

**TOWN OF WENDELL SCHOOL DISTRICT**  
**Erving School Union #28**  
**PO Box 7**  
**Erving, MA 01344**  
**and**  
**FM Kuzmeskus, Inc.**

**Contract**  
**For**  
**School Transportation Services**

This Contract made this 1st day of February, 2024, is between the Town of Wendell School District, PO Box 7, Erving, MA 01344 (hereinafter designated "the District"), and FM KUZMESKUS, INC., (hereinafter designated "the Contractor") doing business at 52 Main Road, Gill, Massachusetts. The words "he", "him" and "his" in this Contract, so far as they refer to the Contractor, shall so refer whether the Contractor is an individual, partnership or corporation.

1. The Contractor shall furnish school buses and provide student transportation services for the District in accordance with the *INVITATION FOR BIDS FOR SCHOOL TRANSPORTATION SERVICES for Multiple Franklin County School Districts dated October 9, 2023 and Addenda dated October 16 and November 13, 2023 issued by the Franklin Regional Council of Governments* on behalf of the Participants, including the Invitation to Bid, Bid Forms, and Submittals, Route Schedules, Bid Addenda, and Contractor's Bid Response, all of which are incorporated herein by reference.
2. The term of this Contract shall be for the period commencing July 1, 2024 (said start date shall refer to the opening day of school) and covering five (5) school years, terminating on June 30, 2029.
3. The District is part of the COLLECTIVE BID and the pricing for COLLECTIVE BID in the FM KUZMESKUS, INC. submittal shall be the basis of cost.
4. The provisions of the *INVITATION FOR BIDS FOR SCHOOL TRANSPORTATION SERVICES for Multiple Franklin County School Districts dated October 9, 2023 and Addenda dated October 16 and November 13, 2023 issued by the Franklin Regional Council of Governments* on behalf of the Participants, including the Invitation to Bid, Bid Forms, and Submittals, Route Schedules, Bid Addenda, Contractor's Bid Response and Specifications, are incorporated herein by reference. In the event of a conflict between a provision of any of those documents and a provision of this Contract, the provision of this

Contract shall govern.

The following amendments are hereby included by mutual agreement:

**A. FM Kuzmeskus, Inc. Bid Forms for Erving School District**

**B. Addenda 2 with Submittal by FM Kuzmeskus, Inc. are included.**

5. In consideration for performance of the work in accordance with the requirements of the Contract, the District agrees to pay the Contractor in ten monthly payments, September through June, with each payment being one tenth of the total annual contract cost for satisfactory performance of said regular transportation services shall be billed and paid upon invoice specifically for those services provided during the preceding month. Payment of the amounts due under this Contract, as amended, shall release the District and its officers, employees, boards, commissions, committees, agents and representatives from any and all claims and liability in any way relating to this Contract or anything done in pursuance thereof.
5. No payment by the District to the Contractor shall be deemed to be a waiver of any right of the District under this Contract or ratification by the District of any breach hereof by the Contractor.
- 6 The Contractor shall furnish all materials, supplies, tools, equipment, labor and other services necessary for the performance of the work which is required by this Contract.
7. The Contractor shall comply with all provisions of Federal, Massachusetts and local law applicable to his work including without limitation statutes, by-laws, rules, regulations, orders and directives, as amended, in effect throughout the term of this Contract and any extension or renewal thereof. Without limitation, and if applicable, the Contractor shall comply with the provisions of Chapter 149, Section 26 to 27D of the Massachusetts General Laws, as amended, and the applicable minimum wage rates as determined by the Massachusetts Commissioner of Labor and Industries, and the provisions of Chapter 90A of the Massachusetts General Laws regarding the licensing of school bus operators. This Contract shall be considered to include in their entirety all terms respecting workers' compensation insurance and other terms required to be included in it by Chapter 152 of the Massachusetts General Laws, as amended, and any other laws, as though such terms were set forth in their entirety herein. The Contractor shall comply with all applicable provisions of law and regulation as specified by the Williams-Steiger Occupational Safety and Health Act of 1970, as amended.

8. The Contractor shall provide and maintain throughout the term of the Contract and any extension or renewal thereof the following insurance with companies that are A rated or better and authorized and licensed in the Commonwealth of Massachusetts to issue policies for the coverages and limits so required.
  - a. Workers' Compensation Insurance as required by the laws of the Commonwealth of Massachusetts
  - b. Commercial General Liability Insurance, \$1,000,000 each occurrence and \$2,000,000 aggregate limit. Commercial General Liability insurance shall include personal injury liability, broad form property damage liability, products/completed operations liability and broad form contractual liability.
  - c. Automobile Liability Insurance - Combined single limit of \$1,000,000; Uninsured Motorist Insurance \$250,000 each person, \$500,000 each accident; Under Insured \$250,000 each person, \$500,000 each accident.
  - d. Excess Liability Insurance - \$10,000,000 umbrella policy, providing coverage over commercial general liability insurance, automobile liability insurance, and employer's liability under workers' compensation insurance.
  - e. Additional Insureds - Each policy of liability insurance other than Employer's Liability under Workers' Compensation shall name the District and its officers, employees, boards, commissions and committees as additional insureds.
  - f. Cancellation or Amendment - Each policy of insurance, and the certificate or other evidence thereof, required to be purchased and maintained by the Contractor shall contain a provision or endorsement that the coverage afforded will not be cancelled or materially amended and no renewal will be refused until at least fifteen (15) days' prior written notice has been given to the District.
  - g. Copies evidencing such insurance shall be furnished to the District prior to execution of this Contract.
  - h. Failure to Provide and Maintain Insurance - Failure to promptly provide and continue in force such insurance shall constitute a material breach of this Contract and shall be grounds for immediate termination thereof by and in the sole discretion of the District.
9. The Contractor shall compensate the District for all damage to District property of any nature arising out of the Contractor's work. To the fullest extent permitted by law, the Contractor shall indemnify, defend, and hold harmless the District and all of its officers, employees, boards, commissions, agents and representatives from and against all claims, causes of action, suits, costs, damages, and liability of any kind which arise out of the

breach by the Contractor of its obligations under this Contract, or the negligence or willful misconduct of the Contractor, its subcontractors, or their officers, employees, agents and representatives or anyone directly or indirectly employed by them, or anyone for whose acts or omissions they may be liable, regarding the work to be performed by the Contractor under the Contract, or which arise out of the violation of any federal, Massachusetts or local statute, by-law, rule, regulation, order or directive, or which relate to personal injury or property damage suffered by the Contractor or any of its officers or employees regarding the subject matter of this Contract.

Neither the District, nor its officers, employees, boards, committees, commissions, agents and representatives shall be under any personal obligation or incur any personal liability by reason of this Contract, the execution thereof or anything relating thereto which arises out of the violation of any provision of this Contract, or the violation of any Federal, Massachusetts or local statute, by-law, rule, regulation, order or directive, or which relates to personal injury or property damage suffered by the Contractor or its employees, regarding the subject matter of this Contract.

10. The Contractor has entered into this Contract in reliance on his own examinations and estimates as to the amount and character of his work, and conditions which may be encountered in the performance thereof, and shall assume all risks and bear all losses pertaining thereto.
11. The Contractor shall provide services under this Contract as an independent contractor with the District and not as an employee of the District. No employee, agent or representative of the Contractor shall be entitled to receive any benefits of employment with the District, including without limitation salary, overtime, vacation pay, holiday pay, sick leave, health insurance, life insurance, pension or deferred compensation.
12. The Contractor shall, if required by the District, furnish a Performance Bond, acceptable to the District, as security for the faithful performance of its obligations under the Contract. Said Performance Bond shall be in the amount of ten percent (10%) of the Contract Price and shall be issued by a surety company qualified to do business under the laws of the Commonwealth of Massachusetts and approved by the District EACH YEAR. Said Performance Bond shall obligate the Contractor, its surety, and their successors and assigns for all of the work required to be performed by the Contractor under the Contract. Said Performance Bond shall otherwise conform to any and all documents incorporated by reference in this Contract.
13. Termination shall be in accordance with any and all documents incorporated by reference

in this Contract. In the event of termination, the Contractor shall be entitled to be paid for services rendered in accordance with this Contract prior to termination.

14. The Contractor warrants that it has in its employ, and will continue to have for the term of this Contract or any extension or renewal thereof, a sufficient number of persons experienced in performing pupil transportation services such that the Contractor's obligations under this Contract will be safely and promptly carried out. The Contractor warrants that its vehicles used by it in the performance of this Contract shall be free from any and all defects and shall be fit for the purposes for which they are intended.
15. The Contractor warrants that it is experienced in providing pupil transportation services and agrees that it will perform the services required by this Contract with the highest degree of professionalism and care.
16. Except as otherwise provided in this Contract, all notices required or permitted to be given hereunder shall be in writing and shall be delivered by certified mail or registered mail to the parties at the following address or such other address or addresses as to which party shall have notified the other party in accordance with this Section.

If to the Owner:

Superintendent of Schools  
Town of Wendell School District  
PO Box 7  
Erving, MA 01364

If to the Contractor:

F.M. KUZMESKUS, INC.  
32 MAIN ROAD  
GILL, MA 01354

17. Miscellaneous
  - a. Any action at law or suit in equity instituted by the Contractor as a result of the performance, non-performance or alleged breach of this Contract shall be filed in the Superior Court of the Commonwealth of Massachusetts for Franklin County, MA, and in no other court or jurisdiction.
  - b. No action or failure to act by the District shall constitute a waiver of a right or duty afforded to the District under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed in writing. No forbearance or indulgence in any form or manner

by the District shall be construed as a waiver or in any way limit the legal or equitable remedies available to the District. No waiver by the District of any default or breach by the Contractor shall constitute a waiver of any subsequent default or breach.

- c. If the Contractor discovers or is informed of any discrepancy or inconsistency in the Contract Documents in relation to any law, statute, ordinance, by-law, decree, code, rule, regulation, or order, the Contractor shall promptly, before commencing services under this Contract, report the same to the District in writing.
- d. The Contractor acknowledges that it has not been influenced to enter into this Contract, nor has the Contractor relied upon any warranties or representations not set forth in this instrument.
- e. The Contractor shall maintain the confidentiality of information designated by the District as confidential, unless withholding such information would violate the law or create a risk of significant harm to the public or unless the District has expressly waived such confidentiality in advance in writing.
- f. The Contractor shall not represent or purport to represent that it speaks for the District vis-à-vis the media or the public at-large without the District's express, written consent in advance.
- g. Prior to commencing services under this Contract, the Contractor shall furnish the District, in writing, the names, addresses and telephone numbers of not fewer than two principal employees of his business who are to be contacted in the event of an after-hours emergency.
- h. In the event of any conflict among the Contract Documents, the Documents shall be construed according to the following priorities:

Highest Priority:	Contract
Second Priority:	Addenda--later date to take precedence
Third Priority:	General Conditions
Fourth Priority:	Specifications

- i. The Contractor shall not assign in whole or in part this Contract or in any way transfer any interest in this Contract without the prior express written approval of the District;

- j. The Contractor shall not assign any money due or to become due to the Contractor unless the District shall have received prior written notice of such assignment. No such assignment shall relieve the Contractor of its obligations under this Contract.
- k. This Contract may be amended only by written consent of the parties;
- l. This Contract constitutes the entire agreement of the parties and any other agreement, written or oral, that may exist is excluded from this Contract. When executed, this Contract supersedes any other agreement of any of the parties in connection with the transaction contemplated;
- m. If any provision, or portion thereof, of this Contract shall be adjudged to be invalid or unenforceable by final judgment of a court of competent jurisdiction the remaining provisions shall continue in effect to the extent permitted by law;
- n. This Contract shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts, regardless of choice of law issues or principles;
- o. This Contract is executed as a sealed instrument.
- p. The Contractor certifies, pursuant to M.G.L. c. 62C, §49A, that it has complied with all laws of the Commonwealth relating to taxes, reporting of employees and contractors, and withholding and remitting child support.

AGREED:

Town of Wendell School District

F.M. KUZMESKUS, INC.

By:

By:

\_\_\_\_\_  
 Jennifer Culkeen  
 Superintendent of Schools

\_\_\_\_\_  
 Person Authorized to Sign  
 Title \_\_\_\_\_

Dated: \_\_\_\_\_

Dated: \_\_\_\_\_

By:

\_\_\_\_\_

Beth Erviti  
Town of Wendell School District  
School Committee

WITNESS:

\_\_\_\_\_

\_\_\_\_\_  
PRINT NAME

Dated: \_\_\_\_\_

(IF REQUIRED BY THE DISTRICT) APPROVED AS TO FORM:

\_\_\_\_\_  
Adam Dupere  
Counsel

Dated: \_\_\_\_\_



## **ATTACHMENTS**

- A. FM Kuzmeskus, Inc. Bid Forms for Erving School District**
- B. Addenda 2 with Submittal by FM Kuzmeskus, Inc. are included.**