

AGENDA REQUEST FORM
THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA

Meeting Date 06/06/06	Open Agenda ☐ Yes☒ No	Time Certain Request ☐ Yes☒ No	Agenda Item Number E-3
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TITLE:

Transportation Agreement for the State of Florida, Department of Veterans' Affairs, Sandy Nininger State Veterans' Nursing Home

REQUESTED ACTION:

Approve renewal of current agreement between The School Board of Broward County, Florida and the State of Florida, Department of Veterans' Affairs, Sandy Nininger State Veterans' Nursing Home to support the delivery of emergency services for the period of one year.

SUMMARY EXPLANATION AND BACKGROUND:

The transportation agreement allows the State of Florida, Department of Veterans' Affairs, Sandy Nininger State Veterans' Nursing Home to utilize district school buses to support the delivery of emergency services that may be dependent upon availability of transportation.

The transportation service will be provided during the times school buses are not being utilized for service to Broward County Public Schools. The State of Florida, Department of Veterans' Affairs, Sandy Nininger State Veterans' Nursing Home will reimburse the district for the cost of this service.

The agreement has been reviewed and approved as to form by the School Board Attorney.

SCHOOL BOARD GOALS:

- ☐ •Goal One: All students will achieve at their highest potential.
- ☐ •Goal Two: All schools will have equitable resources.
- ☐ •Goal Three: All operations of the school system will demonstrate best practices while supporting student achievement.
- ☒ •Goal Four: All stakeholders will work together to build a better school system.

FINANCIAL IMPACT:

The State of Florida, Department of Veterans' Affairs, Sandy Nininger State Veterans' Nursing Home will reimburse the district for the cost of this service as invoiced.

EXHIBITS: (List)

1. Proposed Agreement

BOARD ACTION: APPROVED (For Official School Board Records' Office Only)	SOURCE OF ADDITIONAL INFORMATION: Ruben Parker (754) 321-4440 NamePhone
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THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
Donnie Carter, Deputy Superintendent, Operations

Approved in Open Board Meeting on: JUN 6 2006

By: _____

School Board Chair

AGREEMENT

THIS AGREEMENT is made and entered into as of this 6th day of June 2006, by and between

THE SCHOOL BOARD OF BROWARD COUNTY, FLORIDA
(hereinafter referred to as "SBBC"),
a body corporate and political subdivision of the State of Florida,
whose principal place of business is
600 Southeast Third Avenue, Fort Lauderdale, Florida 33301

and

STATE OF FLORIDA
DEPARTMENT OF VETERANS' AFFAIRS
SANDY NININGER STATE VETERANS' NURSING HOME
(hereinafter referred to as "NURSING HOME"),
whose principal place of business is
8401 West Cypress Drive
Pembroke Pines, FL 33025

WHEREAS, the SBBC owns and operates a fleet of vehicles for the transportation of pupils; and

WHEREAS, the NURSING HOME provides services that may be dependent upon availability of transportation; and

WHEREAS, Florida Statute 1006.261 (1) (a) provides for a state agency in the school district to use school buses for purposes other than pupil transportation; and

WHEREAS, the NURSING HOME being eligible under this legislation to use school buses desires to enter into this Agreement with the SBBC to define the relationship between the two parties and set forth the rights and obligations herein;

NOW, THEREFORE, in consideration of the premises and of mutual covenants contained hereafter and the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

ARTICLE 1 - RECITALS

1.01 Recitals

The Parties agree that the foregoing recitals are true and correct and that such recitals are incorporated herein by reference.

ARTICLE 2 – SPECIAL CONDITIONS

2.01 Term

This Agreement shall commence on July 1, 2006 and shall continue in duration through June 30, 2007.

2.02 Transportation Needs

Prior to the execution of the Agreement, the two parties have discussed the transportation needs of the NURSING HOME and the approximate number of school buses that may be made available to the NURSING HOME; however, nothing herein contained will obligate the SBBC to provide buses to the NURSING HOME, if it is deemed by the SBBC that such action will reduce or delay transportation of pupils. The NURSING HOME, through its contract Administrator, agrees to provide the SBBC with two (2) weeks notice in order to obtain the school vehicles for transportation purposes as described within the Agreement. The SBBC agrees to provide the referenced school vehicles to NURSING HOME on an emergency notice basis of between forty-eight (48) hours and two (2) weeks notice time prior to needed services. This emergency notice basis must not exceed four (4) times per Agreement year.

2.03 Payment of Operation Cost by the NURSING HOME

The NURSING HOME agrees to fully reimburse the SBBC for the operating cost of school buses used by the NURSING HOME during the term of this Agreement. The NURSING HOME shall pay the SBBC'S posted transportation rate, which sum shall cover use, operational costs, and reimbursement for driver's hours and all other costs and expenses incurred by the SBBC in supplying the buses.

2.04 Lack of Petroleum Products

It is further agreed that in the event petroleum products required to operate this Agreement, or part of this Agreement, become unavailable, the obligations of each party hereunder may be terminated by the SBBC upon no less than twenty-four (24) hours notice in writing to the NURSING HOME. The SBBC shall be the final authority as to the availability of petroleum products.

2.05 Bus Drivers Assigned by SBBC

When school vehicles are used by the NURSING HOME, under no circumstances will the vehicles be driven by anyone other than bus drivers qualified, trained, certified, and assigned by the SBBC. School buses will be operated under the same rules, regulations, policies, and procedures as those relating to school pupil transportation and governed accordingly. Drivers shall at all times be considered employees or agents of the SBBC.

2.06 Damage to the Vehicles Paid by the NURSING HOME

The NURSING HOME agrees to pay for any damage to the school vehicles while such vehicles are under the NURSING HOME'S use which damage is attributable directly to that use, and caused by the NURSING HOME, its' employees, or its' program participants. All accidents involving a school vehicle will be reported as provided by procedures now existent or required in the daily operation of the SBBC.

2.07 Reporting of Incidents Involving Non Pupil Passengers

The NURSING HOME agrees to report to the SBBC the nature and extent of any incidents resulting in property damage or personal injury to a passenger while boarding, riding in, or deboarding from such vehicle and indemnify and hold harmless the SBBC from any and all claims arising out of such incidents, to the fullest extent allowed by the Constitution and the laws of the state of Florida, if such injury or damage is caused by any act or omission of an employee of NURSING HOME.

2.08 Method of Reimbursement

Unless otherwise agreed upon by the parties in writing, the costs borne by the SBBC on behalf of the NURSING HOME under this Agreement will be reimbursed as invoiced; and in a reimbursement period not to exceed thirty (30) days from presentment or receipt of the referenced invoice to the NURSING HOME Contract Administrator.

2.09 Geographic Limitations on the Use of School Vehicles

The NURSING HOME will limit its use of school vehicles to and within the confines of the Tri-County Area. Under no circumstances should the vehicle be taken outside of the geographical limits set forth in this paragraph.

2.10 Passenger Load Limit

When the NURSING HOME'S use of the school vehicle (s) is made, the passenger capacity transported shall not exceed the rated capacity of the said vehicle(s). Standees shall not be permitted at any time. The NURSING HOME shall not use school vehicles for any purpose whatsoever outside of the use covered by this Agreement.

2.11 Cancellation

The NURSING HOME reserves the right to cancel any trips it deems necessary with at least twenty-four (24) hours notice prior to the scheduled trip at no charge. Otherwise, a trip canceled within the twenty-four (24) hour time frame will result in a \$150.00 cancellation fee.

2.12 Contract Administrator and Contract Representative

The NURSING HOME's Contract Administrator for this Agreement is K.G. Simmons, Home Administrator, or designee. The Contract Representative for the SBBC is the Director of Pupil Transportation, Pupil Transportation Department, 3895 Northwest 10th Avenue, Oakland Park, Florida 33309, or designee.

2.13 Indemnification

Each party agrees to be fully responsible for its acts of negligence, or its agent's acts of negligence when acting within the scope of their employment and agrees to be liable for any damages resulting from said negligence.

ARTICLE 3 – GENERAL CONDITIONS

3.01 No Waiver of Sovereign Immunity

Nothing contained in this Agreement, including but not limited to the Indemnification section of Article 2, is intended to serve as a waiver of sovereign immunity by any agency to which sovereign immunity may be applicable.

3.02 No Third Party Beneficiaries

The parties expressly acknowledge that it is not their intent to create or confer any rights or obligations in or upon any third person or entity under this Agreement. None of the parties intend to directly or substantially benefit a third party by this Agreement. The parties agree that there are no third party beneficiaries to this Agreement and that no third party shall be

entitled to assert a claim against any of the parties based upon this Agreement. Nothing herein shall be construed as consent by an agency or political subdivision of the State of Florida to be sued by third parties in any manner arising out of any contract.

3.03 Non-Discrimination

The Parties shall not discriminate against any employee or participant in the performance of the duties, responsibilities and obligations under this Agreement because of race, age, religion, color, gender, national origin, marital status, disability, or sexual orientation.

3.04 Termination

This Agreement may be canceled by either party during the term thereof upon thirty (30) days written notice to the other parties of its desire to terminate this Agreement.

3.05 Records

Each Party shall maintain its own respective records and documents associated with this Agreement in accordance with the records retention requirements applicable to public records. Each Party shall be responsible for compliance with any public documents request served upon it pursuant to Section 119.07, Florida Statutes, and any resultant award of attorney's fees for non-compliance with that law.

3.06 Entire Agreement

This document incorporates and includes all prior negotiations, correspondence, conversations, agreements and understandings applicable to the matters contained herein and the Parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, the Parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

3.07 Amendments

No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by each party hereto.

3.08 Preparation of Agreement

The Parties acknowledge that they have sought and obtained whatever competent advise and counsel as was necessary for them to form a full and complete understanding of all rights and obligations herein and that the preparation for this Agreement has been their joint effort. The language agreed to herein expresses their mutual intent and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than the other.

3.09 Waiver

The parties agree that each requirement, duty and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof. Any party's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

3.10 Compliance with Laws

Each party shall comply with all applicable federal and state laws, codes, rules and regulations in performing its duties, responsibilities and obligations pursuant to this Agreement.

3.11 Governing Law

This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. Any controversies or legal problems arising out of this Agreement and any action involving the enforcement of interpretation of any rights hereunder shall be submitted to the jurisdiction of the State courts of the Seventeenth Judicial Circuit of Broward County, Florida.

3.12 Binding Effect

This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

3.13 Assignment

Neither this Agreement or any interest herein may be assigned, transferred or encumbered by any party without the prior written consent of the other party. There shall be no partial assignments of this Agreement including,

without limitation, the partial assignment of any right to receive payments from SBBC.

3.14 Force Majeure

Neither party shall be obligated to perform any duty, requirement or obligation under his Agreement if such performance is prevented by fire, hurricane, earthquake, explosion, wars, sabotage, accident, flood, acts of God, strikes, or other labor disputes, riot or civil commotion, or by reason of any other matter or condition beyond the control of either party, and which cannot be overcome by reasonable diligence and without unusual expense ("Force Majeure"). In no event shall a lack of funds on the part of either party be deemed Force Majeure.

3.15 Place of Performance

All obligations of SBBC under the terms of this Agreement are reasonably susceptible of being performed in Broward County, Florida and shall be payable and performable in Broward County, Florida.

3.16 Severability

In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, unlawful, unenforceable or void in any respect, the invalidity, illegality, unenforceability or unlawful or void nature of that provision shall not effect any other provision and this Agreement shall be considered as if such invalid, illegal, unlawful, unenforceable or void provision had never been included herein.

3.17 Notice

When any of the parties desire to give notice to the other, such notice must be in writing, sent by US Mail, postage prepaid, addressed to the party for whom it is intended at the place last specified; the place for giving notice shall remain such until it is changed by written notice in compliance with the provisions of the paragraph. For the present, the parties designate the following as the respective places for giving notice:

To SBBC:	Superintendent of Schools
	The School Board of Broward County, FL
	600 Southeast Third Avenue
	Fort Lauderdale, Florida 33301

With a Copy to: The School Board of Broward County, FL
Director of Pupil Transportation Department
3895 NW 10 Avenue
Fort Lauderdale, Florida 33309

To NURSING HOME: Sandy Nininger State Veterans' Nursing Home
K.G. Simmons, Home Administrator
8401 West Cypress Drive
Pembroke Pines, FL 33025

3.18 Captions

The captions, section numbers, article numbers, title and headings appearing in this Agreement are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or intent of such articles or sections of this Agreement, nor in any way effect this Agreement and shall not be construed to create a conflict with the provisions of this Agreement.

3.19 Authority

Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

3.20 Background Screening

NURSING HOME agrees to comply with all requirements of Sections 1012.32 and 1012.465, Florida Statutes, and that NURSING HOME and all of its personnel who (1) are permitted access to school grounds when students are present, (2) will have direct contact with students, or (3) have access or control of school funds will successfully complete the background screening required by the referenced statutes and meet the standards established by the statutes. This background screening will be conducted by SBBC in advance of NURSING HOME or its personnel providing any services under the conditions described in the previous sentence. NURSING HOME will bear the cost of acquiring the background screening required by Section 1012.32, Florida Statutes, and any fee imposed by the Florida Department of Law Enforcement to maintain the fingerprints provided with respect to NURSING HOME and its personnel. The Parties agree that the failure of NURSING HOME to perform any of the duties described in this section shall constitute a material breach of this Agreement entitling SBBC to terminate

immediately with no further responsibilities or duties to perform under this Agreement. NURSING HOME agrees to indemnify and hold harmless SBBC, its officers and employees from any liability in the form of physical or mental injury, death or property damage resulting in NURSING HOME's failure to comply with the requirements of this section or Sections 1012.32 and 1012.465, Florida Statutes.

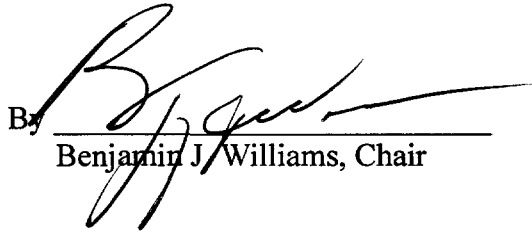
IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement on the date first above written.

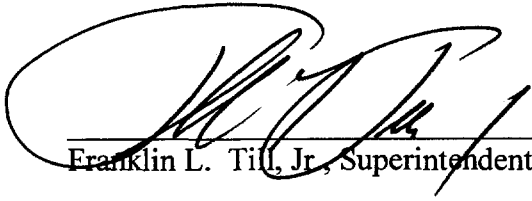
FOR SBBC

(Corporate Seal)

THE SCHOOL BOARD OF
BROWARD COUNTY, FLORIDA

ATTEST:

By 
Benjamin J. Williams, Chair


Franklin L. Till, Jr., Superintendent of Schools

Approved as to Form:


School Board Attorney

FOR SANDY NININGER STATE VETERANS' NURSING HOME

(Corporate Seal)

SANDY NININGER STATE VETERANS' NURSING HOME

ATTEST:

Witness

Witness

By:

Name and Title

K.G. Simmons, Home Administrator

Printed Name

The Following Notarization is Required For Every Agreement Without Regard to Whether the Nursing Home Chose to Use a Secretary's Attestation or Two (2) Witnesses.

STATE OF FLORIDA
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this 2 day of May, 2006 by Kim G. Simmons of Sandy Nininger State Veterans' Nursing Home, on behalf of the agency. He/She took an oath and is personally known to me or has produced _____ as identification and did/did not first take an oath.

My Commission Expires: June 6th, 2008



Maria L. Lesser
MY COMMISSION # DD326504 EXPIRES
June 6, 2008
(SEAL) FLOYD FAIR INSURANCE, INC.

Signature – Notary Public

Printed Name of Notary

Notary's Commission No.