

RESOLUTION NO. 2022-076

RESOLUTION OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, APPROVING A SERVICE AGREEMENT BETWEEN THE CITY OF HIALEAH AND J&M VERA SCHOOL BUS SERVICE, INC. TO PROVIDE BUS TRANSPORTATION SERVICES FOR THE CITY OF HIALEAH'S EDUCATION AND COMMUNITY SERVICES DEPARTMENT SUMMER CAMP PROGRAMS, FOR A TERM COMMENCING ON JUNE 13, 2022 AND ENDING ON JULY 28, 2022 IN AN AMOUNT NOT TO EXCEED \$24,300.00; AND AUTHORIZING THE MAYOR, OR HIS DESIGNEE, AND THE CITY CLERK, AS ATTESTING WITNESS, ON BEHALF OF THE CITY, TO EXECUTE THE SERVICE AGREEMENT ATTACHED HERETO IN SUBSTANTIAL FORM AND MADE A PART HEREOF AS EXHIBIT "1"; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Hialeah is continuously searching for new ways to support, expand and improve its educational programs and services to the community;

WHEREAS, the City having investigated the qualifications of J&M Vera, Inc. (hereafter referred to as "Contractor") to perform all the work necessary to fully carry out the scope of services contemplated in the Service Agreement, found the Contractor to be qualified and competent;

WHEREAS, the City agrees to enter into this Service Agreement with the Contractor, and the Contractor agrees to accept the engagement under the terms and conditions included in the Service Agreement attached hereto in substantial form, and made a part hereof as Exhibit "1"; and

WHEREAS, the City of Hialeah finds that it is in the best interest of the health, safety and welfare of the community to enter into this Service Agreement with the Contractor to provide bus transportation services for the City's Education and Communication Services Department summer camp and adult programs.

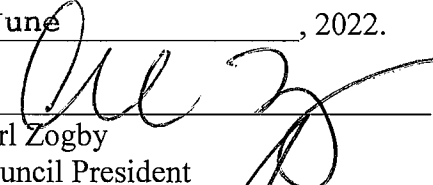
NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

Section 1: The foregoing facts and recitations contained in the preamble to this resolution are hereby incorporated and adopted by reference as if fully set forth herein.

Section 2: The City of Hialeah, Florida hereby approves a Service Agreement between the City of Hialeah and J&M Vera, Inc. to provide bus transportation services for the City of Hialeah’s Education and Community Services Department summer camp programs, for a term commencing on June 13, 2022 and ending on July 28, 2022 in an amount not to exceed \$24,300.00, and authorizes the Mayor, or his designee, and the City Clerk, as attesting witness, on behalf of the City, to execute the Service Agreement attached hereto in substantial form and made a part hereof as Exhibit “1”. The City Council hereby approves, adopts and ratifies all prior actions, approvals, payments and other actions whatsoever taken by the Mayor, or his designee, on behalf of the City in the performance of the Service Agreement.

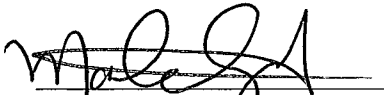
Section 3: This resolution shall become effective when approved by majority vote of the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor’s signature is withheld or if the City Council overrides the Mayor’s veto.

PASSED AND ADOPTED this 14 day of June, 2022.

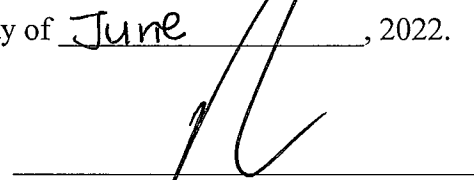


Carl Zogby
Council President

Attest: Approved on this 23 day of June, 2022.



Marbelys Fatjo, City Clerk



Mayor Esteban Bovo, Jr.

Approved as to legal sufficiency and as to form:



Lorena E. Bravo, City Attorney

Resolution was adopted by 6-0-1 vote with Councilmembers Calvo, Garcia-Roves, Casáls-Muñoz, Rodriguez, Tundidor, and Zogby voting “Yes” and with Council Vice President Perez absent.

**SERVICE AGREEMENT BETWEEN J.M. VERA, INC.
AND THE CITY OF HIALEAH, FLORIDA**

This Agreement entered into this ____ day _____, 2022, by and between the City of Hialeah, Florida, a municipal corporation organized and existing under and by virtue of the laws of the State of Florida ("City"), 501 Palm Avenue, Hialeah, Florida 33010 and J.M. Vera School Bus Service, Inc. ("Contractor"), a Florida corporation, having its principal place of business at 2597 W 70 St, Miami, FL 33016.

WHEREAS, Contractor has the training, know-how, experience and ability and the City has relied on Contractor's representations as to its training, know-how, experience and ability to perform the services as provided for in this Agreement; and

WHEREAS, the City, having investigated the qualifications of the Contractor to perform all the services necessary to fully carry out the scope of services herein contemplated and found the Contractor to be qualified and competent; and

WHEREAS, the City agrees to enter into this Agreement with the Contractor and the Contractor agrees to accept engagement under the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual covenants and obligations herein contained, and subject to the terms and conditions hereinafter stated, intending to be legally bound, the parties hereto agree as follows:

I. TERM

The Contractor agrees to provide services commencing on June 13, 2022 and ending on July 28, 2022 ("Term"). This Agreement will be in effect during the Term indicated above. All work, services and activities described hereafter and in the Memorandum of Understanding, attached hereafter and incorporated herein as Exhibit "A", shall be undertaken, performed and completed within the Term, and prior to the expiration of this Agreement. The City reserves the right to extend the commencement date of the services provided.

II. SCOPE OF SERVICES

The services to be provided by the Contractor, are more particularly set for in the Memorandum of Understanding attached hereafter and incorporated herein as Exhibit "A" are as follows:

A. The Contractor does hereby agree to provide bus transportation services, as requested, in accordance with all applicable state, federal and local law. Bus transportation services shall include round-trip transportation of students and participants of the City's STEP AHEAD after school programs ("Services").

B. Contractor and its drivers shall comply with all applicable bus safety standards, as well as all licensure and insurance requirements in compliance with all applicable federal, state and local law. In addition, all school bus drivers employed by the Contractor must be duly qualified and certified to perform the Services.

C. Contractor understands and agrees that any resulting contractual relationship is non-exclusive and the City reserves the right to seek similar or identical services elsewhere if deemed in the best interest of the City. The City does not make any warranty or representation about the scope of services or days of services.

D. Contractor must obtain prior written approval from the City prior to performing services that are not contemplated herein.

III. COMPENSATION

A. For performance of the Services required under Section II, the City shall pay the Contractor an amount not to exceed \$24,300.00, at the rates set forth in the Memorandum of Understanding.

B. The Contractor must invoice the City for the services actually provided. Invoices are generally paid within 30 days of receipt for services rendered and verified as accurate by the City. If the City does not pay an accurate, verified invoice within 30 days, the Contractor shall provide written notice and an opportunity to cure within 15 days of receipt of such notice.

C. The City shall not pay for any services performed cost or expense not contemplated in this Agreement, which had not been approved by the City in writing.

D. Compensation is contingent upon funding from the Children's Trust and to the extent that the City does not receive sufficient funding to pay for future services not yet rendered during the term of this Agreement, the City is entitled to cancel this Agreement based on lack of or insufficient funding at no further cost or expense to City.

V. INDEPENDENT CONTRACTOR

The Contractor, its employees, agents or representatives, shall be deemed to be independent contractors and not agents or employees of the City. The City shall have no obligation to pay or provide for Contractor's employees, agents, representatives, or subcontractors. Contractor's employees, agents, representatives, or subcontractors shall not attain any right or benefit under the civil service or pension ordinances of the City, or any right or benefit generally afforded classified or unclassified employees of the City, such as pension benefits, servicer's compensation, health insurance, unemployment benefits, or any other right or privilege granted to the City's officers and employees.

VI. OWNERSHIP OF DOCUMENTS

A. All documents developed by the Contractor under this Agreement shall be delivered to the City upon completion of the services required pursuant to paragraph II hereof, and shall become the property of City, without restriction or limitation of its use. City assumes the risk of reuse of all documents developed by the Contractor upon delivery after completion of services.

The Contractor agrees that all documents maintained and generated hereto shall be subject to the applicable provisions of the Public Records Law, Chapter 119, Florida Statutes.

B. It is further understood by and between the parties that any information, writings, tapes, maps, contract documents, reports or any other matter whatsoever which is given by the City to the Contractor pursuant to this Agreement shall at all times remain the property of the City and shall not be used by the Contractor for any other purposes whatsoever without the written consent of the City.

VII. NONDELEGABLE

The Contractor acknowledges that in entering upon this Agreement, the City has relied upon the Contractor's professional background and experience, including any prior experience in providing these or other similar services to the City. As such, the duties and obligations undertaken by the Contractor pursuant to this Agreement shall not be delegated or assigned to any person or entity, in whole or in part, unless the City and Florida Department of Education shall first consent in writing to the performance or assignment of such service or any part thereof by another person or entity. In any instance wherein the Contractor desires to effect an assignment or delegate any right or responsibility of performance under this Agreement, Contractor shall provide to the City all documents and information that the City may reasonably request to allow the City to evaluate whether the proposed assignee or delegate has the integrity, reliability, experience and capability in all respect to fully perform in good faith. Consent shall not be unreasonably withheld, and all subcontractors or assignees shall be governed by the terms and conditions of this Agreement.

VIII. AWARD OF AGREEMENT

The Contractor warrants that it has not employed or retained any person employed by the City to solicit or secure this Agreement and that she has not offered to pay, paid, or agreed to pay any person employed by the City any fee, commission, percentage, brokerage fee, or gift of any kind contingent upon or resulting from the award of this Agreement.

IX. CONSTRUCTION OF AGREEMENT

This Agreement shall be construed and enforced according to the laws of the State of Florida. Venue for any litigation, which may arise in connection with this Agreement, shall be in Miami-Dade County, Florida. The Contractor agrees to be subject to the jurisdiction (subject matter and in personam) of the courts in Miami-Dade County, Florida and amenable to process.

X. SUCCESSORS AND ASSIGNS

This Agreement shall be binding upon the parties herein, their heirs, executors, legal representatives, successors and assigns.

XI. INDEMNIFICATION

To the greatest extent allowed by law, Contractor releases, covenants not to sue and shall indemnify, hold harmless and defend the City, the Mayor, the Council and each of its members, the City's officials, whether elected or appointed, directors, employees, representatives, agents and attorneys (collectively "Released Parties"), from and against any and all claims, suits, causes of action, damages, losses, liabilities, costs or expenses, including court costs and attorney's fees at all level of proceedings (including appellate level), and any judgments, orders or decrees entered thereon or resulting therefrom, for any personal injury, loss of life, damage to property, or any other liability, loss, cost or expense of any kind (collectively "Claims") that is caused by or results from, directly or indirectly, in whole or in part, any act, or omission, or negligence of the Contractor, the Contractor's directors, officers, employees, subcontractors, representatives or agents, or any other person for whose acts or omissions any of them may be liable, in connection Contractor's performance under this Agreement. Contractor's obligation under this Article XI is unconditional and absolute and not subject to any set-off, defense, deduction or counterclaim that Contractor may have against any of the City's Released Parties.

Contractor covenants and agrees that it will, at its own expense, defend any and all Claims against the Released Parties, which may be brought in connection or as a result of Contractor's exercise of any right or discharged of any obligation including Contractor's use or occupation of the Premises pursuant to this Agreement. Contractor will satisfy, pay and discharge any and all settlement agreements, judgments, orders or decrees that may be entered against the Released Parties in any such action or proceeding.

The parties agree that the provisions of this Section do not benefit any third party, and are not intended to benefit any person or entity that is not a party to this Agreement. Instead, the provisions of this Section are solely for the City's benefit.

XII. LIMITATION OF LIABILITY

The City's total liability to the Contractor for any and all liabilities, claims, or damages arising out of or relating to this Agreement, howsoever caused and regardless of the legal theory asserted, including breach of contract or warranty, tort, strict liability, statutory liability or otherwise, shall not in the aggregate, exceed the amount of \$73,800.00 as total maximum compensation.

In no event shall the City be liable to the Contractor for any punitive, exemplary, special, indirect, incidental, or consequential damages (including, but not limited to, lost profits, lost business opportunities, loss of use or equipment down time, and loss of or corruption of data) arising out of or relating to this Agreement, regardless of the legal theory under which such damages are sought, and even of the parties have been advised of the possibility of such damages or loss.

XIII. CONSENT OF PARTICIPANTS

The Contractor agrees and acknowledges that participants in the programs described in the Scope of Services will be requested to provide consent to allowing information relating to such participation to be disseminated and released to The Children's Trust, the funding source.

XIV. INSURANCE

A. Contractor shall provide, pay for and maintain in force at all times during the term of this Agreement, such insurance, including Servicer's Compensation Insurance, Employer's Liability Insurance, Comprehensive General Liability Insurance, Business Automobile Liability Insurance, in such amounts specified in Exhibit "B".

B. Such policy or policies shall be issued by the United States Treasury-approved companies authorized to do business in the State of Florida, and having agents upon whom service of process may be made in the State of Florida. Contractor shall specifically protect the City by naming the City as additional insured under the Comprehensive General Liability Insurance Policy and shall not include an exception or exclude claims for assault and/or battery.

C. Contractor shall provide the City with a Certificate of Insurance or copy of all insurance policies required by this section. All endorsements and certificates shall state that the City shall be given 30 days' notice prior to expiration or cancellation of the policy.

XV. CONFLICT OF INTEREST

A. The Contractor covenants that no person under her employ who presently exercises any functions or responsibilities on behalf of the City in connection with this Agreement has any personal financial interests, direct or indirect, with the Contractor. The Contractor further covenants that, in the performance of the Agreement, no person having such conflicting interest shall be employed. Any such interest on the part of the Contractor or her employees must be disclosed in writing to the City.

B. The Contractor is aware of the conflict of interest laws of the City, Hialeah Code Chapter 26, Article I and II; Code of Miami-Dade County, Florida, § 2-11.1 et seq., and the State of Florida, Chapter 112, Part III, Florida Statutes and agree that it shall fully comply in all respects with the terms of such laws.

XVI. NOTICE

All notices or other communications which shall or may be given pursuant to this Agreement shall be in writing and shall be delivered by personal service, or by registered mail addressed to the other party at the address indicated herein or as the same may be changed from

time to time. Such notice shall be deemed given on the day in which it was personally served; or if by mail, on the date of actual receipt.

CITY

J&M VERA, INC.

Sharon Dziedzic, Education Supervisor
City of Hialeah
Education and Community Services Dept.
7400 West 24 Avenue, 2nd Floor
Hialeah, Florida 33016
Telephone: (305) 818-9143
FAX: (305) 818-9841

Ania Valdes
2597 W 70 St
Hialeah, Florida 33016

XVII. TERMINATION

A. Termination without Cause: The City retains the right to terminate this Agreement upon 30 days written notice prior to the completion of the service required pursuant to Section I hereof without penalty to the City. In that event, notice of termination of this Agreement shall be in writing to the Contractor who shall be paid for those services performed prior to the date of its receipt of the notice of termination. In no case, however, will City pay the Contractor an amount in excess of the total sum provided by this Agreement.

B. Termination for Cause: The City may terminate this Agreement for cause, which shall include but not be limited to the following:

- a. Contractor's failure to comply and/or perform in accordance with this Agreement;
or
- b. Contractor's performance of this Agreement, for any reason, is rendered impossible or not feasible; or
- c. Contractor's filing of a voluntary petition in bankruptcy or reorganization, or making any assignment for the benefit of creditors, or seeking any similar relief under any present or future statute, law or regulations relating to relief of debtors; or
- d. Contractor is adjudicated bankrupt or has any involuntary petition in bankruptcy filed against it;
- e. If Contractor causes or commits one or more of the foregoing acts or events that would give rise to termination for cause, then, after seven (7) days written notice provided to Contractor by the City within which to cease and/or correct such deficiencies, and upon failure to do so after such written notice, this Agreement is hereby revoked and canceled without the need for other or further action by City.

C. Effect of Termination: It is hereby understood that any payment made to the Contractor in accordance with this section shall be made only if the Contractor is not in default under the terms of this Agreement. If the Contractor is in default, then the City shall in no way be obligated to pay and shall not pay the Contractor any sum.

XVIII. PUBLIC RECORDS

The Contractor shall comply with all applicable requirements contained in the Florida Public Records Law (Chapter 119, Florida Statutes), including but not limited to any applicable provisions in Section 119.0701, Florida Statutes to the extent that the Contractor and this Agreement are subject to the requirements in Section 119.0701, Florida Statutes, the Contractor shall:

- a. Keep and maintain all records that ordinarily and necessarily would be required to be kept by the City in order to perform the services provided hereunder;
- b. Provide the public with access to public records on the same terms and conditions that the City would provide the records and at a cost that does not exceed the cost specified in Chapter 119, Florida Statutes, or other laws;
- c. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed, except as authorized by law; and
- d. Comply with all requirements for retaining public records and transfer, at no cost, to the City all records in the possession of the Contractor at the expiration or termination of this Agreement, and destroy all public records that are confidential and exempt from public records disclosure requirements.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CITY CLERK, THE CITY'S DESIGNATED CUSTODIAN OF PUBLIC RECORDS, BY TELEPHONE AT 305-883-5816, BY EMAIL AT mrubio@hialeahfl.gov OR IN WRITING AT OFFICE OF THE CITY CLERK, 501 PALM AVENUE, 3RD FLOOR, HIALEAH, FL 33010.

Notwithstanding the provisions of this Agreement regarding a reasonable cure period for a breach by Contractor, any failure of Contractor to comply with a request for public records within a reasonable time period or as otherwise required by F.S. 119.0701 is breach of this contract. The City shall exercise all remedies available at law or equity

XIX. NONDISCRIMINATION

Contractor represents and warrants to City that Contractor does not and will not engage in unlawful discriminatory practices and that there shall be no unlawful discrimination in connection with Contractor's performance under this Agreement on account of race, color, sex, religion, age, handicap, disability, marital status, national origin, ancestry, familial status, or sexual orientation. Contractor further covenants that no otherwise qualified individual shall, solely by reason of his/her race, color, sex, religion, age, handicap, marital status, national origin, ancestry, familial status, or sexual orientation unlawfully be excluded from participation in, be denied services, or be subject to discrimination under any provision of this Agreement.

XX. COMPLIANCE WITH AGREEMENT BETWEEN THE CITY AND THE CHILDREN'S TRUST GRANT

The Contractor agrees that as a subcontractor of the City who is the recipient of funding from The Children's Trust Grant, the Contractor shall comply with the applicable provisions of the grant agreement between the City and The Children's Trust Grant, including any laws, rules, regulations, policies, procedures, guidelines or documents incorporated or referenced in the grant agreement.

XXI. STAFFING AND EMPLOYEE BACKGROUND SCREENING

A. *Appropriate staffing.* The Contractor represents that all people performing the Services required under this Agreement possess the knowledge and skills, either by training, experience, education, or a combination thereof, to adequately and competently perform the duties, obligations, and services set forth in the Memorandum of Understanding attached as Exhibit "A" and to provide and perform such services to the satisfaction of the City. The Contractor further represents that all persons delivering services required by this Agreement have complied with all state and federal requirements, including, but not limited to, Level I and Level II background screening requirements. The Contractor certifies that all such individuals are qualified and approved for providing services herein.

B. *Employee background screening.* According to sections 984.01(2)(a), 985.01(2)(a) and 39.001, Florida Statutes, only employees, volunteers and subcontracted personnel with a satisfactory background check through a screening agency may services in direct contact with children under the age of eighteen. Background screenings must be completed through the Florida Department of Law Enforcement (FDLE), VECHS Program. However, satisfactory background screening documentation will be accepted for those agencies that already conduct business with either the Department of Children and Families (DCF) or the Department of Juvenile Justice (DJJ) or the Miami-Dade Public School System (MDPS). In addition, an Affidavit of Good Moral Character must be completed and notarized for each employee, volunteer and subcontracted personnel upon hiring.

XXII. COOPERATION WITH FINANCIAL AUDIT AND REPORTING REQUIREMENTS

If The Children’s Trust seeks to audit the activities of the City as the grant recipient, the Contractor shall fully cooperate and provide all relevant financial documents to facilitate such audit conducted under the Office of Management and Budget Circular A-133, Audit of States, Local Government and Non-Profit Organizations and the Florida Single Audit Act. In addition, the Contractor shall fully comply with reporting requirements as determined by the City during the term or this Agreement.

XXIII. ENTIRE AGREEMENT

This Agreement and its attachments and exhibits constitute the sole and only agreement of the parties and accurately set forth the rights, duties, and obligations of each to the other. Any prior agreements, promises, negotiations, or representations not expressly set forth in this Agreement are of no force and effect.

XXIV. AMENDMENT

No amendments to this Agreement shall be binding on either party unless in writing and signed by both parties.

XXV. SOVEREIGN IMMUNITY

Nothing in this Agreement shall be interpreted or construed to mean that the City waives its common law sovereign immunity or the limits of liability set forth in Section 768.28, Florida Statutes.

XXVI. MISCELLANEOUS

A. Captions, title and paragraph headings are for convenient reference and are not a part of this Agreement. Such captions, title or paragraph headings shall not be deemed in any manner to modify, explain, enlarge or restrict any of the provisions contained in this Agreement.

B. In the event of conflict between the terms of this Agreement and any terms or conditions in any attached document; the terms in this Agreement shall prevail.

C. No waiver or breach of any provision of this Agreement shall constitute a waiver of any subsequent breach of the same or any other provision hereof, and no waiver shall be effective unless made in writing.

D. Should any provisions, paragraph, sentence, services or phrase contained in this Agreement be determined by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable under the laws of the State of Florida or the City of Hialeah, such provisions, paragraphs, sentences, words or phrases shall be deemed modified to the extent necessary in order to conform with such laws, or if not modifiable to conform with such laws, then same shall

be deemed severable, and in either event, the remaining terms and provisions of this Agreement shall remain unmodified and in full force and effect.

E. Further Assurances. All parties hereto upon the request of any other party shall execute such further instruments or documents as may be reasonably required by the requesting party to implement the terms, conditions and provisions of this Agreement.

[REST OF THIS PAGE LEFT BLANK INTENTIONALLY]

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed by the respective officials thereunto duly authorized, this the day and year first above written.

City of Hialeah, Florida
501 Palm Avenue
Hialeah, Florida 33010-0040

Attest:

Authorized signature on behalf of
City of Hialeah

Marbelys Fatjo
City Clerk

Mayor Esteban Bovo, Jr. Date

(SEAL)

Approved as to legal sufficiency and form:

Lorena E. Bravo, City Attorney

Authorized signature for J.M. Vera, Inc.

Witness
Print Name: _____

Ania Valdes Date
Director

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was acknowledged before me this ____ day of _____, 2022
by _____, who is personally known to me or who has produced
_____ as identification.

(SEAL)

Notary Public

Print Name
My Commission Expires: _____