

## **CHIEF BUSINESS OFFICER**

## **COVER SHEET FOR AGENDA ITEMS**

#### February 8, 2022

#### TOPIC/ AGENDA ITEM:

VIII. FINANCE B. PCHS Transportation Contract Addendum

#### PERSONNEL INVOLVED:

Board of Trustees, Executive Director/Principal, Chief Business Officer, Director of Operations, Transportation Department

#### **ISSUES INVOLVED/FISCAL IMPLICATIONS (IF ANY):**

The purpose of this action is to approve a contract addendum between PCHS and American Transportation Systems (ATS).

ATS is the transportation vendor PCHS has contracted with for 2021-22. We are in year-one of a three-year contract. In mid-October 2021, ATS took a 9% price increase. They cited a 17%-18% CPI as the basis for the increase. Since then, the vendor has been charging 9% more. However, we do not have any kind of written agreement documenting the price increase.

This addendum refers to the 9% price increase and incorporates an additional rate for a Special Education bus (\$495 per day). The Budget & Finance committee voted to approve the addendum and clarified that the CBO/HR office must continue discussions/negotiations to address the 2022-23 and 2023-24 bus contract.

## IMPACT ON SCHOOL MISSION, VISION OR GOALS, (IF ANY):

The action requested of the Board today will support the goal of ensuring compliance.

#### **OPTIONS OR SOLUTIONS:**

The expectation is that the board approve the contract addendum for ATS.

#### CHIEF BUSINESS OFFICER'S RECOMMENDATION:

The Chief Business Officer recommends that the Board approve the ATS contract addendum.

#### **RECOMMENDED MOTION:**

"To approve the ATS contract addendum, which outlines new pricing and services for 2021-2022."

Juan Pablo Herrera Chief Business Officer

# ATS

TRANSPORTATION

# Transportation: Recap

# The transportation contract between PCHS and ATS is very unusual

- The contract only lists daily/hourly bus rates and does not provide a total cost estimate
- It's nearly a \$1 Million contract, but by reading it you only see the daily/hourly bus rate
- The vague language allowed the vendor to "backtrack" on the agreement and increase the rates by 9%

# PCHS transportation expenses budgeted for 2021-22

- During budget development, the committee allocated \$510,962 for transportation
- However, that is the estimated net amount PCHS will pay for transportation. The following slide shows the gross expense.
- We have historically only focused on the net amount of transportation expenses, but we need to evaluate the total cost
- There are a lot of variables (like changes in ridership, vacancy rates, etc.) which can all impact our "net amount"

# Transportation: Changes since budget adoption

# **Price Increase**

- Effective 10/15, the vendor took a 9% price increase.
- PCHS accounted for this during First Interim and allocated an additional \$70k to cover the increase.

# **Additional Bus Routes**

- At budget adoption, the committee approved 7 Regular Ed buses (3 of which are late buses) and 2 Special Education vans
- We have since realized that PCHS is running an 8<sup>th</sup> bus (late bus) and 1 additional Special Education bus/van
  - The 8<sup>th</sup> bus is only from school to home (not in service in the AM). Therefore, the rate is \$495 per day.
  - The Special Ed bus/van is due to needing a wheelchair accessible bus/van. The rate is also \$495 per day.
  - Neither of these expenses were budgeted for.

# The 2 additional buses will cost an estimated \$183,150

# The 2 additional buses are not budgeted for.

Description		inal Amount get Adoption)	9% Incre Oct 15th	-		ed Transportation unt (First Interim)	formation: Addition of 1 bus & 1 SPED bus	-	ted 2021-22 Total ortation Expense
Regular Ed	\$	715,387.75	\$	60,000.00	\$	775,387.75	\$ 86,625.00	\$	862,012.75
Late Buses	\$	72,240.00		5000	\$	77,240.00		\$	77,240.00
Special Education	\$	58,500.00		5000	\$	63,500.00	\$ 96,525.00	\$	160,025.00
Athletics/Competition	\$	107,454.16			\$	107,454.16		\$	107,454.16
DLA (summer)	\$	10,073.83			\$	10,073.83		\$	10,073.83
Fast Aid Application Fees	Ś	9,155.00			Ś	9,155.00		¢	9,155.00
Amount	\$	972,810.74	\$	70,000.00	\$	1,042,810.74	\$ 183,150.00	\$	1,225,960.74
Amount Reflected in our 21-22 Budget	\$	510,962.00			\$	580,962.00			

The difference between the gross amount \$1.225 Million and budgeted amount is expected to come from PCHS transportation schobrships (~\$190k) and student/family payment. The student/family payment portion is still TBD.

# Transportation: Next steps

# Finance team to recommend reallocation of funds to cover the additional expense.

- This is in addition to finding a solution to address the current \$336k deficit.
- There are some carry-over transportation funds from prior year, which we can put towards this year's transportation expense. This will help us offset the cost

# **Ridership Data**

- As you can see in the previous slide, there is a significant difference between the gross amount and the budgeted amount.
- The difference is expected to come from PCHS transportation scholarships (~\$190k) and student/family transportation payments.
- However, it's still not clear what the projected student/family payment is for full-year 2021-22. This is why looking at the gross transportation amount is critical.

# Policies

- We've already begun working with HR to establish clearer policies and required forms for taking on additional expenses (purchasing, personnel, extra hours, etc.). This will ensure this does not happen again.
- In addition, the contract needs to be shared with the Budget & Finance committee and Board of Trustees (meaning it needs to be uploaded to the packets). It was previously not included in meeting materials and only "shared" at the budget committee. This is something our auditors have mentioned.



#### AGREEMENT TO PROVIDE TRANSPORTATION SERVICES

This Agreement to Provide Transportation Services ("Agreement") is made between American Transportation Systems ("ATS"), a California Corporation, and Palisades Charter High School ("PCHS"), a 501-c3 corporation and an Independent Charter public school.

## RECITALS

ATS is a provider of transportation services, including providing various buses to schools and school districts; and

ATS and PCHS desire to enter into this Agreement with ATS to provide Transportation services from school to school for its students in the morning, afternoon, and for special events (field trips, athletic events, etc.) to be referred to as "Trip" or "Trips"; and

ATS and PCHS are willing to enter this Agreement upon the terms and conditions stated herein.

NOW, THEREFORE, in consideration of the agreements stated herein, and such other and further consideration exchanged between the parties, ATS and PCHS agree as follows:

- 1. This Agreement commences on July 1, 2021 ("Commencement Date") and ends on June 30, 2024 ("Term").
- ATS shall make available the necessary number of buses, currently estimated at 8 buses, per school weekday during the Term. Fuel shall be paid for and provided by ATS. All buses made available by ATS under this Agreement shall be certified/approved buses, as defined by applicable California statutory or administrative codes.
  - a. California (CA) CHP required maintenance, regular preventive maintenance, and any reactive repairs/maintenance shall be performed/practiced by ATS in a timely manner and adhere to all Federal, California, City of Los Angeles and Los Angeles Unified School District ("LAUSD") requirements, and ATS shall contractually require the same of their affiliates on all buses used to service PCHS.



All buses used for servicing PCHS, whether to/from school or Trips, to utilize any available GPS Tracking capabilities as soon as possible so PCHS and ATS can know where buses are at all times.

- 3. PCHS shall work with or provide ATS with the number of buses required for each pick-up time/location, shall work with or provide the routes/stops of each bus and shall confirm all pick-up and delivery times not already stated herein to ATS at least two weeks prior to the start date of school. Routes/stops are assumed but not required to be consistent with previous year's routes/stops already determined and in practice by PCHS and not to change without mutual consent of both parties. ATS will assist in route optimization upon a reasonable number of PCHS' requests.
  - a. Assigned Buses will pick students up at various other schools in the morning and deliver them to PCHS. At the end of the school day, assigned buses will pick students up at PCHS and take them back to the scheduled schools. Primary afternoon pull-times from PCHS are 2:20pm and 3:25pm, with bus arrival times on campus to be at least 25 minutes before the pull-time, and no earlier than 35 minutes before pull-time. Pull-time is defined as the time the bus is expected to pull away from the curb to begin its trip with students on board. Vehicles servicing only these specific afternoon PCHS pull-time/pickups are referenced as "Type 1" buses.
  - b. Some assigned buses picking up students at 2:20pm will return to PCHS to do a second pick up and delivery of students with a pull-time at approximately 5:45pm ("Late Bus"), with bus arrival times on campus to be 15-45 minutes before the pull-time. Vehicles servicing both a 2:20pm and 5:45pm pull-time-from/pickup-at PCHS are referenced as "Type 2" buses. Type 2 buses cannot exceed 14.5 hours in length from the time the driver leaves the ATS yard in the AM to the time the driver returns to the ATS yard in the PM after completing the Late Bus route. ATS agrees to have the drivers of the Late Buses arrive at the ATS Yard in the mornings as late as reasonably possible in order to maximize how late in the evening the Late Bus driver can return to the ATS Yard and still be within the regulations.
- 4. 1<sup>st</sup> Contract Year (2021-2022 School Year):



ATS will charge PCHS the sum of \$583.99 (or \$572.31 with Early-Pay Discount) per day for each of the Type 1 buses PCHS anticipates using each day, which PCHS agrees to promptly pay in accordance with the terms of this Agreement. ATS will charge PCHS the sum of \$723.99 (or \$709.51 with Early-Pay Discount) per day for Type 2 buses.

ATS will also provide transportation services to PCHS for school Trips upon one (1) week's prior notice. The rates are \$85/hour for each school bus and \$129/hour for a coach bus, each with a five (5) hour minimum from scheduled time of pickup to time of drop-off.

Cancellation of any buses will be treated as follows:

- a. Two (2) or more business days before the scheduled Trip day = 100% Refund
- b. Up to Noon of the business day before the scheduled Trip day = 50% Refund
- c. Any other timeframe = Non-Refundable
- d. Cancellation within 24 hours due to Acts of God, Tragedy, or Catastrophe or failure to advance in tournament/playoff situations for competition events will be 100% refundable.
- 5. 2<sup>nd</sup> & 3<sup>rd</sup> Contract Year Rates: All rates shall remain firm for the first contract year (2021-2022). Starting the second Contract Year (2022-2023), as of July 1, the Contract Price shall be adjusted annually to reflect the cost of living (CPI) calculated upon the basis of the United States Department of Labor, Bureau of Labor Statistics, Consumer Price Index for all urban consumers applicable to the Los Angeles area

(https://www.bls.gov/regions/west/news-release/consumerpriceindex losangeles.htm). The 12month rate shown for June of 2022 shall be used as the rate of increase for the 2<sup>nd</sup> Contract Year. For any CPI adjustment less than 0% or greater than 4%, both parties agree to split the difference below 0% or above 4% evenly. For example, if the CPI adjustment reflected in aforementioned table shows an increase of 5%, the reflected increase on the services rendered will be 4.5%. Likewise, if the CPI adjustment is -1% then the reflected adjustment in rate will be -0.5%. In the same manner, the 3<sup>rd</sup> Contract Year will have prices set at the 2<sup>nd</sup> year's rate plus the CPI for the 3<sup>rd</sup> Contract Year as shown in the June 2023 12-month CPI.

## **Simplified Pricing**



Year 1 (2021-2022):

- Type 1 Bus: \$583.99 (\$572.31 with Early-Pay Discount)
- Type 2 Bus: \$723.99 (\$709.51 with Early-Pay Discount)
- Trips Bus (School Bus): \$425 Base Rate and \$85/hour for any time exceeding 5-Hours
- Trips Bus (Coach Bus): \$645 Base Rate and \$129/hour for any time exceeding 5-Hours

Year 2 (2022-2023): Year 1 rates + Annual CPI adjustment

Year 3 (2023-2024): Year 2 rates + Annual CPI adjustment

6. Should unusually large increases in industry costs arise ATS reserves the right to renegotiate rates. Increase in such costs must be verifiable, and PCHS reserves the right to refuse such additional cost increases if its budget cannot afford such additional increases. If an agreement cannot be reached between both parties as to the increased costs, this contract may be terminated with 90 days' notice.

PCHS may alter the number of buses needed throughout the term of this contract. PCHS may not reduce the number of buses contracted with ATS to contract with other transportation vendors. Should PCHS choose to increase the number of buses being utilized to more than 8 buses per day, then PCHS will receive a daily 1% discount for each bus above 8 buses that are being operated with a maximum discount of 2%. In normal times, not times of Acts of God, Tragedy, or Catastrophe, should PCHS choose to decrease the number of buses below 5 buses, the rate will increase by 1% for the first bus and 2.5% for each additional bus below 5 buses. The discount or additional premium will be applied to all buses used for that day. This is applicable to the daily cumulative total of Type 1 & Type 2 buses only. The discount will be applied to all Type 1 & Type 2 buses for each day that the bus count is above 8 buses. Daily bus count does not include Trip buses, nor does the discount apply to these Trips. Half Trips (AM or PM Only) will not count toward the daily total. PCHS will not drop below 1 bus utilized per day.



SAMPLE DAILY PRICING PER BUS (Before Early-Pay Discount) WITH 8 OR MORE BUSES OPERATING:

1 BUSES -	TYPE 1: \$633.63	TYPE 2: \$785.53	
2 BUSES -	TYPE 1: \$619.03	TYPE 2: \$767.43	
3 BUSES -	TYPE 1: \$604.43	TYPE 2: \$749.33	
4 BUSES -	TYPE 1: \$589.83	TYPE 2: \$731.23	
5-8 BUSES -	TYPE 1: \$583.99	TYPE 2: \$723.99	
9 BUSES -	TYPE 1: \$578.15	TYPE 2: \$716.75	
10+ BUSES -	TYPE 1: \$572.37	TYPE 2: \$709.59	

- 7. ATS agrees that all buses used regularly to service PCHS will not be Year Model 2000 or older for ATS in-house/owned buses, and for any affiliate or sub-contracted buses. Unless for short-term repair situations, ATS agrees to seek express approval from PCHS before using any bus that does not meet these age parameters in this paragraph, but which may be of equivalent good operating condition. ATS's failure to provide buses manufactured on or after January 1, 2000 absent a short-term repair or express approval from PCHS, will result in a \$50 discount per older bus per day.
- 8. PCHS requires the drivers of all PCHS related buses to follow and enforce all of PCHS's policies, procedures, rules and regulations as outlined on PCHS's School Bus Transportation web pages. This includes, but is not limited to, dropping students off at PCHS in the proper location (unless instructed otherwise by PCHS personnel), not blocking student crosswalks, utilizing bus rosters and only allowing students authorized and permitted to ride a PCHS school bus to actually board and ride the bus. Students without valid ID or without valid authorization should not be permitted to ride the bus. This is the driver's responsibility at all times for all trips, even when picking up students at PCHS.
- 9. For purposes of ensuring timely communication with PCHS parents, ATS agrees to require that its drivers report route delays to ATS Dispatch as follows:
  - a. In the event that the driver's bus will be delayed more than fifteen (15) minutes passed their scheduled pull-time at their morning pick-up stop; and/or



b. In the event that the driver's bus will be delayed more than twenty-five (25) minutes passed their scheduled drop-off time at their afternoon drop-off stop.
PCHS retains the right to request removal of any ATS driver who, in PCHS' determination, persistently fails to report route delays according to this paragraph or fails to follow the PCHS rules as per the preceding paragraph.

- 10. ATS agrees to report to PCHS all PCHS related bus accidents, PCHS related bus damage, or incidents of PCHS student misbehavior (or unsafe behavior) to appropriate PCHS personnel (including Transportation or Security Staff and/or other members of PCHS Administration) in a timely manner, and in no circumstance more than two (2) hours after the incident occurred. In addition, all such incidents are to have a written Incident Report created and delivered to appropriate PCHS personnel within six (6) hours of the incident.
- 11. The parties agree that unless for Acts of God, Tragedy, Catastrophe, or a verifiable traffic accident that directly caused delays, not to be unreasonably contested by PCHS, the following late arrival penalties will be imposed on ATS as follows:
  - a. For morning arrival at PCHS unloading in proper drop-off location not started:
    - i. By or before 8:00am is a \$50 discount in billing to PCHS/Bus/Day This level late penalty to have an allowance (Mulligan) of 1 minor lateness per month per bus before this penalty is assessed.
    - ii. By or before 8:30am is a \$100 discount in billing to PCHS/Bus/Day
    - iii. By or before 9:00am is a \$150 discount in billing to PCHS/Bus/Day
  - b. For afternoon arrival at PCHS for the 2:20pm or 3:25pm pull-time buses student boarding in proper pick-up location not started:
    - By or before 15 minutes past the scheduled pull-time is a \$50 discount in billing to PCHS/Bus/Day – This level late penalty to have an allowance (Mulligan) of 1 minor lateness per month per bus before this penalty is assessed.
    - ii. By or before 45 minutes past the scheduled pull-time is a \$100 discount in billing to PCHS/Bus/Day
    - iii. By or before 75 minutes past the scheduled pull-time is a \$150 discount in billing to PCHS/Bus/Day



- c. If PCHS needs to adjust their School Bell Schedule due to Acts of God, Tragedy, Catastrophe, State of CA or CDE or LACOE requirements, or PCHS Board vote, and as long as there's still only one time period for School-to-School pick-up to bring students to PCHS, the above late tolerances and penalties to apply relatively to the newly established Bell Schedule. PCHS to inform ATS as early as reasonably possible of any such Bell Schedule changes.
- 12.PCHS understands and agrees that ATS reserves the right to lease, sub-charter or otherwise arrange for the availability of sufficient busses from a third party, but ATS is responsible for ensuring requirements of those arrangements.
- 13. With the understanding that PCHS's current requirements are for AM Drop-Off buses to not be dismissed/leave/egress until 10 Minutes after the official start of the school day, currently a 7:50am start so 8:00am release of busses, if the Clockwise use of the Bus Lane is employed, and with the understanding that busses can leave right after drop-off if the Counter-Clockwise use of the Bus Lane is employed, PCHS will, to the best of its ability, make accommodations for all morning school buses to have a clear and easy execution of ingress and egress without any further delay of the exit of any of the buses once they have dropped off their students. If the previously mentioned plan of execution is found to be faulty by either party then both parties agree to work out an alternative plan that is mutually agreed upon, and while any such discussion on an alternate approach is ongoing, both parties agree to use the Clockwise approach.
- 14.All drivers provided by ATS will have proper and current permits, licenses, and certifications to drive their respective buses. Each driver and each bus will have adequate general and auto liability insurance with coverages and in amounts typically used for the services described in this Agreement, but liability limits will not be less than \$5,000,000 in Combined Single Limit per Occurrence coverage. ATS shall also maintain Workers' Compensation insurance as required by law and to protect ATS from claims, which may arise from its operation under this Agreement. ATS will provide proof of its insurance to PCHS at least one week prior to the start of each school year under the term of this agreement, which PCHS shall agree to in writing,



and upon written request from PCHS at other times of year with ten (10) business days' notice.

- 15. Before providing service to PCHS, all ATS drivers must be approved by PCHS's Human Resources Director or designee, obtain tuberculosis ("TB") test clearance, and clear all criminal background checks and fingerprinting consistent with the Education Code and as required of all PCHS staff having direct contact with students. ATS will maintain at all times two (2) extra substitute drivers that are approved by PCHS in the manner set forth in this paragraph, and for which PCHS has first right of refusal/use based on PCHS's need for substitute drivers before those substitute drivers are deployed for non-PCHS use on any given day. In the very rare event under extreme circumstances ATS has to utilize a driver that is not PCHS approved, ATS must so notify PCHS within one (1) hour of the driver/bus leaving the yard. ATS's use of drivers that are not PCHS approved that exceed 4 times in a calendar month, will result in a \$50/day per driver billing discount.
- 16. Neither ATS, its employees or its Agents shall be considered an Officer, Agent, or Employee of PCHS. PCHS shall have the right to request removal of any of ATS's employees from providing services under this Agreement provided that such request is made in writing with the reasons set forth and provided that such request does not violate any laws against discrimination.
- 17.ATS will be required to provide access to any and all operational records related to the provision of services under this Agreement, and kept in the ordinary course of business, to PCHS within ten (10) business days of PCHS' written request for such records.
- 18. To the extent permissible by law, ATS shall hold harmless and indemnify PCHS, its Governing Board, Officers, Agents, and Employees from every claim or demand which may be made by reason of any injury to person or damage to property sustained by any person, firm or corporation, to the extent that such injury or damage was caused by any negligent act or omission or willful misconduct of ATS or of any person, firm, or corporation, directly employed by ATS upon or in connection with its performance under this Agreement. Any claims or demands which may be made by reason of any



injury to person or damage to property, to the extent that such injury or damages was caused by any negligent act or omission or willful misconduct of any subcontractor of ATS, shall be determined according to the arrangements between ATS and its subcontractor, and in no event shall PCHS assume such responsibility. To the extent permissible by law, PCHS shall hold harmless and indemnify ATS, its Officers, Agents, and Employees from every claim or demand which may be made by reason of any injury to person or damage to property sustained by any person, firm or corporation, to the extent that such injury or damage was caused by any negligent act or omission or willful misconduct of PCHS or of any person, firm, or corporation, directly or indirectly employed by PCHS, student, or student's guardian upon or in connection with its performance under this Agreement.

- 19.ATS will invoice every other week. Payment is due as in Net30 payment form. If ATS receives payment from PCHS within 14 calendar days of receipt of invoice, an "Early-Pay Discount", then PCHS will be entitled to a 2% credit applied toward a future invoice. All overdue payments will be subject to an immediate 2% late fee plus an additional 2% per month thereafter.
- 20.PCHS may terminate this Agreement with cause with 30 days' written notice. ATS may terminate this Agreement with cause with 30 days' written notice. Performance issues warranting cancellation must be viewed as extreme. Cancellation will require cancelling party to sufficiently demonstrate that violating party did not make reasonable and successful efforts to correct the issues. Violating party must be put on written notice within thirty (30) days of said issue. Violating party will have thirty (30) days to correct said issue following the date of written notice. All previous earned income will be due upon final day of service prior to cancellation.
- 21. This Agreement shall be governed by the laws of California without regard to its conflict of laws principles.
- 22. This Agreement was drafted with the input of both parties and their legal counsel. In the event any portion of it is claimed to be vague or ambiguous it shall not automatically be construed against either party under the rules of contract construction.



23. Notices to be made by first class mail, telephonically or by email. Notices by mail are effective after 4 business days of postmarked mailing.

If to ATS:	If to PCHS:
Address: 3133 E SOUTH ST.,	Address: 15777 Bowdoin St.
LONG BEACH, CA 90805	Pacific Palisades, CA 90272
Email: DAN@BUSAMERICAN.COM	Email: pmagee@palihigh.org
Telephone: 562-531-8000 ext. 701	Telephone: 310-230-6630
Email: BELINDA@BUSAMERICAN.COM	Email: dparcell@palihigh.org
Telephone: 562-531-8000 ext. 700	Telephone: 310-230-6625
Attn: Dan Wilson	Attn: Dr. Pam Magee

- 24. This Agreement is the complete agreement of the parties with regard to the subject matter stated herein, except for all information required to be provided by either party. That information, when provided, is incorporated into and made apart hereof. This Agreement supersedes any other written or oral agreements. There have been no representations made to induce execution of this Agreement.
- 25.No waiver by either party shall be effective unless such waiver shall be contained in a writing or electronic transmission expressly confirmed by the receiving party.

Dated at Long Beach, California and Los Angeles, California as of the date first written above.

American Transportation Systems

Signature

By: Dan Wilson Print Name

By: <u>CEO</u> Title

Date: 4/14/21

Palisades Charter High School

By: Jan Majre Signature By: <u>Fam Magee</u> Print Name

By: Executive Director Principal

Date: 4/16/2021

(310) 230 - 6623 15777 Bowdoin Street, Pacific Palisades, CA 90272

www.palihigh.org



# ADDENDUM 1: NEW PRICING & SERVICES

This document serves as an addendum to ATS & PCHS 2021-2024 agreement for Transportation Services. Effective as of 10/18/21, all rates will increase 9% to replace the pricing for the 2021-2022 school year (YEAR 1) as previously stated in the agreement. Furthermore, this document adds additional pricing for the SpEd ADA Van at \$495/day. These rates are subject to change should the routes increase in time or mileage from their current status.

# AMERICAN TRANSPORTATION SYSTEMS

SIGNATURE

an Wilson

SIGNED BY

<u>CEO</u> TITLE

1/9/22

DATE

PALISADES CHARTER HIGH SCHOOL

Um nafu

SIGNATURE

nagee

SIGNED BY

<u>cincipal</u>

13/2022

DATE

PALISADES CHARTER HIGH SCHOOL

SIGNATURE

SIGNED BY TITLE DATE