



LINCOLN PUBLIC SCHOOLS

BUCKNER M. CREEL
ADMINISTRATOR FOR BUSINESS AND FINANCE

October 12, 2011

To: School Committee
Mickey Brandmeyer
From: Buckner Creel

Subject: Interim Agreement for Transportation – METCO

Background. At the School Committee meeting on August 8, 2011, members of the Committee and the administration reviewed the agreement for transportation services proposed by METCO Inc. and noted that the language of paragraph 5 was unacceptable. The original language stated, in part:

"5. The COMMITTEE agrees that all funds designated "Transportation," which include regular, late, special trips (charter), and emergency transportation and such other agreed upon transportation, contained within its currently approved project grant under the COMMITTEE'S Program to Eliminate Racial Imbalance shall be paid directly to METCO on a quarterly basis, or such other basis not less than quarterly to coincide with the State Department of Education's schedule of payments to school districts participating in the Program to Eliminate Racial Imbalance. Said funds are subject to adjustment upon receipt of an invoice from METCO based on any extraordinary or increased costs, including all amounts paid by METCO under any fuel, insurance or other adjustment clause in the subcontract; PROVIDED HOWEVER, that the total obligations of the COMMITTEE hereunder shall not exceed the sum appropriated and allocated by the Commonwealth for the purposes of this agreement..."

After some discussion, the METCO Inc administration agreed to the following substitute language:

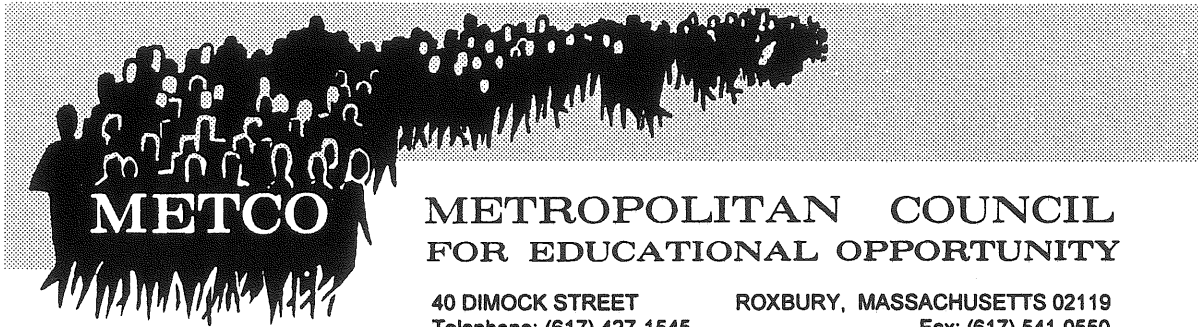
"5. The COMMITTEE agrees that METCO will invoice the COMMITTEE quarterly for all sums it has paid to the bus contractor under the subcontract. This invoice will include any adjustments based on any extraordinary or increased costs, including all amounts paid by METCO under any fuel, insurance or other adjustment clause in the subcontract; PROVIDED HOWEVER, that the total obligations of the COMMITTEE hereunder shall not exceed the sum appropriated and allocated by the Commonwealth for the purposes of this agreement..."

METCO also agreed to add the phrase in bold to paragraph 7:

"7. All communications from the COMMITTEE, its agents and employees concerning the transportation provided for herein, including all requests for services, all requests for schedules and routes and changes of schedules and routes, and all complaints shall be made to METCO and not to the bus operator or bus drivers. METCO shall, in consultation with the Public Schools of Lincoln, establish all routes and schedules and shall make changes therein after consultation;..."

During their review of the agreement language METCO Inc realized that other language in the agreement presented problems for their operations. In addition, other districts presented different concerns with the agreement to their attention. The METCO Business Manager and Directors decided to review the language with counsel over the next year, and ask that the Committee approve an interim, one-year agreement (copy attached) to cover services which have commenced.

Recommendation. METCO Inc.'s concerns are with language which is advantageous to us, but I expect the review to produce agreement language which more accurately reflects the practices of the last five years. I recommend that the School Committee approve the interim agreement. The administration will bring back the revised agreement for Committee review when it is proposed.



**METROPOLITAN COUNCIL
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AGREEMENT

This agreement is made and entered into this _____ day of October, 2011 by and between the School Committee of Lincoln Public schools and the Metropolitan Council for Educational Opportunity, Incorporated, hereinafter called METCO, and sets forth the obligations, promises, consideration and undertakings of the parties, upon the following terms and conditions.

Whereas, METCO desires to provide the transportation services for transporting students from Boston to Lincoln and from Lincoln to Boston, late transportation, and special transportation, which include parent as well as student transportation services;

Whereas, said COMMITTEE and METCO acknowledge that the total sum available for regular, late and special transportation hereunder is limited to the amount appropriated and allocated for transportation out of the funds appropriated for the METCO Program by the Commonwealth of Massachusetts for the fiscal year 2012.

NOW, THEREFORE, it is agreed and understood as follows:

1. METCO agrees to furnish transportation for certain pupils residing in the city of Boston, who attend public school in Lincoln, Massachusetts, for the period of August 25, 2011 through June 30, 2012. METCO also agrees to furnish the usual and necessary additional transportation customarily required for special purposes, insofar as funds therefore are available for after-school activities and parental visits. METCO'S determination of what additional transportation can be provided, within available funds, shall be conclusive.
2. METCO agrees to design routes, communicate same to parents of such students in a timely fashion, provide operational oversight of transport and liaison with bus operators, and perform such additional services as are reasonably required for full performance of the subcontract.
3. METCO agrees to draft specifications, receive bids in an appropriate manner for the purpose of awarding one or more contracts for transportation services, hereinafter collectively called the subcontract, and to award and administer such subcontract all in accordance with the provisions and requirements of General Laws, Chapter 40, Section 4 and General Laws, Chapter 30 B, Chapter 71, Section 7A to the extent applicable,

provided that all sums due from the COMMITTEE for such purposes are paid to METCO as described hereinafter.

4. METCO will pay all sums due the bus contractor under the subcontract. The COMMITTEE hereby agrees to pay METCO for such services as hereinafter described.
5. The COMMITTEE agrees that METCO will invoice the COMMITTEE quarterly for all sums it has paid to the bus contractor under the subcontract. This invoice will include any adjustments based on any extraordinary or increased costs, including all amounts paid by METCO under any fuel, insurance or other adjustment clause in the subcontract; PROVIDED HOWEVER, that the total obligations of the COMMITTEE hereunder shall not exceed the sum appropriated and allocated by the Commonwealth for the purposes of this agreement. Should unforeseen events or requirements necessitate additional funds for the purposes set forth in this Agreement, the COMMITTEE shall endeavor to obtain said funds from the Commonwealth. It is agreed further that the COMMITTEE shall not be liable for any amounts in excess of said appropriation, but that the COMMITTEE, at its option, may otherwise appropriate additional funds. In any case, should the COMMITTEE be unable to pay METCO any of such additional funds due hereunder, it shall so inform METCO as soon as possible, and in any event, ten (10) business days before the cessation of payments, and in writing, by registered or certified mail, postage pre-paid and evidenced by a signed return receipt.
6. METCO shall maintain on its books a separate account for the purpose of receiving and disbursing all funds for the subcontract. Said account shall be entitled "Transportation - Town of Lincoln." METCO shall cause to be performed an independent annual audit of said funds hereunder and shall, within a reasonable period after the close of the school year, provide a copy of said audit to the COMMITTEE, which will list all payments made by METCO under the subcontract for the Town of Lincoln, and all of the payments and credits received by METCO as a result of furnishing such transportation. The COMMITTEE shall, within 21 business days after receiving said audit, reimburse METCO for any and all expenses incurred hereunder and not otherwise compensated for PROVIDED HOWEVER that the obligation shall be subject to the provisions of Section 5. In the event the total sums paid to METCO by the fiscal agent for the account of the COMMITTEE hereunder exceed the payments made by METCO under the subcontract for the Town of Lincoln, METCO within 21 business days after rendering the accounting referred to above, shall reimburse the fiscal agent in full the amount of such unexpended sums.
7. All communications from the COMMITTEE, its agents and employees concerning the transportation provided for herein, including all requests for services, all requests for schedules and routes and changes of schedules and routes, and all complaints shall be made to METCO and not to the bus operator or bus drivers. METCO shall, in consultation with the Public Schools of Lincoln, establish all routes and schedules and

shall have the such power to make changes therein;
PROVIDED HOWEVER that the COMMITTEE shall at all times have the sole authority to establish and change school opening and closing times and school schedules. The COMMITTEE shall designate a single employee, or at its option, a single employee for each school serviced under this contract, who shall be responsible for all communications with METCO regarding cancellation of school on any day not later than 6:00 A.M. on such day, as far as is practicable.

8. If the COMMITTEE employs a Bus Monitor for any elementary route, the COMMITTEE shall include in the job description and hold said bus monitor responsible for at least the following functions:
 - a. boarding the bus at or before the third scheduled stop in the morning.
 - b. on return trips, remaining on the bus until the same scheduled stop.
 - c. crossing streets with elementary school children.
 - d. maintaining order on the bus.
 - e. reporting incidents of disobedience by students to their Supervisor or the METCO Transportation Department. In the event of Monitor absence from the bus due to sickness, personal emergencies, or any other reason, the COMMITTEE or its employees shall notify METCO and shall attempt to find a temporary replacement for the monitor if such absence exceeds 24 hours. METCO shall have no responsibility for supervision of the Bus Monitor's execution of duties.

9. Should unforeseen events occur whereby METCO, Incorporated is unable to continue the management of the transportation services as listed in this agreement, the management of terms stated herein may be assigned to the school district as long as both the district and METCO, Incorporated assent to such undertaking in writing.

EXECUTED AS A SEALED INSTRUMENT ON THE DAY AND YEAR SET FORTH ABOVE.

SCHOOL COMMITTEE OF LINCOLN

METROPOLITAN COUNCIL FOR
EDUCATIONAL OPPORTUNITY
(METCO), INC.

by: Chairman, School Committee

by: President, Board of Directors

by: Superintendent of Schools