

**July 9, 2020  
Attachment #3**

**UNION COUNTY EDUCATIONAL SERVICES COMMISSION  
45 CARDINAL DRIVE  
WESTFIELD, NEW JERSEY 07090  
(908) 233-9317 X211, 212, 213, 214, 215**

**RESOLUTION/AGREEMENT FOR PARTICIPATION IN COORDINATED  
TRANSPORTATION SERVICES**

**WHEREAS** the **Westfield** Board of Education (hereinafter referred to as “the Board”) desires to transport special education, non-public, public and vocational school students to specific destinations; and

**WHEREAS** the UNION COUNTY EDUCATIONAL SERVICES COMMISSION, (hereinafter referred to as the “UCESC”) offers coordinated transportation services; and

**WHEREAS** the UCESC will organize and schedule transportation routes to achieve the maximum cost effectiveness; and

**WHEREAS** the Board and the UCESC will hereinafter be referred to collectively as “the Parties.”

**NOW THEREFORE**, it is agreed that in consideration of prorated contract costs, plus an administration fee of four percent (4%), as presented to the **Westfield** Board of Education, and as calculated by the billing formula adopted by the UCESC, the UCESC will provide the following services:

**1. UCESC’s Services:**

- A. Transportation for designated Board students each day while school or classes attended by designated students are in session;
- B. Monthly billing and invoices to the Board;

- C. Computer print-outs of student lists for all routes coordinated by the UCESC:
  - D. Providing all information to the Board necessary for the accurate submission of the District Report of Transported Resident Students;
  - E. Providing all necessary interactions and communications between the sending district, receiving district, and the respective transportation coordinators;
  - F. Constant and timely review and, if required, revision of routes,
  - G. Transportation of student as soon as possible after receipt of a formal written request by the Board;
  - H. A bid analysis upon the request of the Board;
  - I. Timely submissions of contracts, contract renewals, or contract addenda to the county office for approval.
2. **Billing Formula:** The formula adopted by the UCESC for the calculation of billings shall be based on the route cost(s) divided by the number of students allocated to each participating school district. The total amount charged to each school district will be adjusted based on the actual cost of transportation. Any balance which may be due back to the Board based on this formula will be reimbursed, without interest, by the end of June.
3. **The Board's Responsibilities:** In addition to the payment as described above, the Board will provide the UCESC with the following:
- A. Requests for transportation on forms to be provided by the UCESC, and completed in full and signed by an individual authorized to do so by the Board;
  - B. Forms which contain all necessary and relevant information, including, but not limited to, medical information, the individual student's condition, and transportation needs for all students transported by the UCESC;

- C. A written withdrawal from any transportation, signed by an individual authorized to do so by the Board;
- D. Strict adherence to the established payment schedule.
- 4. **Additional Costs:** All additional costs generated by unique requests, including but not limited to mid-day runs and early dismissals will be borne by the Board making such request.
- 5. **Changes:** The Board understands and agrees that, as a condition of the herein Agreement, any change in the number of students being transported on each route, or changes in mileage during the course of the year will necessitate a reapportionment and adjustment of costs.
- 6. **No Responsibility for Student Use of Services:** The parties agree that the UCESC has no responsibility for assuming a pupil's use of arranged transportation or attendance on an established route. Once assigned to a route, the monthly billing for the pupil's reserved seat will continue until the UCESC is otherwise notified, in writing by the Board, to delete the pupil from the assigned route.
- 7. **Term of Agreement:** This Agreement and the obligations and requirements thereunder shall be in effect from **July 1, 2020** through **June 30, 2021**. The UCESC shall have no obligation to provide transportation services beyond the term of this Agreement.
- 8. **Unilateral Termination:** This agreement as to any specific student cannot be unilaterally terminated except for one of the following reasons:
  - A. A change in a student's school placement;
  - B. The relocation of a student's residence to another district;

C. Student receives home instruction and/or illness. (Note that in this circumstance, immediate reinstatement is not guaranteed).

9. **Termination Penalty:** Should this Agreement be terminated as to any student for other than any of the above listed reasons, a penalty of twenty-five percent (25%) of the remaining annual contract cost for said student will be imposed and the UCESC will not accept transportation applications from the Board for the subsequent year. **Such penalty will be remitted pro-rata to any districts remaining on the route to lessen their financial impact.**
10. **Breach of Agreement/Attorneys' Fees.** In the event that either Party brings an action to enforce the terms of this Agreement or as a result of a breach of the Agreement by any party, each party bears their own burden of proof as to a breach and damages. In addition to any remedies available at law or in equity, the non-breaching Party may request that the Court award reasonable attorneys' fees and costs incurred in connection with that enforcement or breach action against the breaching party.
11. **Enforceability and Severability.** The Parties agree and acknowledge that each of the provisions of this Agreement is reasonable and should be fully enforceable, and the Parties waive any right to argue, assert, or allege any claim to the contrary. However, if any provision of this Agreement is determined by a Court of competent jurisdiction to be unenforceable because it is overbroad or unreasonable, the Parties agree that such provision(s) may be modified and enforced to the maximum extent permissible. If any provision of this Agreement is held to be invalid and cannot be modified so as to make it enforceable, then such provision shall be deemed to be severed from the Agreement, and the remaining provisions shall remain in full force and effect.

12. **Waiver of Breach.** A waiver by any Party of a breach of any of the provisions of this Agreement shall not operate or be construed as a waiver of any other provision of this Agreement or of any subsequent breach of the same or any other provisions of this Agreement. The understandings and representations of the Parties set forth in this Agreement shall survive any breach of this Agreement and be enforceable by any non-breaching Party.
13. **Entire Agreement.** This Agreement constitutes the sole and complete agreement among the Parties with respect to the settlement of the Action. Neither Party is relying upon any representation, understanding, undertaking or agreement, whether oral or in writing, not set forth in this Agreement.
14. **Drafting and Negotiation by Counsel.** The drafting and negotiation of this Agreement have been participated in by each of the Parties and their respective counsel and, for all purposes, this Agreement shall be deemed to have been drafted jointly by each of the Parties. No ambiguity shall be resolved against any Party based upon authorship. The Parties hereby acknowledge that they have been represented by counsel throughout the settlement of the above-referenced matter, throughout the negotiation of this Agreement, and at the execution of this Agreement, and have read and consulted with counsel regarding this Agreement.
15. **Headings.** The headings contained in this Agreement are for convenience and reference purposes only and shall not be deemed to be a part of the Agreement or to offer the meaning or interpretation of this Agreement.

16. **Counterparts.** This Agreement may be executed in counterparts, including by fax, each of which shall be deemed an original and all of which shall constitute one and the same instrument.
17. **Authority.** The signatories hereto warrant and represent that they are legally authorized and empowered to enter into this Agreement on behalf of the Parties.
18. **Governing Law; Jurisdiction.** This Agreement shall be construed under, subject to, and governed by the laws of the State of New Jersey, without regard to conflict of law principles. The parties choose the Superior Court of New Jersey, Union County, as their forum for resolving any dispute concerning this Agreement. The parties further agree that this Agreement shall not be filed with any court except in an action to enforce or challenge its terms.
19. **Further Assurances.** The Parties hereto agree to perform such other and further acts or things and to execute and deliver such other and further documents necessary and appropriate to effectuate the terms and objectives hereof.
20. **Approval by County Superintendent:** It is understood by the parties hereto that this Agreement shall be without force and effect until it is approved by the County Superintendent of School of the County of Union, and any additional County Superintendent, if applicable.

**AUTHORIZED SIGNATURES**

**The Board President and Board Secretary Must Sign the Resolution/Agreement and Return to the UCESC with a Certified Copy of the Minute Extract Approving the Resolution/Agreement.**

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| <p>UNION COUNTY EDUCATIONAL SERVICES COMMISSION</p><br><br><br><p>By: _____<br/>U.C.E.S.C. President</p><br><br><p>Dated:</p><br><br><p>Attest:</p><br><br><br><br><br><br><br><br><br><br><p>By: _____<br/>U.C.E.S.C. Business Administrator/<br/>Board Secretary</p> | <p><b>WESTFIELD BOARD OF EDUCATION</b></p><br><br><br><br><br><p>By: _____<br/>Board President</p><br><br><p>Dated:</p><br><br><p>Attest:</p><br><br><br><br><br><br><br><br><br><br><p>By: _____<br/>School Business Admin./Board<br/>Secretary</p> |
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Approved As to Form:

By: \_\_\_\_\_  
Union County Superintendent of Schools

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Union County Superintendent  
of Schools