

Property Use Agreement

Between

McCall-Donnelly Jt School District No. 421

McCall, Idaho

and

TBA

July 1, 2019

LANDLORD:

McCall-Donnelly School District #421
120 Idaho Street
McCall, Idaho 83638

TENANT:

TBA

RECITALS

The Tenant and Landlord desire to enter into an agreement allowing Tenant use of property and facilities owned by the Landlord.

Therefore, Landlord hereby grants Tenant rights to use the Premises (as hereinafter described) on the terms and conditions of this agreement.

ARTICLE I

SUMMARY OF TERMS

Section 1.01 Definitions. For purposes of this agreement, the following terms shall have the specified meanings:

Premises -The phrase "Premises" means real property, building and other equipment located at 14030 Highway 55 near the city of McCall, Idaho. The premises generally include all buildings, land, fences and all other equipment contained on the property.

ARTICLE II

TERM OF AGREEMENT

Section 2.01 Term. The Term of this agreement shall be for Two (2) years, commencing on July 1, 2019 ("Commencement Date" herein), and ending on June 30, 2021, unless terminated sooner as provided herein.

Section 2.02 Holding Over. Should Tenant hold over and continue in possession of the Premises after termination of the term of this agreement or any extension of the term of this agreement, Tenant's continued occupancy of the Premises shall be deemed merely a tenancy from month to month and all provisions of this agreement, except those pertaining to term shall apply to the month-to-month tenancy.

ARTICLE III

RENT, TAXES AND OTHER EXPENSES

Section 3.01 Base Rent. The base rent amount shall be \$500.00 due and payable on the first (1st) day of each month beginning August 1, 2019.

Section 3.02 Real Property Taxes. None

Section 3.03 Utility Charges. The Tenant shall pay, and hold Landlord and the property of Landlord free and harmless from, all service charges for the furnishing of gas/propane, water, electricity, and other public utilities to the Premises during the Term of this agreement or any extended term thereof and for the prompt and timely removal of garbage, discarded parts, tires and rubbish from the Premises during the Agreement Term of this agreement or any extended term thereof. The Landlord warrants that all services are available, connected and are in good working order and will be so maintained by the Landlord.

Section 3.04 Personal Property Taxes. Tenant shall pay before they become delinquent, all taxes, assessments, or other charges levied or imposed by any governmental entity on the furniture, trade fixtures, appliances, and other personal property placed by Tenant in, on or about the Premises.

Section 3.05 Breakdown of Responsibilities. The table below breaks down the responsibilities of the Landlord and Tenant in respect to the items identified. The responsible party shall bear the expense of attending to such items:

Section 3.06 Custodial Services. Tenant will contract with a commercial custodial/janitorial service to clean the building facility. Each scheduled operational day, tenant will have the restrooms and floors cleaned and the waste baskets emptied. In addition, periodic cleaning and maintenance will be performed as needed to keep the premises in a clean, professional manner consistent with a professional work environment.

Item Description	Responsible Party
Parking Lot Maintenance (grading)	Tenant
Utilities	Tenant
Owner's Liability Insurance	Landlord and Tenant
Personal Property Insurance	Tenant
Wiring, Outlets, Heaters	Landlord
Damage to Premises (caused by Tenant)	Tenant
Maintenance of Premises (general repair items)	Landlord
Furniture	Tenant
Custodial Services	Tenant
Landscape Maintenance	Tenant
Snow and Ice Removal	Tenant

ARTICLE IV

USES OF PREMISES

Section 4.01 Permitted Use. Tenant shall use the Premises for the operation, maintenance, storage and repair of operating vehicles and equipment and such other uses as are reasonable, incidental and related thereto, and for no other purpose (including, but not limited to, residential housing or camping) without the written consent of Landlord, which consent shall not be unreasonably withheld (note: buses that are operating or being repaired are ok but Tenant is NOT to store on the premises, non-operating buses being used for parts). The Landlord represents that, to its knowledge the property is properly zoned, environmentally clean and constructed complete and legal for the stated Permitted Use. The Landlord acknowledges that Tenant does provide services to customers other than Landlord. Tenant shall not store other customers' equipment on Premises without written consent of Landlord.

Section 4.02 Compliance with Law. Tenant shall at Tenant's own cost and expense comply with all statutes, ordinances, regulations and requirements of all governmental entities, whether federal, state, county, municipal or any other legal entity with jurisdiction. The Tenant also specifically agrees to adhere to all requirements defined in the Conditional Use Permit associated with the site, a copy of which is included as Appendix A.

Section 4.03 Landlord Representations. Landlord is the fee simple owner of the Premises and has good and marketable title to the Premises free and clear of all liens, encumbrances, claims, demands, easements, rights or other interests of others, covenants, conditions, restrictions and encroachments of any kind or nature. Upon Tenant's written request, the Landlord will deliver any environmental reports in Landlord's possession or control to Tenant.

ARTICLE V

INDEMNITY AND INSURANCE

Section 5.01 Indemnification and Hold Harmless for Personal Injury and Property Damage.

- A. Tenant's Indemnification. Except with respect to matters which result from the negligence or willful misconduct of Landlord, its employees, agents or contractors, Tenant agrees that it will, at all times, indemnify, defend and save and keep Landlord harmless from and against all claims or demands and all actions, costs, expenses, damages, counsel fees and loss of or injury to any person or property of every land in or on the Premises arising from or incident to Tenant's use of the Premises, including any preliminary construction or demolition conducted in anticipation of this agreement, Tenant's conduct of its business or any activity on the Premises, or on the performance of any other work done, suffered or permitted by Tenant in or about the Premises, or in or about adjacent property, or any act, fault, negligence, acts or omissions of Tenant, its agents, invitees, customers, employees, or other persons. Tenant agrees to pay or cause to be paid to Landlord, on demand, any such sum or sums as Landlord may be required to pay as aforesaid, or may pay in settlement of bona fide claims. Tenant, as a material part of the consideration to Landlord, hereby assumes all risk of damage to property or injury to persons in, upon or about the Premises arising from any cause, except with respect to matters which result from the negligence or willful misconduct of Landlord, its employees, agents or contractors, and Tenant hereby waives all claims in respect thereof against Landlord.

- B. Landlord's Indemnification. Except with respect to matters which result from the negligence or willful misconduct of the Tenant, Landlord agrees that it will, at all times, indemnify the Tenant against any public liability arising out of the following: The Landlord's failure to perform any provision of this agreement to be performed by Landlord; and any act or omission to act by the Landlord or any of the Landlord's agents or employees or contractors or subcontractors or licensees.

Section 5.02 Pollution Indemnification. Tenant shall indemnify and hold the Landlord harmless from and against any loss, cost, or expense, including reasonable attorney fees, damages, claims, or liability arising out of or related to the acts or omissions of Tenant related to environmental quality matters affecting the Premises. The Landlord further represents that, to the best of its knowledge, in all matters related to environmental safety, the Premises are being supplied in a clean condition and if at any time during this agreement, any pre-existing material which, by regulation causes an environmental problem to the property or to living beings entering upon the property, the Landlord will take immediate action to eliminate the cause of the problem. Tenant shall document and maintain a "waste oil management plan". Management of used oil should be conducted according to best management practices and Idaho regulatory standards. Requirements include:

- 1) Stored oil only in tanks and containers, or units subject to regulation under 40 CFR 264 or 265;
- 2) Storage tanks and containers maintained in good condition as defined in 40 CFR 279.22;
- 3) Cleanup of any and all spills or releases of used oil;
- 4) Use of a transporter with an EPA identification number when shipping used oil off-site;
- 5) Used oil may NOT be applied as a dust suppressant at any time under 40 CFR 279.82;
- 6) Label containers, above-ground tanks, and fill pipes "Used Oil."

Section 5.03 Liability Insurance. Tenant shall, at its own cost and expense, secure within ten (10) days from the execution of this agreement and shall maintain during the entire Agreement Term of this agreement and any extended term thereof a commercial general liability insurance policy insuring against liability caused by or connected with Tenant's occupation and use of the Premises under this agreement in an amount not less than \$1,000,000 combined single limit for bodily injury and property damage. The policy shall name Landlord, any person, firms or corporations designated by Landlord, and Lessee, as insured's, and shall contain a clause that the insurer will not cancel or change the insurance without first giving Landlord thirty (30) days written notice. The insurance shall be in an insurance company approved by Landlord and Tenant. All public liability, property damage, and other liability policies shall be written as primary policies, not contributing with and not in excess of coverage which Landlord may carry. All such insurance shall specifically insure the performance by Tenant of the indemnity agreement as to liability for injury to or death of persons or injury or damage to property contained in Section 5.01.

Section 5.04 Property Insurance. Landlord shall at all times during the Agreement Term of this agreement and any extended term thereof keep all buildings, improvements, and other structures on the Premises insured for their full replacement cost with "All Risk" coverage by insurance company(s) licensed in Idaho rated A+XV or better in "Best's Insurance Guide." Such insurance policies shall contain replacement cost endorsements against: (a) loss or damage by fire; (b) all risks customarily covered under extended coverage endorsements; and (c) vandalism and malicious mischief. The proceeds of such insurance in case of loss or damage shall be paid to Landlord to be applied on account of the obligation of Landlord to repair and/or rebuild the Premises pursuant to Article VII.

Section 5.05 Insurance by Tenant. At all times during the term hereof Tenant shall keep in force, at its

sole cost and expense, fire insurance and extended coverage in companies acceptable to Landlord equal to the replacement costs of Tenant's improvements, trade fixtures, furnishings, equipment, and contents upon the Premises. Tenant may, but is not obligated by this paragraph, carry such insurance on any item which has a reasonable value of less than \$10,000. Tenant shall use proceeds to replace loss.

Section 5.06 Insurance Policy(s) and Certificate(s). Promptly on issuance, re-issuance or renewal of any insurance policy required of either the Landlord or Tenant by this agreement, the acquiring party shall cause a duplicate copy of the policy to be given to the other party. The parties shall also cause a certificate evidencing the policy and executed by the insurance company issuing the policy or its authorized agent to be given to the other party.

Section 5.07 Subrogation Rights. An insured party hereto shall upon the request of the other party hereto apply to the insured party's property and liability insurance companies requesting a waiver of the right of such insurance companies to be subrogated under such policies to any claims which the insured party may have against the other party for losses paid under any of the insured party's policies. Neither party is by this provision agreeing to provide such waiver and is only agreeing to request the same.

ARTICLE VI

ALTERATIONS AND REPAIRS

Section 6.01 Condition of Premises. Tenant hereby represents that it and its employees and agents have made a thorough and complete inspection of the Premises including all improvements thereon and the facilities appurtenant thereto, and has satisfied itself as to their present condition.

Section 6.02 Maintenance and Repairs to the Premises. Other than normal wear and tear and insurable damage by wind, fire or any casualty beyond its control, the Tenant shall at its own cost and expense keep and maintain the Premises in good order and repair, including but not limited to interior walls and partitions, above ground plumbing, plumbing pipes and fixtures, and electrical equipment, unless otherwise provided in this agreement. In regards to reasonable wear and tear, and insurable damage by the elements or fire or any casualty beyond the control of Tenant, except as otherwise expressly provided in this agreement, the Landlord shall at its own cost and expense keep and maintain the structural parts of the building, the roof, underground plumbing, pipes and drains, air conditioning compressors, motors and controls, in good working order throughout the term of the agreement. In the event of failure by either party to perform its covenants of maintenance and repair hereunder, the second may, having given ten (10) day written notice, perform such maintenance and repair and any amounts expended by that party in connection therewith shall be payable to the other party upon demand.

Section 6.03. Alterations and Liens. Tenant shall not make or cause any other person to make any alterations to the Premises or to any improvement thereon or facility appurtenant thereto without first obtaining the written consent of Landlord. Such consent of the Landlord shall not be unreasonably withheld. Tenant shall keep the Premises free and clear from any and all liens, claims, and demands for work performed, materials furnished, or operations conducted on the Premises at the instance or request of Tenant. Furthermore, any and all alterations, additions, improvements, and fixtures, except furniture and trade fixtures, made or placed in or on the Premises by Tenant or any other person as directed by the Tenant shall on expiration or sooner termination of this agreement become the property of Landlord and remain on the Premises.

Section 6.04 Landlord's Right of Inspection. Landlord or Landlord's duly authorized agents may enter the Premises during the Tenant's normal business hours or as necessary for safety and/or emergency purposes. Such right shall remain during the Agreement Term of this agreement or any extended term thereof.

Section 6.05 Surrender of Premises. On expiration or sooner termination of this agreement, Tenant shall promptly surrender possession of the Premises to Landlord in as good condition as the Premises are on the inception date of this agreement, reasonable wear and tear and damage by the elements or fire or any casualty beyond the control of Tenant accepted. Tenant, at any time within sixty (60) days prior to the expiration of the Agreement Term of this agreement, or any extended term thereof, shall allow Landlord to place and maintain reasonable signs on the Premises.

ARTICLE VII

DESTRUCTION AND CONDEMNATION

Section 7.01 Partial Destruction. Partial destruction is herein defined as destruction which does not materially affect the Tenant's ability to conduct business on the Premises. Should the Premises be partially destroyed, as defined in this section, by any cause not the fault of Tenant, this agreement shall continue in full force and effect and Landlord, at Landlord's own cost and expense, shall promptly commence and complete the work of repairing and restoring the Premises to the condition they were in just prior to the Partial Destruction. If repairs cannot be made and restoration completed in ninety (90) days or less, the Tenant shall have the right to, in writing, notify the Landlord of intent to vacate and terminate the agreement thirty (30) days thereafter.

Section 7.02 Total Destruction. Total destruction is herein defined as destruction which materially affects the Tenant's ability to conduct business on the Premises. Should the Premises be totally destroyed, as defined in this section, by any cause not the fault of Tenant, Tenant may at Tenant's sole option either:

- A. Continue this agreement in full force and effect, if Landlord agrees to repair and restore, at Landlord's own cost and expense, the Premises to their former condition; or
- B. Terminate this agreement by giving Landlord written notice of such termination.

Section 7.03 Eminent Domain.

- A. Complete Taking. Should title and possession of all of the Premise be taken under the power of eminent domain by any public or quasi-public agency or entity, or conveyed by Landlord in lieu thereof (a "Taking"), this agreement shall terminate as of 12:01 A.M. of the date of actual physical possession of the Premises is taken by the agency or entity exercising the power of eminent domain.
- B. In the event such partial taking is of a nature sufficient to materially affect the Tenant's ability to conduct business on the Premises, Tenant, at its sale option, may terminate this agreement.

ARTICLE VIII

TRANSFER AND DEFAULT

Section 8.01 Subletting and Assignment. Tenant shall not encumber, assign, or otherwise transfer this agreement, any right of interest in the Premises or any of the improvements that may now or hereafter be

constructed or installed on the Premises without first obtaining the express written consent of Landlord. Tenant shall not sublet or assign the Premises or any part thereof nor shall Tenant allow any other person, other than Tenant's agents, servants, and employees, to occupy the Premises or any part thereof without the prior written consent of Landlord. Consent by Landlord to one occupation of the Premises by another person shall not be deemed to be consent to occupation of the Premises by another person. The consent of Landlord to allow any other person to occupy the Premises shall not be unreasonably withheld.

Section 8.02 Default. The following events shall be deemed to be a default by Tenant under this agreement unless the remedy is outside the control of the Tenant:

- A. If Tenant shall fail to comply with any term, provision or covenant of this agreement and such failure to comply is not remedied within thirty (30) days following written notification to the Tenant by the Landlord. However, if the default cannot with due diligence be cured prior to the expiration of thirty (30) days from the date of the notice provided for above, and if Tenant commences within thirty (30) days after such default occurs to eliminate the cause of such default and proceeds diligently and with reasonable dispatch to take all steps and do all work required to cure such default, then Landlord shall not have the right to declare this agreement terminated by reason of such default or to relent the Premises as set forth below.
- B. If Tenant shall file a petition under a section or chapter of the Federal Bankruptcy Code.
- C. If a receiver or trustee shall be appointed for all or substantially all of the assets of Tenant and such receiver shall not be terminated in possession of such assets or restore possession to Tenant within thirty (30) days after such appointment.

Section 8.03 Remedies Upon Default. Upon the occurrence of default by Tenant, Landlord shall have, in addition to any other remedies available to Landlord at law or in equity, the option to pursue anyone or more of the following remedies:

- A. Terminate this agreement, in which event Tenant shall immediately surrender the Premises to Landlord and if Tenant fails to do so, Landlord may enter upon and take possession of the Premises and expel or remove Tenant and any other person who may occupy the Premises or any part thereof; and Landlord may recover from Tenant the following:
 - 1. All reasonable costs of Landlord in connection with any repossession of the Premises and relating thereof together with all reasonable costs of construction incurred to alter the Premises for a new tenant; PROVIDED, HOWEVER, that such construction for the new tenant shall not exceed the quality of the building improvements in existence at the time of default by Tenant (excessive wear and tear excepted) nor shall it exceed what would normally be required for a similar business as that conducted by Tenant with improvement requirements relating to office, plumbing, partitioning, heating and cooling and floor and roof systems similar in nature and use to those required by Tenant.

ARTICLE IX

TRADE FIXTURES

Section 9.01 Installation and Removal of Trade Fixtures. Tenant shall have the right at any time and from

time to time during the Agreement Term of this agreement and any extended term thereof, at Tenant's sale cost and expense, to install and affix, in, to or on the Premises such items, herein called "trade fixtures," for use in Tenant's trade or business as Tenant may, in his sole discretion, deem advisable. Any and all such trade fixtures that can be removed without material damage to the Premises or any building or improvements on the Premises shall, subject to Section 9.02, remain the property of the Tenant and may be removed by Tenant at any time or times at or prior to the expiration or sooner termination of this agreement.

Section 9.02 Un-removed Trade Fixtures. Any trade fixtures described in this Article that are not removed from said Premises by Tenant prior to the expiration or sooner termination, regardless of cause, of this agreement shall be deemed abandoned by Tenant and shall automatically become the property of Landlord as owner of the real property to which they are affixed.

Section 9.03 Landlord Provided Equipment. A list of the Landlord owned equipment placed in use on the Premises is provided below. Landlord reserves the right to periodically inspect and inventory said equipment during the term of the agreement. Prior to termination of this agreement, a full accounting of Landlord owned equipment shall be conducted.

Equipment List - None

ARTICLE X

MISCELLANEOUS

Section 10.01 Force Majeure --Unavoidable Delays. Should the performance of any act required by this agreement to be performed by either Landlord or Tenant be prevented or delayed by reason of an act of God, strike, lockout, labor troubles, inability to secure materials, restrictive governmental laws or regulations, or any other cause (except financial inability) not the fault of the party required to perform the act, the time for performance of the act will be extended for a period equivalent to the period of delay and performance of the act during the period of delay will be excused; provided however, that nothing contained in this section shall excuse the performance of any act required by this agreement rendered difficult solely because of the financial condition of the party, Landlord or Tenant, required to perform the act.

Section 10.02 Attorney's Fees. Should any litigation be commenced between the parties to this agreement concerning the Premises, this agreement, or the rights and duties of either in relation thereto, the party, Landlord or Tenant, prevailing in such litigation shall be entitled, in addition to such other relief as may be granted in the litigation to costs of suit, including, without limitation, reasonable attorney's fees.

Section 10.03 Notices. Except as otherwise expressly provided by law, any and all notices or other communications required or permitted by this agreement or by law to be served on or given to either party hereto by the other party hereto shall be in writing and shall be deemed duly served and given when personally delivered to the party to whom they are directed, or in lieu of such personal service five (5) days following the date of deposit in the United States certified mail, postage prepaid, addressed to the other party at the address set forth on the first page hereof. Either party, Tenant or Landlord, may change his address for the purpose of this section by giving written notice of such change to the other party in the manner provided in this section. When mutually agreed by the Landlord and the Tenant, a notice for

Valley County Planning and Zoning Commission

P.O. Box 737
Courthouse Building Annex



Cascade, Idaho 83611
Phone (208) 382-4251

Date 8-3-99

Approved by

Handwritten signature of Debbie S. Chapman in cursive.

RECORDED

1999 AUG 3 PM 4 04

BY: J. K. ...
FEE: no

TITLE: new
241959

CONDITIONAL USE PERMIT NO. 99-17 Harlow's School Bus Services, Inc. of Montana

Issued to: Harlow's School Bus Service Inc. of Montana
1877 Highway 2 West
Libby, MT 59923

Property Location: Located at 14030 State Highway 55 in the S1/2 SE1/4 SE1/4 of Section 33,
T. 18N, R. 3E, B.M., Valley County, Idaho.

There have been no appeals of the Valley County Planning and Zoning Commission decision of July 22, 1999. The Commission's decision stands and you are hereby issued Conditional Use Permit No. 99-17 with Conditions for the school bus transportation facility as described in the application, staff report, and minutes.

The effective date of this permit is August 3, 1999. All provisions of the conditional use permit must be established and in operation within one year or a new permit or a permit extension in compliance with the Valley County Land Use and Development Ordinance will be required.

Conditions of Approval:

1. The application, the staff report, and the provisions of the Land Use and Development Ordinance are all made a part of this permit as if written in full herein.
2. Any change in the nature or scope of land use activities shall require an additional Conditional Use Permit.

3. The proposed building and occupancies described in the application and in this report shall be constructed, established, and in use within one year of the date of approval or this permit shall be null and void.
4. The issuance of this permit and these conditions will not relieve the applicant from complying with applicable County, State, or Federal laws or regulations or be construed as permission to operate in violation of any statute or regulations. Violation of these laws, regulations or rules may be grounds for revocation of the Conditional Use Permit or grounds for suspension of the Conditional Use Permit.
5. The applicant shall provide and maintain orderly and proper disposal of waste including by products of the operation, other solid waste and sanitary waste. Containment facilities for fuel and chemicals shall be a part of this condition as spills may affect the water table.
6. The applicant shall meet all the fire codes and requirements of McCall Fire and EMS.
7. The applicant will obtain an upgraded building permit as required by the Valley County Engineer.
8. The applicant will develop a Noxious Weed Management Plan with the Valley County Weed Department.
9. The applicant will comply with Central District Health requirements as per total number of employees, installing a grease separator and washing only one bus per day.
10. There will be no overnight storage of any equipment, supplies or buses that are not located in an enclosed area.
11. An access permit will be obtained from the Idaho Transportation Department.
12. An improved landscaping plat will need to be submitted by September 1, 1999 for review.
13. Outdoor lighting will comply with the Valley County Land Use and Development Ordinance requirements.

END CONDITIONAL USE PERMIT