

LAMORINDA SCHOOL BUS TRANSPORTATION AGENCY

A joint exercise of powers agreement to provide for school bus services between the City of Lafayette, the Town of Moraga, the City of Orinda, the Lafayette School District, the Moraga School District and the Orinda School District

1. Authority. This joint exercise of powers agreement is entered into in accordance with and subject to the provisions of Government Code sections 6500, et seq.

2. Parties and Date. This Agreement is entered into on July 13, 1994, by the City of Lafayette, Town of Moraga and the City of Orinda (referred to as "Municipalities") and the Lafayette School District, Moraga School District and the Orinda School Districts (referred to as "School Districts"), as individual public entities which mutually promise and agree as set forth in this document.

3. Purpose. The Municipalities and School Districts desire to operate a joint bus program to serve students in grades K-8 in order to relieve traffic congestion.

The purpose of this Agreement is to establish an agency for overseeing and operating a joint bus program to serve public school children in grades K-8. The program is designed to decrease traffic congestion.

4. Method. The Municipalities, individually and in common, have the power to study, discuss, recommend and implement policies and programs pertaining to but not limited to, traffic, traffic related improvements and transportation and the expenditure of funds relating to these matters. The School Districts have the power to operate school bus programs which will alleviate traffic congestion. The entities comprising the Municipalities and School Districts propose to exercise their powers in these areas through the joint powers agency created by this Agreement, but reserve the right to include other powers in the future which they may wish to exercise in common.

5. Creation of Agency. By this Agreement the Municipalities and School Districts create, under Government Code sections 6500, et seq., a public entity to implement the joint bus program. The public entity created by this Agreement shall be known as the "Lamorinda School Bus Transportation Agency." This Agency shall be a public entity separate and distinct from the Municipalities and School Districts. The Agency shall come into being on the date that this Agreement is executed by all Municipalities and School Districts which are members. It may be terminated only as provided in this Agreement.

6. Definitions. Unless the context otherwise requires:

- a. "Agency" is the public entity created by this Agreement;
- b. "Agreement" is this joint exercise of powers agreement;
- c. "Auditor" means an independent certified public accountant selected by the board to audit the records and accounts of the Agency;

- d. "Board" or "board of directors" is the governing body of the Agency;
- e. "Capital Expenditure" includes those expenditures or a part of them made to acquire and construct facilities necessary to accomplish the purposes of this Agreement;
- f. "Facility" includes a work or improvement acquired or constructed by the Agency;
- g. "Fiscal Year" is July 1st to and including the following June 30th;
- h. "General Budget" is the approved operating budget;
- i. "Member" or "Party" is each of the parties which become a signatory to this Agreement. By doing so the party accepts the rights and obligations of the Agency under this agreement;
- j. "Participating Member" is a member that has or will acquire rights and assume obligations in connection with a particular project;
- k. "Primary Director" is the director representing a participating member;
- l. "Project" includes the operation of the school bus program and facilities constructed by the Agency;
- m. "Treasurer" is a person selected by the board from among the finance officers of the parties.

7. Membership. The members of the Agency are each public entity which executes this Agreement, or an addenda, amendment or supplement to it, and which has not withdrawn from this Agreement.

8. Establishment and Designation of Board of Directors. A board of directors is established to direct and control the Agency.

a. The board shall consist of the primary directors who shall be the Managers from each Municipality and the School Superintendent from each School District or such other representative as the governing body of the Municipality or School District may designate. Each primary director has the authority to vote on matters coming before the board and shall exercise all other powers contained in this Agreement or authorized by law.

b. Each primary director may designate an alternate director. An alternate director is authorized to act in the absence of the primary director and with the same powers as a primary director. The alternate director may act only in the absence of the primary director who appointed him or her.

c. **Terms of Membership:** Each primary and alternate director serves until replaced by the appropriate appointing jurisdiction.

d. The officers of the Agency consist of a chair and vice-chair selected from the board membership by a majority vote of the primary directors. The board shall appoint a secretary who may be a director. The board may appoint such additional officers as it considers necessary. The chair, vice-chair and secretary each holds office for a period of one year beginning July 1st of each fiscal year. The first chair, vice-chair and secretary appointed hold office from the date of appointment to June 30th of the following fiscal year.

9. Board Meetings.

a. **Regular Meetings:** The board shall determine the frequency of regular meetings and shall specify by motion or resolution the date, hour and place at which regular meetings shall be held.

b. **Special Meetings:** The chair, or in the chair's absence the vice-chair, may call a special meeting as provided in Government Code section 54956.

c. **Notice:** Each meeting shall be noticed as required by Government Code sections 54950 et seq.

d. **Minutes:** The secretary of the board shall keep minutes of all meetings and shall provide copies of the minutes to each director.

e. **Quorum:** A majority of primary directors or their authorized alternates constitutes a quorum for the transaction of business, except that less than a quorum may adjourn from time to time.

f. **Rules:** The board may adopt rules and regulations for the conduct of its affairs as it considers necessary.

g. Each member has one vote, which may be cast only by its designated director. No proxy or absentee votes are permitted. Except as otherwise provided, a vote of a majority of the directors present is sufficient to constitute action provided that a quorum is present. A quorum consists of a simple majority of the directors.

10. Officers and Employees. An officer, employee or agent of the Agency may also be an officer, employee or agent of one of the parties. The appointment by the Agency of such a person is evidence that the two positions are compatible. The public officer or person who has charge of, handles, or has access to property of the Agency shall be bonded and the amount of the bond designated and fixed in the applicable budget.

Each privilege and immunity from liability, exemption from laws, ordinances and rules, pension, relief, disability, workers' compensation and other benefit which applies to the activity of an officer, agent, or employee of any of the parties when performing a function for the Agency applies to the same degree and extent while engaged in the performance of a function

or duty under this Agreement. An officer, agent, or employee of the Agency shall not by reason of employment by the Agency be considered to be an officer, agent, or employee of one or more of the individual parties.

If an officer, agent or employee of one of the parties is employed by the Agency, the manner of compensation shall be determined by contract between the Agency and the party.

The Agency shall provide to each employee of a party working for the Agency and to each of the Agency's other employees, sufficient insurance to protect each of them and the Agency from liability resulting from activities, advice and similar conduct associated with the performance of duties on the Agency's behalf.

11. General Powers. The Agency has the power to do the following in its own name:

- a. sue and be sued;
- b. make and enter into contracts;
- c. employ agents and personnel;
- d. acquire, hold, manage and dispose of real or personal property;
- e. incur debts, liabilities, and obligations for administrative expenses necessary to accomplish the purposes of this Agreement;
- f. incur debts, liabilities and obligations for capital expenditures necessary to carry out the bus program;
- g. invest surplus reserve funds as deemed appropriate by the board;
- h. secure proper and adequate insurance for public liability, property damage, fire, theft, workers compensation, and other risks or exposures in amounts and in forms prescribed by the board and to co-insure each of the parties;
- i. exercise a power common to the parties so long as the power is exercised in furtherance of the purposes of this Agreement;
- j. perform such other functions as may be necessary or appropriate to carry out this Agreement, so long as such other functions performed are not prohibited by any provision of law.

12. Specific Powers. The Agency may:

- a. prepare and develop plans for and implement a joint bus program serving public school students in grades K-8;
- b. contract with a public or private entity, firm, or person for technical

assistance, for bus services or for other purposes of implementing the bus program;

c. retain employees necessary to plan for and implement the bus program and fix their salaries;

d. prepare and adopt a general budget for the Agency's administrative functions;

e. establish by-laws and rules and regulations as may be necessary for its operation and for the conduct of the Agency's business including an appropriate conflict of interest/disclosure resolution;

f. receive, accept, and expend or disburse moneys for purposes consistent with this Agreement, from the United States, the State of California or a subdivision of it, or from any other public or private person, agency or organization for the purposes set forth in this Agreement;

g. receive, accept and use the services of personnel offered by any of its members, or their representatives or agents; receive, accept and use real or personal property, offered by any of the parties;

h. Receive, accept and use other services which may be provided to it.

13. Restrictions Upon Exercise of Power of Agency. This Agreement is entered into under Article 1 of Chapter 5, Division 7, Title I of the Government Code (sections 6500 et seq.) concerning joint powers agreements. As to those powers vested in the Agency under section 6508 of the Government Code, they shall be exercised in the same manner and subject to the same restrictions as those applicable to the Municipalities and School Districts under the laws of the State of California.

The Agency shall exist as an agency legally and fiscally self-sufficient from and independent of the parties to this Agreement. The Agency has no authority to impose a debt or obligation upon or incur one for or on behalf of a party to this Agreement.

14. Program Administration. The board of directors shall employ a program administrator/transportation coordinator. The program administrator/transportation coordinator shall administer and coordinate the bus program, act as a liaison between the bus provider and the agency, complete reports required as conditions of grants or as required by agency contracts with bus providers. One of the member agencies shall act as fiscal agent for the agency when and to the extent authorized by the board in accordance with policies and directives of the board.

15. Funds and Expenditures.

a. Each expenditure of money must be authorized or approved by the board or by a person or entity designated by the board to authorize expenditures. The treasurer shall draw warrants to pay demands authorized for payment.

b. Before the Agency may expend money or incur a financial obligation, it shall have

adopted an annual budget by a majority vote of the board of directors. The board may revise the budget from time to time by a majority vote of the board. The Agency may not approve a deficit spending budget in any fiscal year nor may the Agency make any unbudgeted expenditures. The board shall adopt its budget on or before June 30 of each year for the following fiscal year.

c. The board may invest reserve surplus funds not necessary for the immediate operation of the Agency in securities, to the extent allowed by Government Code sections 6509.5 and 53601.

d. No party is required to contribute funds except those grant funds it may receive for the exclusive use of the Agency or payments for use of the bus program for field or athletic trips.

e. The treasurer shall present periodically to the Agency but no less than once per fiscal year a financial report accounting for all money received and disbursed for the fiscal period.

f. The treasurer is the depository and custodian of all Agency funds. The Auditor shall perform the functions and duties set forth in sections 6505 and 6505.5 of the Government Code. Interest earned by Agency funds belongs to the Agency.

g. The secretary is designated as property custodian of the Agency.

h. Every officer or employee of the Agency authorized to receive, account for, or to expend money, shall each file a bond in an amount determined by the board. This requirement may be met by one or more blanket bonds. The Agency shall pay the cost of the bond.

i. Accounting Procedures. The Agency shall keep and maintain full books and accounts in accordance with practices established by, or consistent with, those used by the controller of the State of California for like public entities. In particular, the Agency's auditor and treasurer shall comply strictly with the requirements of the statute governing joint powers agencies, Chapter 5, Division 7, Title I of the Government Code (sections 6500, et seq.).

j. Audit. An independent certified public accountant shall annually audit the records and accounts of the Agency and file a copy of it with the county auditor, the State Controller and each participating member within 12 months of the end of the fiscal year or years under examination. The board, by unanimous vote may replace the annual audit with an audit governing a two-year period.

16. Liability.

a. The tort liability of the Agency, each member of the board, and every officer and employee of the Agency, is controlled by Division 3.6 of Title I of the Government Code of the State of California (beginning with section 810). The provisions relating to the indemnification

of public employees and the defense of actions against them arising out of an act or omission within the scope of their employment shall apply to each officer and employee of the Agency.

b. Every debt, liability and obligation incurred by or imposed upon the Agency is the debt, liability, and obligation solely of the Agency. No debt, liability or obligation of the Agency shall be imposed upon any party to this Agreement.

c. In Resolution 94-22P, the Contra Costa Transportation Authority has agreed to be liable for a termination fee, if any, payable to the contractor providing school bus service.

d. The Agency shall indemnify, defend and hold harmless the Municipalities and School Districts, their officers, trustees, directors, agents and employees and each of them from all claims, suits, actions, damages, loss, liability and expenses (including attorney's fees and court costs) for loss of life or bodily or personal injury, or property damage, such damage or loss resulting, in any manner solely or partially, from any cause or condition of property, equipment, vehicles or facilities under the control of Agency, or resulting from the use of such property, equipment, vehicles or facilities or from the act, neglect, fault or omission of Agency's officers, trustees, employees, agents, contractors, or invitees.

e. The Agency shall insure itself and each party from loss, liability, and claims arising out of or in any way connected with this Agreement.

17. Amendments. This Agreement may be amended at any time by the written agreement of all the parties to it. An amendment becomes effective upon the date of final execution by all of the parties to this Agreement.

18. Withdrawal of Parties.

a. A party may withdraw from the Agency at the end of a fiscal year provided it sends written notice of its intention to withdraw to the other parties by March 1 of the same year. The decision of a party to withdraw shall be made by that party in accordance with its own rules. The notice of withdrawal shall be in resolution form and approved by the governing body of the withdrawing party. If the notice of withdrawal is not transmitted by March 1, the withdrawal shall be considered effective at the end of the next fiscal year.

b. The withdrawing party shall continue to be responsible for any cost or charge assumed or incurred by the party arising from membership in the Agency, up to and including the effective date of withdrawal.

19. Reinstatement. A party filing notice of withdrawal or its actual withdrawal from the Agency may seek reinstatement as a member of the Agency. The application for reinstatement shall be made in writing to the Agency. A party shall be reinstated upon affirmative action by the board. The board may require a party seeking reinstatement to meet terms and conditions which the board considers appropriate to insure equality of treatment and participation.

20. Term and Termination. This Agreement shall continue in force until rescinded

or terminated as specified by this section. This Agreement may be terminated by consent of all the parties. Upon termination, every party is entitled to receive the property and surplus money of the Agency distributed in proportion to the contribution made by it. The Agency shall continue to exist for the purpose of disposing of liabilities, distributing assets, and all other functions necessary to conclude the business of the Agency.

21. Successors; Assignment. This Agreement binds and inures to the benefit of the successors or assigns of the parties to it. No party to this Agreement may assign a right or obligation under this Agreement without the written consent of each of the other parties.

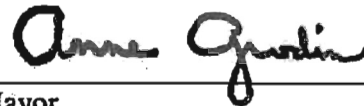
22. Interpretation. The use of a word or term in this Agreement in the singular or masculine gender shall also include the plural and feminine gender.

23. Severability. If a portion, term, condition or provision of this Agreement is held by a court to be illegal or in conflict with a law of the State of California, or is otherwise unenforceable or ineffective, the validity of the remaining portions, terms and conditions are not affected.

24. Signatures. This Agreement may be signed on any number of counterparts with the same effect as if the signatures were on the same document.

The Agreement is entered into as of the date which appears at the beginning of the Agreement.

City of Lafayette



Mayor

Attest:



City Clerk

Town of Moraga

Mayor

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City of Lafayette

Anne Grudin

Mayor

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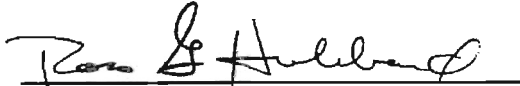
Arsen M. Jussat
City Clerk



Town of Moraga

Michael Mayes
Mayor

Attest:


Town Clerk

City of Orinda


Mayor

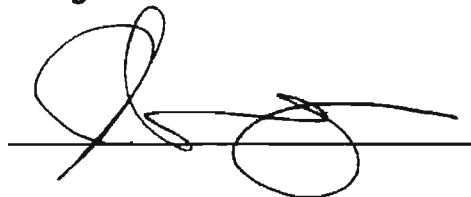
Attest:


City Clerk

Lafayette School District

Attest:

Moraga School District



Attest:

Town Clerk

City of Orinda



Mayor

Attest:




City Clerk

Lafayette School District

Attest:

Moraga School District



Attest:

Mari M. Parti

Orinda School District

Richard Whitell

Attest:

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Attest:

Town Clerk

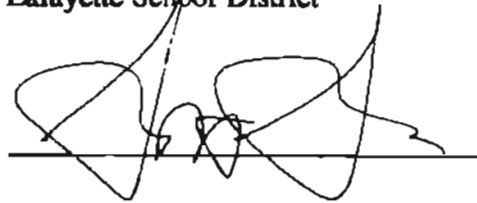
City of Orinda

Mayor

Attest:

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✓ Lafayette School District



Attest:



Moraga School District
