

Browning Public Schools  
**Board Agenda Request**  
Meeting To Be Held: 9-13-2022



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**Recognition:**     Students                       Staff                       Parents  
**Information:**    Building Report             Old Business             Superintendent's Report  
**Action:**         Resignation                       Hiring                       Contract Service Agreements  
                     Travel Out-of-State             Travel In State             Approvals  
                     Termination                       Legal Matters             Other:  
                    This action request pertains to  Elementary (only)     High School/District Wide

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**Date:**        8-29-2022

**To:**            **Corrina Guardipee-Hall**  
                    Superintendent

**From:**        Wayne BullCalf  
**Title:**        Transportation Supervisor

**Subject:**    **Request to Purchase New Activity Bus 2022-2023**

**Description:** 2020 Grech Activity Bus

**Financial Impact:** \$262,288.00

**Funding Source (Budget/grant, etc.):** 111/211-96-167-2700-730

**Attachment(s):** Buyer's order

**Approval:** Superintendent's Office/Finance/Personnel as applicable (Initial) \_\_\_\_\_

**Comments:** \_\_\_\_\_

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**Board Action:**    N/A (Info)     Approved     Denied     Tabled to: \_\_\_\_\_



## ADDITIONAL TERMS AND CONDITIONS

- 1. DISCLAIMER OF WARRANTIES** When this Buyer's Order and Invoice involves the sale of a new vehicle, such vehicle is sold subject only to the manufacturer's new vehicle warranty which is expressly in lieu of all other warranties expressed or implied, including any implied warranty of merchantability or fitness for particular purpose and of any other obligations or liability on the part of either the Manufacturer or Seller. When this Buyer's Order and Invoice involves the sale of a used vehicle, such vehicle is sold AS IS, under no representation of any warranty, express or implied, including the implied warranty of merchantability or fitness for a particular purpose.
- 2. PARTIES** As used in this Order the terms (a) Seller shall mean the authorized Dealer to whom this Order is addressed and who shall become a party hereto by its acceptance hereof, (b) Buyer shall mean the party executing this Order as such on the face hereof, and (c) Manufacturer shall mean the Corporation or Company that manufactured the vehicle or chassis, it being understood by Buyer and Seller that Seller is in no respect the agent of Manufacturer, that Seller and Buyer are the sole parties to this Order and that reference to Manufacturer herein is for the purpose of explaining generally certain contractual relationships existing between Seller and Manufacturer with respect to new motor vehicles.
- 3. SECURITY INTEREST** The Buyer agrees that if Buyer gives a check, promissory note or a trade in as part of or all of the Cash Deposit or Net Equity or promises delivery of cash, Seller shall have a Security Interest in the vehicle purchased under this Buyer's Order and Invoice until such time as the check is presented and honored and the Seller has received payments in full for the same, the promissory note is paid in full to Seller and until such time as Buyer delivers to Seller a good and clear title to the trade in vehicle and executes and delivers to Seller any/all documents necessary to vest title to the trade in vehicle in Seller or its assignees, or delivers the promised cash.
- 4. PRICE CHANGES** Manufacturer has reserved the right to change the price to Seller of new motor vehicles without notice. In the event the price to Seller of new motor vehicles of the series and body type ordered hereunder is changed by Manufacturer prior to delivery of the new motor vehicle ordered hereunder to Buyer, Seller reserves the right to change the cash delivered price of such motor vehicle to Buyer accordingly. If such cash delivered price is increased by new motor vehicle, such used motor vehicle shall be returned to Buyer upon payment of reasonable charge for storage and repairs (if any) or, if such used motor vehicle has been previously sold by Seller, the amount received therefor, less a selling commission of 15% and any expense incurred in storing, insuring, conditioning or advertising said used motor vehicle for sale, shall be returned to Buyer.
- 5. TRADE IN** If the used vehicle which has been traded in as part of the consideration for the motor vehicle ordered hereunder is not to be delivered to Seller until delivery to Buyer of such motor vehicle, the used motor vehicle shall be reappraised at that time and such reappraisal value shall determine the allowance made for such used motor vehicle. If such reappraisal value is lower than the original allowance therefor shown on the front of this Order, Buyer may, if dissatisfied therewith, cancel this Order, provide however, that such right to cancel is exercised prior to the delivery of the motor vehicle ordered hereunder to the Buyer and surrender of the used motor vehicle to Seller. Buyer agrees to deliver to Seller satisfactory evidence of title to any used motor vehicle traded in as a part of the consideration for the motor vehicle ordered hereunder at the time of delivery of such used motor vehicle to Seller. Buyer warrants any such used motor vehicle is not a salvaged, wrecked, totaled, destroyed, damaged by flood, fire, collision, accident, trespass or other occurrence, reconstructed, or reassembled as defined under Colorado law (or the law of any state in which the vehicle was used, titled, registered, rented or leased). Buyer acknowledges that Seller has not had the opportunity to examine the current or former Certificate of Title to the vehicle and that Seller is relying on this representation in accepting the vehicle.
- 6. DAMAGES** Unless this Order shall have been canceled by Buyer under and in accordance with the provisions of paragraph 4 or 5 above, Seller shall have the right upon failure or refusal of Buyer to accept delivery of the motor vehicle ordered hereunder and to comply with the terms of this Order, to retain as liquidated damages any cash deposit made by Buyer, in as much as the parties agree actual damages would be difficult to determine, and, in the event a used motor vehicle has been traded in as a part of the consideration for the motor vehicle ordered hereunder, to sell such used motor vehicle and reimburse himself out of the proceeds of such sale for the expenses specified in paragraph 3 above and for lost profits, incidental damages, plus reasonable expenses for repair, cleaning, transportation and resale as Seller may incur or suffer as a result of such failure or refusal by Buyer.
- 7. VEHICLE SPECIFICATIONS** Manufacturer has reserved the right to change the design of any new motor vehicle, chassis, accessories or parts thereof at any time without notice and without obligation to make the same or any similar change upon any motor vehicle, chassis, accessories or parts thereof previously purchased by or shipped to Seller or being manufactured or sold in accordance with Seller's order. Correspondingly, in the event of any such change by Manufacturer, Seller shall have no obligation to Buyer to make the same or any similar change in any motor vehicle, chassis, accessories or parts thereof covered by this Order either before or subsequent to delivery thereof to Buyer. Buyer understands that damage to a new vehicle may have occurred during transit from the Manufacturer and has been repaired by Seller.
- 8. INTEGRATION OF TERMS** This Order, together with the Disclosure Statement and any Consumer Paper executed by Buyer in conjunction with this purchase constitutes the entire agreement between Buyer and Seller, and that any other representations or agreements, oral or written are hereby merged and integrated into the Order. Buyer further acknowledges receipt of a fully completed copy of this Order, and that upon delivery of the vehicle herein described this Order shall be deemed to constitute a Bill of Sale for the vehicle.
- 9. TAXES** The price of the motor vehicle specified on the face of this Order includes reimbursement for Federal Excise taxes, but does not include sales taxes, use taxes, extraordinary surcharges or taxes imposed by law or occupational taxes based on sales volume (Federal, State or Local) unless expressly so stated. Buyer assumes and agrees to pay, unless prohibited by law, any such sales extraordinary surcharges or taxes imposed by law or occupational taxes imposed on or applicable to the transaction covered by this Order, regardless of which party may have primary tax liability therefor.
- 10. ADDITIONAL DOCUMENTS** The Buyer, before or at the time of delivery of the motor vehicle covered by this Order, will execute such other forms of agreement or documents as may be required by the terms and conditions of payment indicated on the front of this Order.
- 11. ARBITRATION** Buyer agrees that in lieu of litigation in any court, all disputes resulting from or arising out of this sale, in contract or in tort, without limitation, shall be submitted to binding arbitration, pursuant to the provisions of the commercial rules of the American Arbitration Assoc then existing in the county where this sale is made, except that the arbitrator impaneled to arbitrate this matter shall be selected by the parties to this agreement from lists of suitable arbitrators supplied by the American Arbitrators Assoc. The arbitration filing fees and cost of the proceeding shall be taxed against the losing party. In the event of any action or arbitration arising out of or related to this transaction, Buyer shall pay Seller's attorney fees and costs.
- 12. EXCLUSIVE REMEDY** In the event of any breach of this agreement by Seller, Buyer's sole and exclusive remedy shall be a return of the purchase price paid under this agreement. In no event shall Seller be liable for any damages, including, but not limited to, loss of use, revenue or anticipated profits, or for any direct, indirect or consequential damages arising out of or in connection with the sale or use of the vehicle.

Buyer's Signature

*Francis W. Bell*

SIGN

Date

*8-29-22*