MISD seeks to establish a working relationship and enter into this Agreement with TAPS to make effective use of community resources and to serve the needs of MISD students.

1.2 Consideration: MISD and TAPS agree that there is good and valuable consideration for entering into this Agreement, the receipt and sufficiency of which is acknowledged.

1.3 TAPS Responsibilities: TAPS agrees to provide transit services for the administration and operation of demand-response bus service to benefit students of MISD's PEP Program (the "Transit Services"). Exhibit A outlines the ~~transit~~ Transit services Services TAPS will provide under this Agreement. Exhibit A is an attachment to this Agreement and is incorporated herein as if fully set forth.

(a) Student: For the purposes of this Agreement, a "student" is a person who is enrolled in classes at an MISD school and is actively participating in and referred by the PEP program.

(b) Academic Year: For the purposes of this Agreement, "academic year" means the first day of MISD's fall semester and last day of MISD's spring semester, as determined by MISD. MISD shall advise TAPS of the relevant dates of MISD's academic year in writing, and sufficiently far in advance of the start of the academic year, so TAPS may effectuate its responsibilities under this Agreement.

(c) Dates of Service: TAPS shall provide the ~~setransit~~ Transit services Services on Monday through Friday for the term described in Article 2 of this Agreement, excluding those days which MISD designates as holidays and staff development/teacher work days on its master calendar. TAPS will provide written notice of any modification of the foregoing to MISD. The Parties also agree that TAPS is under no obligation, and has no duty, to provide these ~~setransit~~ Transit services Services outside of MISD's academic year.

(d) Administrative and Operational Services: TAPS shall provide administrative and operational services ~~to effectuate this Agreement~~, associated with the Transit Services including, but not necessarily limited to, employment and management of necessary personnel, and management of dispatch and call center operations.

(e) Vehicles: TAPS shall provide a minimum of one bus ~~to provide the~~ ~~transit~~ Transit services Services contemplated by this Agreement. TAPS may provide, at its sole discretion, an additional bus (or buses) to address an increase in demand, if any, for the Transit services Services that TAPS provides pursuant to this Agreement.

(f) Revision and Expansion: MISD and TAPS may revise or expand the services described in this section by written agreement signed by both Parties.

1.4 MISD Responsibilities: MISD agrees to cooperate with TAPS so that TAPS may effectuate and fulfill the terms of this Agreement. MISD's responsibilities in this regard shall include:

(a) Compensation: MISD agrees to provide compensation for the ~~services~~ TAPS agrees to provide pursuant to this Agreement the Transit Services that TAPS provides, as set forth in Section 3.2 of this Agreement.

(b) Payment: MISD agrees to pay TAPS for the services it provides pursuant to this Agreement is due within thirty (30) days of receipt of an invoice

Article 2.

2.1 Term: This Agreement shall be for a period of thirty six (36) months beginning on August 1, 2013 and terminating on July 31, 2016, unless terminated earlier by either MISD or TAPS in accordance with the terms of this Agreement.

~~2.2 Breach/Opportunity to Cure: In the event either Party is in breach of its obligations herein, the Party not in breach shall provide the other Party at least thirty (30) days' written notice and opportunity to cure said breach before exercising any rights it has under this Agreement based on the breach.~~

2.2 Termination: This Agreement may be terminated prior to the Termination Date as follows:

(a) The Parties may terminate this Agreement by a written agreement signed by both Parties setting forth the agreed termination date;

(b) Either Party may terminate this Agreement with or without cause by providing written notice to the other Party not less than sixty (60) days prior to the desired termination date; or

(c) Either Party may terminate this Agreement on the thirty-first (31st) day after providing written notice to the other Party that the other Party is in breach of its obligations under this Agreement, which notice shall describe the alleged breach with reasonable particularity, and the Party receiving the notice has failed to cure the alleged breach. TAPS expressly reserves its rights to seek payment for any services that it may provide prior to the effective date of a termination under this Section 2.2.

~~Termination: Either Party may terminate this Agreement by providing sixty (60) days' written notice to the other Party. Termination shall be effective on the sixtieth (60th) day after the day on which the notice is provided, unless the non-terminating Party provides a written appeal of the notice of termination to the terminating Party within thirty (30) days of the day on which the notice of termination was provided. The appeal of the termination shall stay the effective date of the termination for an additional thirty (30) days. TAPS expressly reserves its rights to seek payment for any services it provided pursuant to this Agreement prior to the effective date of a termination under this Section.~~

2.3 Regulatory Change: ~~In the unlikely event that~~ If there is a change in state or federal regulation(s) that affects or impairs either Party's ability to perform this Agreement, the Parties may renegotiate the terms of this Agreement so the affected Party can comply with the change. The affected Party shall provide the other Party with written notice of the applicable regulatory change within two (2) days after the affected Party determines the change will affect or impair its ability to perform this Agreement. Should a Party choose not to renegotiate, or should the regulatory change make it impossible for the affected Party to perform this Agreement, that Party may terminate this Agreement by providing fourteen (14) days' written notice to the other Party. Termination shall be effective on the fourteenth (14th) day after the day on which the notice is provided. TAPS expressly reserves its rights to seek payment for any services it provided pursuant to this Agreement and prior to the effective date of a termination under this Section 2.3.

2.4 Rescinding Termination: A Party that provides written notice of termination pursuant to Section 2.2(b) or (c) or Section 2.3 may rescind same by providing written notice to the other Party on or prior to the effective date of the termination, in which event this Agreement shall remain in full force and effect as if the notice of termination had never been given. A written agreement of termination pursuant to Section 2.2(a) may be rescinded by written agreement signed by both Parties prior to the effective date of the termination, in which event this Agreement shall remain in full force and effect. ~~A Party that provides written notice of termination may rescind same by providing written notice to the other Party prior to the effective date of the termination.~~

Article 3.

3.1 Public Use: Notwithstanding the benefit to MISD students, MISD and TAPS agree the demand-response service shall be open and available to the public, not just to MISD students, and general public ridership may be on the TAPS bus concurrently with MISD students.

3.2 Fares: Students of MISD's PEP Program shall be billed at a rate of twenty five dollars (\$25) per hour of service, with a minimum of two (2) hours per day of service. PEP Program administrators may also elect to purchase tickets and passes for use of other TAPS services by these students at TAPS' normal published rates.

3.3 No-Shows: Students unable to keep scheduled appointments must cancel the trip by calling at least two (2) hours prior to the designated pick up time. Failure to take a scheduled trip without the required cancellation will result in a "No-Show." A pattern of successive no-shows may result in service suspension.

3.4 Amenities Revenue: The bus(es) for the demand-response service used in providing the Transit Services may be equipped with an onboard media system. MISD and TAPS agree that any revenue or compensation generated by any advertising aired on this media system is the property of TAPS; MISD disclaims any legal right or property interest in said revenue or compensation.

Article 4.

4.1 Force Majeure: TAPS does not assume and shall have no liability under this Agreement for failure to provide, or delay in providing, any service set forth in this Agreement due directly or indirectly to causes beyond the control of TAPS, including, but not restricted to, acts of God, acts of other governmental entities or authorities, acts of the public enemy, war, fire, strikes, riots, or unusually severe weather conditions.

4.2 Special and Consequential Damages: In no event, whether as a result of breach of contract, warranty, tort (including negligence or infringement), strict liability or otherwise, shall either Party be liable to the other Party for any special, consequential, incidental, indirect or exemplary damages including, but not limited to, loss of profits or revenues, cost of capital, cost of substitute goods, facilities, services or downtime costs.

Article 5.

5.1 Entire Agreement: This Agreement contains all representations, understandings, contracts

and agreements between the Parties regarding the subject matter of this Agreement. This Agreement supersedes all oral or written previous and contemporaneous agreements, writings, understandings, representations, or contracts between the Parties regarding the subject matter of this Agreement. This Agreement in no way modifies or supersedes any document executed by the Parties prior to this Agreement which does not regard the subject matter of this Agreement.

5.2 Parties Bound: This Agreement shall be binding upon, and inure to the benefit of, the Parties to this Agreement and their respective heirs, executors, administrators, legal representatives, successors, and assigns.

5.3 Relationship: ~~This Agreement~~ It is understood and agreed that the relationship between the Parties described in this Agreement is contractual in nature between independent Parties and does not constitute, and shall not be construed as constituting, as creating a partnership or joint venture relationship between or among the Parties. By entering into this Agreement, the Parties do not create any obligations, express or implied, other than those set forth herein, and this Agreement shall not create any rights in any individual or entity that is not a signatory hereto.

5.4 Amendment: The Parties may revise, amend or modify this Agreement only by written agreement signed by both Parties.

5.5 Severability: The provisions in this Agreement are severable. If any paragraph, section, subdivision, sentence, clause, or phrase of this Agreement is for any reason held by a court of competent jurisdiction to be contrary to law or contrary to any rule or regulation having the force and effect of the law, the remaining portions of the Agreement shall be enforced as if the invalid provision had never been included.

Article 6.

6.1 Notice: All notices, authorizations, invoices, and requests in connection with this Agreement shall be deemed provided on the day they are (i) deposited in the mail, postage prepaid, certified or registered, return receipt requested; (ii) sent-delivered by courier; or (iii) sent by facsimile as indicated by a fax confirmation sheet; and sent to the address or facsimile number of each party's agent as follows:

If to MISD:

McKinney Independent School District
Attn: McKinney ISD Director of Guidance and Student Support
1 Duvall Street
McKinney, Texas 75069
(469) 302-7709 (facsimile)

If to TAPS:

Texoma Area Paratransit System, Inc.
Attention: Executive Director
6104 Texoma Parkway
Sherman, Texas 75090
(903) 893-4766 (facsimile)

6.2 Recordkeeping: The Parties agree to maintain all books, documents, papers, and other records pertaining to the services being provided pursuant to this Agreement for a minimum of three (3) calendar years following the date on which this Agreement expires or is terminated.

Article 7.

7.1 Governing Law: The laws of the State of Texas shall govern the interpretation, validity, performance, and enforcement of this Agreement.

7.2 Place of Performance and Venue: This Agreement is performable in Grayson County and Collin County, Texas. Any legal action based on this Agreement shall be brought in Grayson County, Texas.

7.3 Remedies: No right or remedy granted herein or reserved to the Parties is exclusive of any other right or remedy herein by law or equity provided or permitted, but each shall be cumulative of every other right or remedy given hereunder. No covenant or condition of this Agreement may be waived without written consent of the Parties. Forbearance or indulgence by either Party shall not constitute a waiver of any covenant or condition to be performed pursuant to this Agreement.

7.4 Non-Waiver: One or more instances of forbearance by MISD or TAPS in the exercise of its rights herein shall in no way constitute a waiver thereof.

7.5 Immunity: In the execution of this Agreement, ~~neither Party waives~~ the Parties do not waive, and ~~neither Party shall be deemed to have waived~~, any immunity or defense that would otherwise be available to it as a local governmental entity and/or political subdivision of the State of Texas.

7.6 Assignment: This Agreement is not assignable except with the advanced written consent of the non-assigning party.

7.7 No Third Party Beneficiary: For purposes of this Agreement, including its intended operation and effect: (1) the Agreement only affects matters or disputes between the Parties, and is in no way intended by the Parties to benefit or otherwise affect any third person or entity, notwithstanding that such third person or entity may be in contractual relationship with MISD or TAPS or both; and (2) the terms of this Agreement are not intended to release, either by contract or operation of law, any third person or entity from obligations owed by them to either MISD or TAPS.

7.8 Counterparts: This Agreement may be ~~signed-executed~~ in any number of counterparts; ~~and each~~ Each executed ~~copy-counterpart~~ shall be deemed a ~~counterpart-original~~ an original instrument, and all counterparts collectively shall be a single instrument, with full force and effect and enforceable against the Parties executing same.

Article 8.

8.1 Each Party represents and warrants to the other that it has the full power and authority to enter into and fulfill the obligations of this Agreement. The respective signatories to this Agreement, by affixing their signatures hereto, warrant and represent that they have the authority to bind their

respective parties as duly authorized representatives thereof.

(Signatures on Following Page)

SIGNED AND AGREED this 21st day of November, 2013.

MCKINNEY INDEPENDENT SCHOOL
DISTRICT

By: Edd Bigbee

Edd Bigbee, CFO

Executed on behalf of McKinney Independent
School District pursuant to Board Resolution No.

SIGNED AND AGREED this 25 day of November, 2013.

TEXOMA AREA PARATRANSIT SYSTEM,
INC.

By: Brad Underwood

Brad Underwood, Executive Director and
CEO

Executed on behalf of Texoma Area Paratransit
System, Inc. pursuant to Board Resolution No.

EXHIBIT A

Description of Services

TAPS:

TAPS will provide after-school transit services for students enrolled in MISD's PEP Program. Eligible students must be referred by the PEP Program prior to receiving the Transit Services TAPS provides under this Agreement.

TAPS will pick up students at the MISD campus designated by the PEP Program director in the student's referral, transport the student to Herman Lawson Early Childhood Center to pick up the student's child, and transport the student and child to their home. TAPS will coordinate with MISD PEP to establish pick-up times conducive to serving the individual students.

TAPS will provide a monthly report of services it has provided. TAPS will submit each report to the PEP Program director along with the monthly invoice for services.

MISD:

MISD, through its PEP Program staff, will inform TAPS dispatch of student eligibility, and will provide TAPS with student/child name, address, date of birth, phone number, campus, and emergency contact information.

MISD agrees that it will make every effort to notify TAPS in a timely manner if a student will not be riding the bus.

MISD will educate students regarding rider responsibilities (i.e., cancellation/no-show policy, child safety seat requirements, how to schedule trips, etc.).

