

THE SCHOOL DISTRICT OF ESCAMBIA COUNTY  
PURCHASING DEPARTMENT

SCHOOL BOARD EXECUTIVE SUMMARY

October 16, 2012

V. D. CONSENT AGENDA / PURCHASING

5. School Bus Routing Software (Transfinder) for Transportation

DESCRIPTION OF PURCHASE:

Purchase and installation of Transfinder school bus routing software. The software provides tools for route overlap analysis resulting in improved routing efficiency, bus stop sequencing optimization, policy analytics, safety boundary creation, transportation eligibility assessment and walk zone definition. It also provides school personnel read-only access to student transportation information and busing assignment information, and includes a satellite photography layer to enable route managers to "drive" routes to detect route and bus stop hazards at street level as they perform their routing functions. See attached agreement.

REQUESTED BY:

Transportation

DISTRICT GOAL SUPPORTED:

District Goal #E.1: Safety: To improve safety in the learning, work, and virtual/technological environment.

SUPPLIER NAME:

Transfinder, Schenectady, NY

AMOUNT OF PURCHASE:

\$58,995.00 (First Year)  
\$17,000.00 (Second Year)

FUNDING SOURCE:

General Fund (1110) – Regular Operations – Departments  
(0100)

METHOD OF PROCUREMENT:

Negotiation/Agreement

OTHER REFERENCES:

School Board Rule 6Gx17-5.02(4)(f) – Acquisition of Information Technology Resources

## SERVICES AND LICENSE AGREEMENT

THIS AGREEMENT is made and entered into this 16th day of October, 2012 by and between Transfinder Corporation, hereinafter referred to as "TRANSFINDER," and the School Board of Escambia County (Florida), hereinafter referred to as "the BOARD."

WITNESSETH:

TRANSFINDER and the BOARD, for consideration described herein, mutually agree as follows:

1. Scope. TRANSFINDER shall furnish for consideration computerized school bus routing technology as described herein, including any upgrades, enhancements, or improvements to which the BOARD is entitled.
2. Term. The software license shall begin October 17, 2012 and continue until terminated for cause after notice and unsuccessful remedy involving the failure of either party to comply with provisions of this Agreement.
3. Assignment. This is a non-transferable and non-exclusive Agreement between TRANSFINDER and the BOARD.
4. Force Majeure. The parties shall be excused from performance hereunder during the time and to the extent that they are prevented from performing in the customary manner by an act of God, fire, flood, war, riot, civil disturbance, terrorism, epidemic, quarantine, strike, lockout, labor dispute, labor shortage, oil or fuel shortage, freight embargo, rationing or unavailability of materials or products, loss of transportation facilities, commandeering or equipment, materials, products, plants, or facilities by the Government, or any other occurrence which is beyond the control of the afflicted party, when satisfactory evidence thereof is presented to the other party.
5. Responsibilities.
  - a. Data Conversion – The School District of Escambia County, Florida, hereinafter "the DISTRICT," will assist TRANSFINDER in acquiring all the required student and school information for the Routefinder Pro system. The data must be provided in required ASCII or DBF file format or the DISTRICT will enter the data manually. TRANSFINDER will convert the student and school data to the Routefinder Pro system format.
  - b. County Map(s) – TRANSFINDER will convert a compatible GIS map(s) provided by the DISTRICT, or will provide commercially available map data as stated elsewhere in this Agreement.
  - c. Installation – TRANSFINDER will provide the DISTRICT with an installation CD and instructions for installation and will be available remotely during a mutually agreeable time to assist the DISTRICT with installing Routefinder Pro with map(s) and student data from the initial download and conversion on DISTRICT-owned computer hardware.

d. Training – TRANSFINDER will provide system training as stated elsewhere in this Agreement. The DISTRICT may purchase additional training.

e. Remote Connectivity – The DISTRICT must have a high-speed Internet connection and agree to permit TRANSFINDER to connect remotely to the DISTRICT's computers and network for online training, support and software installation. TRANSFINDER will connect to the DISTRICT's computer(s) using secure remote desktop sharing technologies.

f. System Maintenance – TRANSFINDER will provide on-line remote support, unlimited telephone support, updates, and revisions. In order to manage any changes in pupil transportation, TRANSFINDER will upgrade Routefinder Pro on a consistent basis to satisfy the growing demands of pupil transportation. There is not an additional charge for the upgrades unless they are unique to the DISTRICT.

## 6. Fee & Payment Schedule.

a. The TRANSFINDER Software system initial cost of fifty-eight thousand nine hundred ninety-five dollars (\$58,995.00) is due upon successful deployment. "Successful deployment," is defined here as four (4) months after Routefinder Pro files, map(s) files required to support the DISTRICT's area, student and map data resulting from the initial download, and data conversion files have been loaded into DISTRICT computers, and the software performs upon installation to the satisfaction of the DISTRICT. Successful deployment, as defined above, shall be completed no later than May 31, 2013. Payment shall be made upon successful deployment. The TRANSFINDER Software system as it applies to this Agreement includes:

- (1) Routefinder Pro – Transportation Management System
  - (a) Nine (9) User Software License Routing and Scheduling System
  - (b) Transfinder will convert a compatible GIS map(s) provided by the DISTRICT, or will provide a commercially available map for Escambia County
  - (c) MS SQL Server or MS ACCESS database connectivity
  - (d) Powerful tools for route overlap analysis, stop sequence optimization, and policy analytics
  - (e) Eligibility assessment & walk zone definition
  - (f) Export routes to Google Earth for drivers & administrators
  - (g) Driver certification functionality
  - (h) Field trip resource tracking, cost calculator, billing, invoicing, & reporting
- (2) Infofinder le – Web-based Intranet System
  - (a) Site license, unlimited users
  - (b) Provides school personnel read-only access to student transportation information
  - (c) Provides functionality for "online" field trip/sports busing requests and approvals
- (3) Infofinder Mobile – Available for all generations of iPad®, iPhone®, and iPod Touch®, running on IOS5 or IOS6.

- (a) Remote data access for transportation data, maps, and reports
- (b) Site license, unlimited users
- (4) Transfinder Busfinder – GPS Integration Module [five hundred (500) vehicles]
  - (a) Requires a compatible GPS technology
- (5) Infofinder i
  - (a) Allows parents and DISTRICT staff to obtain busing and school assignment information
- (6) Online Training
  - (a) Unlimited online training until January 6, 2014
  - (b) Sessions scheduled in advance with your Transfinder Project Manager
  - (c) Personalized training with the District data and county map(s)
- (7) Import Integration Functionality
  - (a) Custom import functionality for importing data from the TERMS AS400 system
- (8) Satellite Imagery Service
  - (a) Satellite Imagery Service, powered by Microsoft Bing, adds a satellite photography layer to Routefinder Pro
- (9) First Year System Support and Maintenance (as described below)

b. The system support and maintenance fee (technical support & updates) for Routefinder Pro is free for the first full school year after successful deployment. The first payment of the annual system support and maintenance fee of seventeen thousand dollars (\$17,000.00) is due on the successful deployment anniversary date, beginning in 2014 and subsequent payments of seventeen thousand dollars (\$17,000.00) are due on the same date every year thereafter for as long as the DISTRICT retains system support and maintenance. This agreement will span more than one (1) appropriation period of the District, therefore, should the District be required to cancel technical support and system updates under this agreement for reason of non-availability of funds in a future appropriation period, cancellation shall take effect upon receipt of written notice to Transfinder. Successful deployment shall be completed no later than May 31, 2013. TRANSFINDER will continue to provide technical support and system updates to the DISTRICT for as long as the annual system support and maintenance fee is paid. TRANSFINDER system support and maintenance includes:

- (1) Routefinder Pro or Servicefinder System Support and Maintenance
  - (a) Unlimited technical support for each site operator of the software
  - (b) Software upgrades and program enhancements as they are developed and deployed
  - (c) Participation in regional user seminars (offered occasionally throughout the United States)
  - (d) Unlimited access to MyTransfinder, an exclusive part of the TRANSFINDER website dedicated to the DISTRICT's organization offering training, user manuals, the TRANSFINDER knowledgebase, download capabilities, and more
  - (e) Unlimited custom report creation wherein TRANSFINDER customizes specific reports to meet exacting specifications

- (f) Custom data integration module modifications and maintenance as needed
- (2) Infofinder *le* System Support
  - (a) Unlimited technical support on Infofinder *le* for technology staff and for each site operator of the Routefinder Pro system
  - (b) Software upgrades and program enhancements for Infofinder *le* as they are developed and deployed
- (3) Infofinder *i* Internet Service Annual Support
  - (a) Unlimited technical support on Infofinder *i* for technology staff and for each site operator of the Routefinder Pro software
  - (b) Software upgrades and program enhancements for Infofinder *i* as they are developed
  - (c) System maintenance of the Infofinder *i* server, located at TRANSFINDER headquarters

c. Expenses for travel and living are not included in the initial cost. If or when travel and living becomes necessary and agreed to by DISTRICT in support of this agreement, payment will be made in accordance with DISTRICT's Travel Policy.

d. CPI means the Consumer Price Index for all Urban Consumers, South – Size Class B/C: all items (December 1996 = 100), not seasonally adjusted, as published by the Bureau of Labor Statistics, United States Department of Labor (or the replacement index therefore published by the Bureau of Labor Statistics or its successor if the CPI has been discontinued, or if there is not such replacement index, a reasonably comparable index selected by DISTRICT).

Commencing May 31, 2017, the system support and maintenance fee may be adjusted by the change in CPI as follows. If there is a decline in the CPI for any given year, system support and maintenance fee will not be reduced lower than seventeen thousand dollars (\$17,000.00). Using the CPI published as of October 31, 2012 as the Basic Index, the agreed system support and maintenance fee may be adjusted to the quotient obtained by dividing (C) into the product of (A) multiplied by (B), where (A) is the CPI as of October 31 in the immediately preceding agreement year for which the adjustment is being computed; where (B) is the rate for the initial agreement year (prior to any adjustment) and where (C) is the Basic Index. The result of that calculation will be multiplied by the initial agreement year rate to determine the new rate set forth in the agreement for the applicable agreement year. When Transfinder desires that the rate for the following contract year is adjusted under these provisions, Transfinder will provide no later than August 15 a detailed written statement of Transfinder's calculations pursuant to this procedure. Rate adjustment will not be automatic, it must be requested. The rate adjustment pursuant to this procedure will be rounded to the same level of detail as the rate set forth in the initial contract year. Fifteen (15) business days will be given to specify in writing to the Contractor any reasonable objection to such calculation as set forth in this procedure, and in the event no objection is made, then the rate adjustment will be conclusive. In the event of reasonable disagreement regarding the calculation in accordance with this procedure, the District will continue to pay the prior contract year rate until such disagreement is resolved, in which case, the District will pay the difference as reasonably agreed upon by the parties (such agreement to be conclusive). In the

event the parties cannot reach a reasonable agreement within sixty (60) days, then the Superintendent's designee will conclusively determine the issue.

7. Late Payment. All system support and maintenance invoices will be paid by or on behalf of the BOARD within thirty (30) days. If any valid system support and maintenance invoice tendered by TRANSFINDER is not paid when due, TRANSFINDER shall reserve the right to suspend updates, maintenance, support services and consulting, training and implementation services until payment is made, contingent upon funding availability.

8. License Agreement.

a. Grant of License – TRANSFINDER grants the BOARD a non-exclusive, non-transferable license to use Routefinder Pro, and the accompanying documentation. Each Routefinder Pro system may be installed only on the hard drive of a single-user, stand-alone computer. TRANSFINDER retains the title to Routefinder Pro and related materials. The BOARD agrees to protect Routefinder Pro from unauthorized use, duplication, reproduction, distribution, or publication. In addition, the BOARD will not allow any person who is not an employee, company, organization, or other entity to have access to Routefinder Pro and related materials. TRANSFINDER reserves all rights not specifically granted in this license. Routefinder Pro is a © copyright of TRANSFINDER. All rights reserved.

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b. Non-permitted Uses – The DISTRICT may not make copies of Routefinder Pro. The DISTRICT may not install Routefinder Pro centrally on a network without obtaining a separate licensed software package for each terminal or workstation from which Routefinder Pro will be actually accessed. This restriction is not intended to limit the authorized user's remote access to his or her licensed computer. The DISTRICT may not rent, lease, sub-license, timeshare, or lend Routefinder Pro under this license. The DISTRICT may transfer the license on a permanent basis if the person receiving it agrees to the terms and conditions set by TRANSFINDER. The DISTRICT may not alter, decompile, disassemble, or reverse-engineer Routefinder Pro, or make any attempt to unlock or bypass the initialization system or encryption techniques utilized by Routefinder Pro. The DISTRICT may not remove or obscure TRANSFINDER or any other copyright and trademark notices.

9. Limited Warranty.

a. Software. TRANSFINDER warrants its software will perform substantially in accordance with its documentation and that it will perform consistent with generally accepted industry standards. Routefinder Pro is a customizable product. TRANSFINDER shall not be liable for any direct, indirect, consequential, or incidental damages arising out of the use, misuse, or inability to use the software except when such damages arise when the software does not perform substantially in accordance with its documentation and generally accepted industry standards. TRANSFINDER's liability shall not exceed the amount paid for the software.

b. Training and Technical Services. TRANSFINDER warrants that its training and technical services will be provided in a good and workmanlike manner.

c. General Terms – Only a written agreement authorized by both the BOARD, and TRANSFINDER's President/CEO, shall constitute a warranty or increase the scope of this warranty. This Limited Warranty is governed by the laws of the State of Florida.

10. Bankruptcy. All rights and licenses granted under or pursuant to this Agreement by TRANSFINDER to the DISTRICT are, and shall otherwise be deemed to be, for the purpose of Section 365(n) of the U.S. Bankruptcy Code, and any similar or successor federal statute, all as the same shall be in effect at the time (the "Bankruptcy Code"), licenses of rights to "intellectual property" as defined under Section 101 of the Bankruptcy Code. The parties agree that the DISTRICT, as a licensee of such rights under this Agreement shall retain and may fully exercise all of its rights and elections under the Bankruptcy Code. The parties further agree that, in the event of an adjudication of a bankruptcy proceeding by or against TRANSFINDER under the Bankruptcy Code, the DISTRICT shall be entitled to a complete access to, as appropriate any such intellectual property and all embodiments (including source code) of such intellectual property, and same, if not already in its possession shall be promptly delivered to the DISTRICT upon the DISTRICT's written request (a) upon any such adjudication of a bankruptcy proceeding, unless TRANSFINDER elects to continue to perform all of its obligations under this Agreement; or (b) if not delivered under (a) above, upon the rejection of this Agreement by or on behalf of TRANSFINDER. The DISTRICT shall have the right to modify, adopt and prepare derivative works based on such intellectual property only for maintenance, support and internal development purposes. Nothing herein implies the transfer of property rights, but deals only with access to such software or source code.

11. Breach and Termination.

a. If the BOARD shall have committed a material breach of this Agreement, then TRANSFINDER may give written notice of such breach, and the BOARD shall have (60) sixty-days within which to cure. If the BOARD fails to cure such breach within such (60) sixty-day period, then TRANSFINDER shall have the right to terminate this Agreement.

b. If TRANSFINDER shall have committed a material breach of this Agreement, then the BOARD may give written notice of such breach, and TRANSFINDER shall have (60)

sixty-days within which to cure. If TRANSFINDER fails to cure such breach within such (60) sixty-day period, the BOARD then shall have the right to terminate this Agreement.

c. If the default relates to the original licensing fee fifty-eight thousand nine hundred ninety-five dollars (\$58,995.00) when due, then TRANSFINDER, at its option may affirm the agreement and recover the full purchase price and agreed expenses, plus cost of collection, including attorney's fees or may terminate this agreement and has the right to remove all original software product, installation modifications, work product, including any product upgrades and any local copies thereof.

d. Upon termination of this Agreement, the BOARD will destroy all written materials, the Routefinder Pro software, TRANSFINDER data, and all software and copies of TRANSFINDER data.

12. Notice, Severability & Jurisdiction.

a. Notice – Notices to either party to this Agreement shall be in writing and shall be considered duly served and delivered if such notice is delivered by hand; mailed via United States mail, certified, return receipt requested or sent via overnight mail or shipping service at each party's respective address herein before set forth or at such address as the party may provide in writing from time to time.

b. Severability – If any provision or portion thereof of this Agreement is invalid under any applicable statute or rule of law it is so to that extent to be deemed omitted from this Agreement and with the balance of the Agreement remaining in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date written above.

For TRANSFINDER:

\_\_\_\_\_  
Antonio Civitella, President & CEO

For the BOARD:

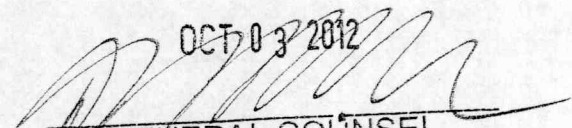
Attest:

Approved:

\_\_\_\_\_  
Malcolm Thomas, Superintendent

\_\_\_\_\_  
Bill Slayton, Board Chair

APPROVED FOR LEGAL CONTENT  
FOR Oct 2012 AGENDA

OCT 03 2012  
  
GENERAL COUNSEL  
ESCAMBIA COUNTY SCHOOL BOARD