

SARATOGA SPRINGS CITY SCHOOL DISTRICT

SARATOGA SPRINGS, NEW YORK 12866-5967
3 BLUE STREAK BOULEVARD
(518) 583-4703

TRANSPORTATION RENTAL AGREEMENT

THIS TRANSPORTATION RENTAL AGREEMENT (this "Agreement"), made the ____ day of _____, 2013, is by and between the Board of Education of the Enlarged City School District of the City of Saratoga Springs (the "District"), with an address at 3 Blue Streak Boulevard, Saratoga Springs, New York 12866, and the *City of Saratoga Springs*, with an address at 474 Broadway, Saratoga Springs, New York 12866. The District and the *City of Saratoga Springs* are sometimes referred to in this Agreement individually as a "party" and, collectively, as the "parties."

WHEREAS, The City of *Saratoga Springs* is a municipality that furnishes certain recreation and youth services; and

WHEREAS, the District desires to rent to the *City of Saratoga Springs*, and the *City of Saratoga Springs* desires to rent from the District three (3) sixty-six (66) passenger diesel powered school buses (the "Buses") from the District's fleet upon the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual promises herein set forth and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Term

The term of this Agreement shall be for two (2) buses for a total of nineteen (19) days and one (1) additional bus for seven (7) days as follows:

DATE	# of BUSES
July 5, 9, 12, 16, 19, 22, 26, 30, Aug. 2, 6, 9, & 16, 2013	2
July 3, 10, 17, 24, 31, Aug. 7, & 14, 2013	3

2. Termination

Either party may terminate this Agreement by giving ten (10) days advance written notification of same to the other party, with or without cause, in the event that any representation or warranty made by the other party in this Agreement is materially untrue or in the event that the other party fails to satisfy any covenant set forth in this Agreement.

3. Payment

The City of Saratoga Springs agrees to pay to the District the price of **One Thousand One Hundred Twenty Five Dollars and no/100 (\$1,125.00)** - Twenty Five Dollars (\$25.00) per bus per day, for the rental of two (2) buses for nineteen (19) days and one (1) additional bus for seven (7) days **plus Two Dollars and 06/100 (\$2.06)** per mile for gasoline and maintenance per bus (collectively, the "Rent"). Mileage for the purposes of gasoline and maintenance shall be computed by reading the odometers on the Buses prior to the Term and at the expiration of the Term. The buses shall be available to the *City of Saratoga Springs* from the garage area of the District, five days per week, and shall be picked up and returned daily to said garage area of the District. The Rent shall be payable to the District in full no later than thirty (30) days after the expiration of the Term.

District vehicles leased to third parties shall be driven by drivers at a minimum of the Entry level pay schedule in effect at that time.

4. Covenants of the District

The District agrees to the following covenants:

- (i) To furnish qualified operators for the Buses from the qualified driver list maintained by the District's transportation department. All such operators shall meet the requirements of Article 19-A of the Vehicle and Traffic Law, Part 6 of the Rules and Regulations of the Commissioner of Motor Vehicles and Part 156 of the Rules and Regulations of the Commissioner of Education.

5. Covenants of The City of Saratoga Springs

The City of Saratoga Springs agrees to the following covenants:

- (i) That each of its passengers on the Buses will abide by the rules and regulations of the District with respect to the Buses and all applicable Rules and Regulations of the Commissioner of Education relating to school buses, a copy of which *The City of Saratoga Springs* acknowledges it has received from the District; and
- (ii) To transport passengers only on the Buses and not to transport any equipment or hazardous materials, as such term is defined 42 USC §9601 et. seq., 49 USC §1801 et. seq., 42 USC §6901 et. seq., Articles 17 or 27 of the New York State Environmental Conservation Law or any other Federal, state or local law, rule, ordinance or regulation.

The City of Saratoga Springs agrees to the following representations and warranties:

- (i) That it is a validly-formed and validly existing not-for-profit corporation in good standing under the laws of the State of New York;
- (ii) *The City of Saratoga Springs* has the requisite corporate power to enter into this Agreement and the individual executing this Agreement on behalf of *The City of Saratoga Springs* has the requisite authority to bind *The City of Saratoga Springs*; and
- (iii) Neither the execution nor the delivery of this Agreement or the performance of *The City of Saratoga Springs* obligations hereunder conflict with, or constitute a default under, any other Agreement to which *The City of Saratoga Springs* is a party.

The representations and warranties of this Section 5 shall survive the expiration or earlier termination of this Agreement for a period of three (3) years.

6. Warranties

NO WARRANTY OF ANY KIND APPLIES TO THE BUSES IN ANY MANNER. ANY OTHER WARRANTY, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, IS DISCLAIMED BY THE DISTRICT. In the event one or more of the Buses fails or breaks down, the operator shall contact the District's transportation department for the dispatch of a replacement bus. The District's liability in the event one or more of the Buses fails or breaks down shall be limited to its operator's obligation to call the District's transportation department for a replacement bus.

7. Insurance

The City of Saratoga Springs shall furnish, to the satisfaction of the District and in the District's sole and absolute discretion at least ten (10) days prior to the commencement of the Term, certificates of insurance of the following types and in the following prescribed amounts, naming the District as additional insured:

Commercial General Liability:

\$1,000,000 each occurrence/\$2,000,000 General and Products/Completed Operations Aggregate. Coverage for sexual misconduct shall be included in the policy.

Automobile Liability:

\$5,000,000 combined single limit.

(Coverage can be afforded by a combination of primary and excess insurance)

The City of Saratoga Springs City School District shall be an additional insured on the liability policies with the use of ISO additional insured endorsement CG 20 10 or CG 20 26.

All policies of insurance shall be issued by an insurance company authorized to issue policies of insurance in New York State.

8. Indemnification

The City of Saratoga Springs and its successors, if any, agree to indemnify, protect and hold the District, its employees, officers, agents, administrators and board members harmless from and against any and all losses, claims, damages, liabilities, and expenses, including reasonable costs of investigation, reasonable legal counsel fees and disbursements that may be imposed on the District or incurred by the District in connection with the Services in any manner and in connection with the performance of the District's obligations under this Agreement in any manner; *provided, however*, that the City of Saratoga Springs shall not indemnify the District for any loss, claim, damage, liability or expense caused by the District's negligence or misconduct or the negligence or misconduct of the District's employees. The indemnification provisions of this Section 8 shall survive the expiration or earlier termination of this Agreement for a period of three (3) years.

9. Miscellaneous

The parties agree to the following miscellaneous provisions:

- (i) Severability. If any provision of this Agreement shall be held invalid or unenforceable, the remainder nevertheless shall remain in full force and effect;
- (ii) Amendment and Modification. This Agreement may be amended, modified or supplemented only by written agreement signed by the parties;
- (iii) Governing Law. This Agreement and the interpretation and performance of this Agreement shall be governed by the laws of the State of New York, without giving effect to conflict of law or choice of law rules;

- (iv) Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. This Agreement may be executed by fax with the same binding effect as original ink signatures;
- (v) Entire Agreement. This Agreement embodies the entire agreement and understandings of the parties hereto in respect to the subject matter hereof. Each party acknowledges that no other party has made any, or makes any promises, representations, warranties, covenants or understandings other than those expressly set forth herein. This Agreement supercedes any and all prior agreements and understandings between the parties with respect to the transactions contemplated by this Agreement.
- (vi) Warranties. The District assumes responsibility for the normal wear and tear (including routine repair and maintenance) of buses provided to the City of Saratoga Springs under this Agreement. The City of Saratoga Springs shall not be responsible for such costs.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals as of the day and day first above written.

**BOARD OF EDUCATION OF
THE ENLARGED CITY SCHOOL DISTRICT
OF THE CITY OF SARATOGA SPRINGS**

By: Regina Gapczynski
Title: President, Board of Education

City of Saratoga Springs

By:
Title: