

MEMORANDUM OF UNDERSTANDING

This **Memorandum of Understanding** (“MOU”) is entered into the ___ day of _____ 2023, by and between the City of Republic, Missouri, a municipal corporation (the “City”), and the Green County Reorganized School District No. 3, also known as the Republic R-III School District (the “District”). The City and the District are referred to together herein as “the Parties.”

WITNESSETH:

WHEREAS, the District owns multiple school buses utilized for the transportation of students within the Republic School District; and

WHEREAS, the City wishes to utilize one of the busses owned by the District (the “Bus”)¹ for approximately seventeen (17) days during the summer months of 2023 for public purposes, namely, transporting participants of the City’s summer camps/programs to and from the designated locations and/or activities that are part of those camps/programs; and

WHEREAS, in exchange for good and valuable consideration, the sufficiency of which is acknowledged by the Parties, the District has agreed to provide the City use of the Bus for the public purposes desired by the City, pursuant to the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual promises, conditions, and agreements set forth herein, District and City mutually agree as follows:

1. **Payment.**

- a. In exchange for use of the Bus as set forth in this MOU, the City will pay to the District a sum to be calculated upon conclusion of the City’s use which will include the following: a flat rate of Fifty Dollars and Zero Cents (\$50.00) per day of use by the City, fuel to be calculated at Fifty Cents (\$0.50) per mile of actual use, and any costs of non-routine maintenance/repair required as a result of the City’s use. The Parties mutually acknowledge and agree that the total amount owed under this paragraph cannot yet be determined with specificity as it is dependent upon the City’s actual use. The Parties agree and acknowledge that calculation of payment owed under this MOU shall be determined using commonly accepted methods of calculation, and such final amount calculated shall be accompanied by documentation of the data input into such calculation. The Parties agree and acknowledge that in no event shall the City be liable for payment to the District for the daily flat rate or fuel costs in an amount exceeding \$2,000.
- b. Following the last day of the City’s use of the Bus, slated to be August 10, 2023, the District will provide to the City an invoice for the total amount due and owing under this MOU.

¹ The Parties acknowledge that the phrase “the Bus” herein refers not to one single, particular vehicle; but rather, includes any one of the busses owned by the District and used for transportation of students to and from school, so long as the Bus provided is in safe, operable condition, and meets acceptable industry standards for size, capability and other approved uses.

- c. The City shall be responsible for making payment in full to the District within thirty (30) days of receipt of the invoice. Any amounts owed by City which remain unpaid after such time shall bear interest at a rate of nine percent (9%) per annum.

2. **Dates of Use.** The District shall make the Bus available to the City on all of the following dates:

- a. Week 1 of Summer Camp: June 12, 13, 14, & 15
- b. Week 2 of Summer Camp: July 10, 11, 12, & 13
- c. Week 3 of Summer Camp: July 24, 25, 26, & 27
- d. Tiger Triathlon: July 29
- e. Week 4 of Summer Camp: August 7, 8, 9, 10

3. **Conditions of Use.**

- a. The City shall, at all times under this MOU and otherwise, utilize the Bus solely for the public purposes specified herein and operate the same within the City of Republic and Greene County, Missouri.
- b. The City shall be solely responsible for the hiring and/or retention of the individual or individuals who will operate the Bus pursuant to the terms of this MOU; however, any such individual must also be employed as a bus driver with the District and have all licensures required by law to operate the Bus. The Parties agree and understand that, while operating the Bus on behalf of the City, the individual or individuals operating the Bus shall not be doing so in their capacity as employees of the District.
- c. The City shall be responsible for picking up the Bus from the District's Transportation Facility at the start of each day of use, and returning the Bus to the District's Transportation Facility at the conclusion of each day of use.
- d. The District shall be solely responsible for monitoring and tracking all necessary and relevant data for calculation of the amount owed by the City under this MOU; specifically including but not necessarily limited to, mileage placed on the Bus by City and damages or other repairs requiring maintenance as a result of use by City.
- e. The District shall be responsible for fueling the Bus and providing all maintenance needs to the Bus for the duration of this MOU, the cost of which shall be borne by the City; provided, the District utilizes a commonly accepted method of calculation for determining such costs and includes such calculation in the invoice it provides to City at the conclusion of use under this MOU, along with documentation of the data used in such calculation, as further specified in paragraph 1, above.
- f. The City shall be responsible for all damages, claims, demands, and losses which may be made by reason of any injury to person or damage to property sustained by any person, firm, or entity, caused by or arising out of the City's use of the Bus under this MOU, provided such damages, claims, demands, or losses are attributable to the City's use of the Bus, and then only to the extent that the City's use of the Bus caused such damages, claims, demands, or losses.

4. **Insurance.** For the duration of this MOU, the City shall maintain liability and other insurance necessary and/or designed to protect against claims which may arise out of or result from this MOU or the City's use and/or operation of the Bus pursuant to this MOU. The amounts of such insurance shall have policy limits not in excess of the applicable statutory maximum amounts set forth in § 537.610

RSMo. If requested by the District, the City shall provide satisfactory proof of such insurance to District prior to use of the Bus under this MOU. Such insurance shall name the District as an additional insured. The provision of any insurance pursuant to this paragraph, whether such insurance does or does not afford coverage to City and/or District for any claim arising from or out of this MOU or performance thereunder, shall not in any way be deemed a waiver of the City's or the District's sovereign or governmental immunity under state and other applicable law.

5. **Public Entity Immunity.** The Parties both preserve all immunities, sovereign, governmental and otherwise, recognized by law. Nothing in this MOU or any transactions under this MOU shall be construed or deemed in any way as a waiver of sovereign immunity or governmental immunity recognized under common law, state law, ordinances, regulations, the Missouri Constitution, or the United States Constitution, including but not limited to § 537.600 RSMo., *et seq.* The provision of any insurance pursuant to this paragraph, whether such insurance does or does not afford coverage to City or to District for any claim arising from or out of this MOU or performance thereunder, shall not constitute a waiver of any defense or immunity available to the District or the City.

6. **Law and Venue.** This MOU shall be governed by the laws of the State of Missouri. Any lawsuit, claim, or other action filed by or against one or both of the Parties to this MOU relating in any way to the interpretation of this MOU or to the exercise of rights and/or duties under this MOU, shall have proper venue solely in the Circuit Court of Greene County, Missouri.

7. **Assignment.** Neither party may assign their rights or obligations under this MOU without the prior written consent of the other party.

8. **Severability.** A determination by a court of competent jurisdiction or other authoritative decision-making body that any clause, sentence, paragraph, section, or part of this MOU is unconstitutional, invalid or otherwise unenforceable shall not affect in any way the validity or enforceability of the remaining clauses, sentences, paragraphs, sections or parts of this MOU.

9. **Entire Agreement.** This MOU constitutes the entire agreement between the Parties hereto and there are no other understandings, written or oral, relating to the subject matter hereof, and may not be changed, modified or amended, in whole or in part, except in writing signed by the Parties.

10. **Headings.** The headings formatted in bold herein are merely for purposes of convenience and reference only, and do not constitute material terms of this MOU.

11. **Incorporation of Whereas Clauses.** The "WHEREAS" clauses in this MOU above are incorporated into this paragraph by reference as though fully set forth at length herein and form a material part of this MOU.

CITY OF REPUBLIC, MISSOURI

REPUBLIC R-III SCHOOL DISTRICT

By: _____
City Administrator

By: _____
Authorized Representative

Name: _____

Title: _____

APPROVED AS TO FORM

Megan McCullough, City Attorney