



London Breed, Mayor

Gwyneth Borden, Chair
Amanda Eaken, Vice Chair

Cheryl Brinkman, Director
Steve Heminger, Director

Jeffrey Tumlin, Director of Transportation

2020-2021 Commuter Shuttle Program Permit

Joshua Tyler, VP Operations
Lux Bus America Co.
560 Lincoln Avenue
San Jose, CA 95126

June 22, 2020

Dear Mr. Joshua Tyler,

The SFMTA has reviewed your permit application for participation in the Commuter Shuttle Program from July 1, 2020, through June 30, 2021. The SFMTA has approved your permit application. This letter and its attachments constitute the 2020-2021 Commuter Shuttle Permit No.18, authorizing Lux Bus America Co. (Permittee) to participate in SFMTA's Commuter Shuttle Program.

Under the terms of this permit, Permittee is authorized to load and unload passengers at Designated Network zones in accordance with the Permit Terms and Conditions for Permit Year 2020-2021 attached as Attachment A and using only those vehicles bearing the license plates on the list of Authorized Vehicles maintained on Permittee's Salesforce profile, which is incorporated by reference.

The Designated Network consists of zones legislated by the SFMTA for use by permitted commuter shuttle buses. The Designated Network zones are available at www.sfmta.com/commutershuttles.

Permittee shall abide by all requirements set forth in Attachment A (Permit Terms and Conditions for Permit Year 2020-2021).

I. SFMTA Contact

Permittee agrees to contact Sarah Hellman (Sarah.Hellman2@sfmta.com, 415.646.2336) with any changes to Permittee's information as required in the attached Permit Terms and Conditions.

II. Permit Term

This permit is valid in the City and County of San Francisco from July 1, 2020, through June 30, 2021, unless otherwise terminated or revoked.



2020-2021 COMMUTER SHUTTLE PERMIT NO. 18

Kate Toran

June 25, 2020

Kate Toran
Director, Taxis and Accessible Services Division

Joshua Tyler

June 25, 2020

Joshua Tyler
VP Operations, Lux Bus America Co.

Attachment A (Permit Terms and Conditions for Permit Year 2020-2021)



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Attachment A COMMUTER SHUTTLE PERMIT TERMS AND CONDITIONS PERMIT YEAR 2020-2021

(Capitalized terms shall have the meanings set forth in Section 914(a) of the San Francisco Transportation Code)

- I. Eligibility
 - A. Permittee shall use Designated Stops only for the purpose of providing privately operated and pre-arranged transportation services for the exclusive or primary use of a discrete group, such as clients, patients, students, staff, visitors or residents, between an entity's facilities or between the entity's facilities and other locations, on a regularly-scheduled basis to, from, and/or within San Francisco.
 - B. Permittee shall not use any Designated Stops to provide any of the following services, even if such service is being provided using permitted vehicles:
 1. Tours, sightseeing, recreational, or party services;
 2. On-call, point-to-point services (such as airport, or another on-demand service);
 3. Private individual fare transportation services;
 4. Vanpool services;
 5. Any services that replicate Muni transit routes;
 6. Other non-commute services not falling under paragraph I above.
- II. Indemnification
 - A. Permittee agrees to indemnify and hold the City and County of San Francisco, its departments, commissions, boards, officers, employees and agents ("Indemnitees") harmless from and against any and all claims, demands, actions or causes of action which may be made against the Indemnitees for the recovery of damages for the injury to or death of any person or persons or for the damage to any property resulting directly or indirectly from the activity authorized by the permit regardless of the negligence of the Indemnitees.
- III. Accessibility Plan Guidelines
 - A. Permittee shall demonstrate that it is equipped to meet the transportation service needs of persons with disabilities, and comply with its approved Accessibility Plan Guidelines, which is hereby incorporated by reference.
- IV. Compliance Plan Requirements
 - A. Permittee shall demonstrate that it has an established process for addressing complaints, training and communicating with drivers to ensure they understand the rules of the Commuter Shuttle Program.
 - B. Permittee shall follow the procedures outlined in its approved Compliance Plan, which is hereby incorporated by reference.
- V. Service Disruption Prevention Plan



- A. Permittee shall comply with its approved Service Disruption Prevention Plan, which is hereby incorporated by reference. At a minimum, the plan shall address:
 - 1. How bus breakdowns or stalls (mechanical or otherwise) will be remedied quickly so as not to block access to bus zones or impede the free flow of traffic;
 - 2. Sufficient bus availability to satisfy ridership demand, including bus spare ratio and ability to replace broken-down vehicles with equivalent vehicles that comply with Commuter Shuttle Program non-arterial street restrictions;
 - 3. Sufficient back-up driver staffing in the event that drivers are unable to work due to sickness or other reason, including driver spare ratio;
 - 4. Contingency routing plans in the case of construction, special events, parades, celebrations, rallies, protests or other activity that may block access to certain city streets; and
 - 5. A description of the means by which Applicant has considered the San Francisco Board of Supervisors' March 2015 Labor Harmony Resolution, including steps taken to avoid potential disruptions by addressing the principles and concerns set forth in that Resolution, and any agreements or documents evidencing such steps, shuttle driver schedules (including any split-shifts), work hours, working conditions, and wages, including but not limited to:
 - a. how Permittee will maintain its labor relationships (especially with shuttle drivers) so as to avoid disruptions to shuttle service;
 - b. how Permittee will provide consistent shuttle service, within the terms of the permit, in the event of any disruptions caused by contentious labor relationships, including but not limited to:
 - i. blockages of crosswalks, curb ramps, and sidewalks in ways that affect the convenience and safety of pedestrians;
 - ii. blockages of bus stops and bus lanes, in ways that cause congestion and unsafe operating conditions on the street; and
 - iii. blockages of traffic and bike lanes, in ways that cause congestion and unsafe operating conditions on the street.
- B. Permittee shall make all reasonable efforts to ensure its operations do not cause or contribute to any service disruptions.
- C. Permittee promptly shall provide notice to SFMTA within five business days, or as soon as is practicable, of any labor dispute of which it is aware, which may have the potential to cause a disruption of service.

VI. Shuttle Permit Authorization Stickers

- A. Permittee shall list all Shuttle Buses being operated in the Shuttle Service under the Shuttle Permit on the Permittee's Shuttle Permit Authorization Sticker (Sticker) application. Each Shuttle Bus shall display a valid SFMTA-issued Sticker visible from



outside the Shuttle Bus at front, rear, and each side locations on the Shuttle Bus as specified by the SFMTA, at all times such vehicle is being operated in Shuttle Service in the City. A Sticker may be used only on the vehicle listed on the application for that Sticker, and may not be transferred to any other vehicle without written approval from the SFMTA.

1. On the front of vehicle, the Sticker shall be affixed to the left of the license plate. If space is not available to the left of the license plate, affix immediately above or to the right of the license plate (within two inches of the license plate).
 2. On the rear of vehicle, the Sticker shall be affixed to the left of the license plate. If space not available to the left of the license plate, affix immediately above or to the right of the license plate (within two inches of the license plate). If a bicycle rack or other device affixed to the rear of the vehicle would obstruct a Sticker placed in accordance with these guidelines, the Sticker shall instead be placed in such a location on the rear of the vehicle where it will be clearly visible to members of the public.
 3. On the sides of the vehicle, the Sticker shall be affixed on the rear half of the vehicle, approximately halfway up the side of the bus in a manner that is clearly visible to members of the public.
 4. Permittee shall inform the SFMTA if it is not possible to affix a Shuttle Placard in the manner proscribed above due to the physical conditions of the vehicle and shall follow SFMTA instructions in making an alternative arrangement. Under no circumstance shall a Shuttle Bus be operated in Shuttle Service without a Shuttle Placard on each side of the vehicle.
- B. In the event that Permittee relinquishes a vehicle listed on its Sticker application or no longer wishes to use such a vehicle in Shuttle Service, Permittee shall notify the SFMTA and return the Stickers to the SFMTA or provide documentation of the disposal or destruction of the Stickers.

VII. Public Comment and Access

- A. Permittee shall designate a representative to receive comments or concerns about shuttle operations and driver conduct. Each authorized shuttle shall have a sticker or label that reads "How is my driving?" and includes a phone number to reach the designated representative placed on the back of each vehicle in accordance with any specifications issued by the Director.
- B. A representative shall be available to respond to complaints during business hours. Permittee shall provide a means for members of the public to leave a message outside business hours and a representative shall respond within one business day.
- C. Permittee may deviate from these guidelines only if granted express written authorization from the SFMTA.



- D. Any Permittee providing Shuttle Service that is free for use by the public, and which displays the words "Free to the Public" on the loading side of the shuttle vehicle in clearly legible letters at least four inches high shall be exempt from otherwise applicable permit fees for use of Designated Stops.
- VIII. Operating Guidelines: Operators of Shuttle Buses authorized under this permit shall obey the following Operating Guidelines:
- A. *Muni priority*: Muni buses shall be given priority at and approaching or departing Designated Stops;
 - B. *Yield to Muni*: Where Muni or other public transit buses are approaching a Designated Stop and when safe to do so, Permittee's vehicles shall allow such buses to pass so they may stop at Designated Stops first;
 - C. *Stay within the network*: Shuttle Buses shall not stop or stand in Muni stop "red zones" other than Designated Stops;
 - D. *Active loading; No staging or idling*: Permittee's Shuttle Buses shall use Designated Stops for active loading and unloading only and shall load and unload riders as quickly and safely as possible. Permittee shall not stage vehicles in Designated Stops, and will only stage vehicles at locations in accordance with parking laws and regulations;
 - E. *Move forward*: Operators shall pull as far forward as is safely possible in a Designated Stop to leave room for Muni or other shuttles;
 - F. *Pull in*: Operators shall pull all the way to, and parallel with, the curb for passenger boarding and alighting, and shall not load or unload passengers in a vehicle or bicycle lane, or in a manner that impedes travel in these lanes;
 - G. *Comply with all applicable laws*: Permittee shall comply with all applicable federal, state, and local laws, including the San Francisco Transportation Code, the California Vehicle Code, and applicable CPUC requirements, including those for registration, insurance, vehicle inspection, and regulation of drivers;
 - H. *Circulation*: Permittee shall route vehicles authorized under the permit on arterial streets and avoid steep and/or narrow streets to the extent possible. Vehicles authorized under the permit that are over 35 feet in length shall travel only on arterial streets as designated by the California Department of Transportation when providing service under the Permit, except as directed by police officers, authorized SFMTA staff, including Parking Control Officers, or traffic control devices;
 - I. *Restricted Streets*: Permittee will not route vehicles on weight- or capacity-restricted streets listed in Sections 501 and 503 of the Transportation Code, and will further route vehicles traveling in San Francisco that exceed 35 feet in length only on arterial streets as determined by the California Department of Transportation, except as directed by police or other law enforcement officers, authorized SFMTA employees, including Parking Control Officers, or official traffic control devices;



- J. *Training*: Permittee shall ensure that training for shuttle operators addresses the above operating guidelines; and shall document that all operators have viewed the SFMTA Large Vehicle Safety Video;
 - K. *Obey instruction from officials and traffic control devices*: Drivers operating Shuttle Buses authorized under this permit shall follow instructions from police or other law enforcement officers, authorized SFMTA employees, including Parking Control Officers, and official traffic control devices in the event of emergencies, construction work, special events, or other unusual traffic conditions. In the absence of such instructions during emergencies, construction work, special events, or other unusual traffic conditions, drivers shall use the shortest possible safe detour off of approved streets. Permittee shall notify the SFMTA within 24 hours of any such deviation;
 - L. *Stop limitations*: Permittee shall comply with access guidelines at Designated Stops, including but not limited to vehicle size limitations and designated hours of operation at specific stop locations, as instructed by SFMTA staff; and
 - M. *Collision and breakdown reporting*: In the event that a permitted shuttle vehicle breaks down or is involved in a collision while in Shuttle Service in San Francisco the operator shall notify the SFMTA of the incident within 24 hours of the incident's occurrence.
- IX. Data Reporting Requirements
- A. Permittee shall equip each Shuttle Bus with an on-board device capable of providing real-time location (or "telemetry") and stop-event data to the SFMTA in accordance with specifications issued by the Director, and shall maintain a continuous feed of the specified data at all times while the Shuttle Bus is being used to provide Shuttle Service within the City;
 - B. Permittee shall begin providing a continuous feed of such data to the SFMTA on the first day that the Permittee begins providing Shuttle Service under the Permit unless the Director establishes an alternate date, and shall continue to provide the data feed until Permittee ceases to provide Shuttle Service or is authorized by SFMTA to stop providing data;
 - C. Permittee agrees to provide data feeds solely for the use of the SFMTA from vehicles covered by the permit in accordance with SFMTA's specifications, as outlined in *Commuter Shuttle Program API Specification V3.1*, or any subsequent API document provided by the SFMTA;
 - D. The SFMTA shall not be responsible for any data reporting equipment, or for the failure of any equipment, installed inside any Shuttle Bus for any reason, including for the purpose of complying with these terms and conditions; and
 - E. If a Shuttle Bus becomes unable to provide the required data for any reason, Permittee shall not operate that Shuttle Bus in Shuttle Service without first notifying SFMTA of the identity of the bus, the route affected and the time at which Permittee expects the data transmission to be restored;



- F. Permittee agrees to provide the following data each month to the SFMTA:
 - 1. Daily stop-events by zone;
 - 2. Monthly vehicle miles traveled in commuter shuttle service in San Francisco (including any deadheading);
 - 3. Average daily boardings in commuter shuttle service in San Francisco;
 - 4. Average daily occupancy for each vehicle upon arrival at destination;
 - 5. Typical routes, and average number of runs per route; and
 - 6. Average number of daily shuttle vehicles in operation;
- G. Permittee shall provide information about fleet vehicle fuel type, ridership, routing, and other requested information within 15 business days of receiving such a request from the SFMTA;
- H. Permittee shall provide updated information to the SFMTA within five business days in the case of changes to any of the information provided as part of the Permit Application, including but not limited to:
 - 1. Change of primary contact, billing contact; and
 - 2. Increase in number of monthly stop events.
- X. Permit Fees
 - A. Except for Permittees exempt from fees as described in Section VII(D), Permittee shall pay a fee assessed monthly on a per stop event basis at the rate designated by the SFMTA.
 - B. Permittee shall update its average number of monthly stop events each month at each Designated Stop through the Commuter Shuttle Permit Application website and submit to a stop-event reconciliation every six months to compare the number of estimated stop-events with the number of stop-events actually made. The SFMTA does not issue refunds for estimated stop-events that are not made. If actual stop-events exceed the number of estimated stop-events by more than 10 percent, a penalty of 10 percent of the unpaid cost may be assessed, in addition to invoicing for the additional stop-events.
 - C. The SFMTA will bill based on an assumption of 22 operating days per month unless Permittee notifies the SFMTA that it will be operating a different number of days per month prior to the issuance of the invoice.
 - D. Any invoices sent by the SFMTA are due and payable within 30 days of invoice date. Fees remaining unpaid 30 days after the date of invoice shall be subject to a 10% penalty plus interest at the rate of 1% per month on the outstanding balance, which shall be added to the fee amount from the date that payment is due.
 - E. Payment of all outstanding fees, penalties and outstanding citations must be made prior to the issuance of any permit.
 - F. Under no circumstances will any shuttle permit fees be refunded.
- XI. Possessory Interest



- A. Permittee acknowledges that this Permit may create a “possessory interest” for property tax purposes. Generally, such a possessory interest is not created unless the Permit entitles the Permittee to possession, occupancy, or use of City property for private gain. If such a possessory interest is created, then the following shall apply:
1. Permittee, on behalf of itself and any permitted successors and assigns, recognizes and understands that Permittee, and any permitted successors and assigns, may be subject to real property tax assessments on the possessory interest.
 2. Permittee, on behalf of itself and any permitted successors and assigns, recognizes and understands that the creation, extension, renewal, or assignment of this Permit may result in a “change in ownership” for purposes of real property taxes, and therefore may result in a revaluation of any possessory interest created by this Permit. Permittee accordingly agrees on behalf of itself and its permitted successors and assigns to report on behalf of the City to the County Assessor the information required by Revenue and Taxation Code section 480.5, as amended from time to time, and any successor provision.
 3. Permittee, on behalf of itself and any permitted successors and assigns, recognizes and understands that other events also may cause a change of ownership of the possessory interest and result in the revaluation of the possessory interest. (see, e.g., Rev. & Tax. Code section 64, as amended from time to time). Permittee accordingly agrees on behalf of itself and its permitted successors and assigns to report any change in ownership to the County Assessor, the State Board of Equalization or other public agency as required by law.
 4. Permittee further agrees to provide such other information as may be requested by the City to enable the City to comply with any reporting requirements for possessory interests that are imposed by applicable law.

XII. Fleet Limitations

- A. Except for Shuttle Buses that were already approved for use in the commuter shuttle pilot program prior to January 31, 2016, all Shuttle Buses shall be either model year 2012 or newer or be equipped with a power source that complies with emissions standards applicable to model year 2012 vehicles of the same type.
- B. As of January 1, 2020, all Shuttle Buses used by Permittee in the Commuter Shuttle Program shall be model year 2012 or newer or be equipped with a power source that complies with emissions standards applicable to model year 2012 vehicles of the same type.
- C. After January 1, 2020, all Shuttle Buses used by Permittee in the Commuter Shuttle Program shall be no more than eight model years old or be equipped with a power source that complies with emissions standards applicable to vehicles of the same type eight model years prior.



- D. SFMTA ensures compliance with this condition through the annual permit renewal process, which requires submittal of vehicle registration and, in the case of vehicles older than model year 2012 placed in Shuttle Service after January 31, 2016, documentation to show compliance with applicable emissions standards.
- E. All Shuttle Buses must possess a valid California registration. The SFMTA will not issue Stickers to Shuttle Buses with out-of-state registration.

XIII. Violations and Penalties

- A. Any Permittee that is operating a Shuttle Bus in violation of these terms and conditions or Section 914(h) of the San Francisco Transportation Code may be subject to penalties, including being cited for violation of the California Vehicle Code or the issuance of a citation and imposition of an administrative penalty in accordance with Section 914(l) of the San Francisco Transportation Code.
- B. In particular, Permittees should be aware that:
 - 1. A Shuttle Bus stopping or parking at any Muni stop, including a Designated Stop, in violation of the terms and conditions set forth in San Francisco Transportation Code Section 914 and these terms and conditions may be cited for violation of California Vehicle Code Section 22500(i); and.
 - 2. A Shuttle Bus stopping or parking at any white zone in the Designated Stop network in violation of the terms and conditions set forth in San Francisco Transportation Code Section 914 and these terms and conditions may be cited for violation of San Francisco Transportation Code Section 7.2.38.
- C. Permittee shall, in a timely manner and as otherwise required by law, pay all traffic and parking citations issued to its Shuttle Buses in the course of providing Shuttle Service, as well as all permit fees, administrative penalties for permit violations, and any other amounts due to SFMTA in connection with Shuttle Service operated by Permittee, subject to the Permittee's right under applicable law to contest any citations, fees or penalties.

XIV. Grounds for Suspension or Revocation

- A. The Director of Transportation ("Director") may suspend or revoke this permit upon written notice and opportunity for hearing. Upon revocation or suspension, Permittee shall surrender such Permit and the Stickers authorized under the Permit in accordance with the instructions in the notice of suspension or revocation;
- B. Where the SFMTA determines that public safety is at risk, or where the Permittee's continued operation as a Shuttle Service Provider would be in violation of the California Public Utilities Code or the California Vehicle Code, the SFMTA is authorized to suspend a permit issued immediately upon written notice of suspension to the Permittee, provided that the Director shall provide the Permittee with the opportunity for a hearing on the suspension within five business days of the date of notice of suspension; and



- C. A Permit may be suspended or revoked following the Director's determination after an opportunity for hearing that:
1. the Permittee has failed to abide by any permit condition; including repeated failure to pay the Designated Stop use and permit fee or any penalties imposed for violation of Transportation Code Section 914;
 2. the Permittee knowingly or intentionally provided false or inaccurate information on a permit application;
 3. one or more of Permittee's Shuttle Buses have, in the course of providing Shuttle Service, repeatedly and egregiously violated parking or traffic laws;
 4. the Permittee's continued operation as a Shuttle Service Provider would constitute a public safety risk; or
 5. the Permittee's continued operation as a Shuttle Service Provider would be in violation of the California Public Utilities Code, the California Vehicle Code, or the San Francisco Transportation Code.