

## PUPIL TRANSPORTATION AND TRANSPORTATION FLEET MAINTENANCE SERVICES CONTRACT

THIS PUPIL TRANSPORTATION AND TRANSPORTATION FLEET MAINTENANCE SERVICES CONTRACT, (the "Contract") entered into as of July 1, 2013 (the "Effective Date") by and between **WALLED LAKE CONSOLIDATED SCHOOL DISTRICT**, a Michigan general powers school district, whose address is 850 Ladd Road, Building D, Walled Lake, Michigan 48390 (hereinafter the "School District") and **DEAN TRANSPORTATION, INC.**, a Michigan corporation, whose address is 4812 Aurelius Road, Lansing, Michigan 48910 (hereafter the "Contractor") (each a "Party" and collectively the "Parties").

### RECITALS

A. The School District issued a Request For Proposals for Pupil Transportation Services dated February 28, 2013, as amended by the Addendum 1 and Addendum 2, dated March 11, 2013 and March 19, 2013 respectively (collectively the "RFP"), the purpose of which was to solicit proposals from qualified vendors with the ability to provide pupil transportation services and transportation fleet maintenance services for the School District.

B. The Contractor submitted to the School District a Proposal in response to the RFP, dated March 22, 2013, to provide the pupil transportation services and transportation fleet maintenance services to the School District (the "Proposal").

C. The Parties have, in accordance with the provisions of the RFP, conducted negotiations concerning the Contractor's Proposal.

D. Pursuant to the terms of the RFP, the Contractor is required to enter into a written contract with the School District following written acceptance of the Proposal by the School District.

NOW THEREFORE, in consideration of the foregoing and the mutual covenants set forth herein, the Parties agree as follows:

### 1. **RESTATEMENT CONSTITUTES THE CONTRACT**

#### 1.1 **Incorporation By Reference.**

The object of this Contract is to formalize in one document the complete agreement between the Parties, and to do so by specifically incorporating by reference into this Contract, the RFP, all Addenda to the RFP, the Proposal and other related documents, and by including certain additional necessary or appropriate Contract terms, particularly where the Contract terms agreed to by the Parties during the RFP negotiation process do not correspond with the RFP.

#### 1.2 **Order Of Precedence.**

The Contract Documents, which all are incorporated herein by reference, include the following:

- i. This Contract;
- ii. The RFP;
- iii. **Exhibit B** to this Contract – Contractor's Pricing Forms;
- iv. **Exhibit A** to this Contract the Facility Use Agreement; and

v. Contractor's Proposal.

To the extent that the terms and conditions of the Contract Documents are in conflict, the terms and conditions shall be interpreted in the above-referenced order from (i) to (v). However, the Parties also agree that where there is not a conflict between any of the terms and conditions contained in the above-referenced Contract Documents, all of the Contract Documents shall be binding upon both parties, except to the extent exceptions contained in the Contractor's Proposal are not expressly accepted by the School District in writing.

2. **CONTRACT DURATION AND CHARACTERISTICS**

2.1 **Initial Term**. The term of this Contract shall be for a period of three (3) years, commencing July 1, 2013 and ending June 30, 2016 (the "Initial Term").

2.2 **Renewal Term(s)**. The School District shall have the option to extend this Contract by a three (3) year renewal term, subject to the written approval of the School District, in its sole and absolute discretion (the "Renewal Term"). Nothing in this Contract requires the School District to exercise its option the Renewal Term and Contractor has no expectation of a contract beyond the Initial Term, or the Renewal Term if it is exercised.

3. **RELATIONSHIP BETWEEN PARTIES**

3.1 **Independent Contractor**. It is expressly agreed between the Contractor and the School District that the Contractor will act as an independent contractor in the performance of its duties under this Contract and under no circumstances shall any of the employees of one party be deemed the employees of the other for any purpose. Accordingly, Contractor shall meet all of its obligations and responsibilities for payment of all taxes including Federal, State and Local taxes arising out of Contractor's activities in accordance with this Contract, including by way of illustration but not limitation, Federal and State income tax, Social Security tax, Unemployment Insurance taxes, Workers' Compensation Insurance and any other taxes or business license or permits fees as required. This Contract shall not be construed as authority for either party to act for the other party in any agency or other capacity or to make commitments of any kind for the account of, or on behalf of, the other party, except to the extent, and for the purposes, expressly provided for and set forth herein, and no partnership or joint venture is created hereby. Neither the Contractor nor its employees or agents shall be entitled to participate in any plans, arrangements, or distributions by the School District pertaining to or in connection with any fringe, pension, bonus, profit sharing, or similar benefits, or any medical, dental, life or disability insurance plans. Further, the School District will not withhold or pay any State, Federal or Local taxes, FICA, FUTA, MESC Insurance or Workers' Compensation Insurance and Contractor will indemnify, defend and hold the School District harmless for the payment of such sums, interest, penalties, or cost of collection of same, including reasonable attorney fees. No tenure or other rights/benefits typically arising out of an employee-employer relationship shall arise out of this Contract on behalf of Contractor, its employees or agents.

#### 4. SCOPE OF SERVICES

The Contractor shall perform all of the services described herein and those services that may not be described herein, but are necessary to perform the services described herein.

4.1 **Transportation Services.** Throughout the Initial Term, and any Renewal Term(s) which is/are exercised, the Contractor shall provide the following pupil transportation services (collectively the "Transportation Services"):

4.1.1 **Daily Transportation Services.** The Contractor shall provide safe, efficient and reliable, on-time transportation from designated bus stops approved by the School District to school and from school to designated bus stops approved by the School District for general education, special needs students or those other persons eligible or authorized for transportation service (collectively the "Students") on a daily basis in accordance with the School District's defined parameters and policies and procedures and the terms and conditions of this Contract. The Contractor shall also provide safe, efficient and reliable, on-time Mid-Day Transportation and Shuttle Service (as defined below) for Students in accordance with the School District's defined parameters and policies and procedures and the terms and conditions of this Contract (the transportation to and from school, Mid-Day Transportation and Shuttle Service shall collectively be referred to as the "Daily Transportation Services"). The Contractor shall not use any "vans" or other similar vehicles to transport Students, and all such vehicles used by Contractor shall be in accordance with all applicable laws.

4.1.2 **Other Transportation Services.** The Contractor shall provide safe, efficient and reliable, on-time transportation for Students and authorized School District personnel to and from those curricular and extra-curricular activities as requested by the School District, including, but not limited to, field trips, extra-curricular trips and athletic events, in accordance the School District's defined parameters and policies and procedures and the terms and conditions of this Contract (the "Other Transportation Services"). Notwithstanding the foregoing, or anything herein contained to the contrary, the School District reserves the right to lease other buses or vehicles from other approved providers to transport Students to and from field trips, athletic events and/or other special events. The Contractor shall not use any "vans" or other similar vehicles to transport Students, and all such vehicles used by Contractor shall be in accordance with all applicable laws. It is agreed by the Parties that the Other Transportation Services does not include any Ambucab or taxi cab services. If the School District desires the Contractor to provide, and the Contractor is able to provide, these Ambucab or taxi cab services, such services will be at a mutually agreed up negotiated rate. Moreover, it is further agreed by the Parties that the Contractor shall not be obligated to pay any fees or monies to any parochial schools or parents for transportation services, such as amounts for transit passes or other transportation funding amounts associated with parochial schools.

4.1.3 **Mid-Day Transportation and Shuttle Service.** The Contractor shall provide safe, efficient and on-time Mid-Day Transportation in accordance with the School District's defined parameters and policies and procedures and the terms and conditions of this Contract. Shuttle Service shall include transportation of Students between buildings during school operating hours, as requested by the School District.

4.2 **Maintenance Services.** Throughout the Initial Term, and any Renewal Term(s) which is/are exercised, the Contractor shall provide the following "Maintenance Services":

4.2.1 **Bus Maintenance.** The Contractor shall maintain all School District-owned buses and Contractor-owned buses serving the School District in a good and safe mechanical and operating condition. All such buses shall be maintained in a clean and sanitary condition and shall have good interior and exterior appearance during the entire Initial Term and any Renewal Term(s), if any, of the Contract. The Contractor shall maintain all buses in strict accordance with all State, Federal, and any other local government minimum standards for school buses, including but not limited to, the Pupil Transportation Act, Michigan Public Act 187 of 1990, as amended, MCL 257.1801 *et seq.* (the "Pupil Transportation Act"), and such additional requirements as set forth herein. The Contractor shall maintain the buses so that their condition remains equal to or exceeds that condition recorded on the written inspection form provided to School District by the Contractor, normal wear and tear excepted. Mechanically, the buses shall be maintained in a condition approximating that set out by the original manufacturer and as necessary to pass all required school bus inspections. The Contractor shall only use "OEM Approved" replacement parts on School District-owned buses. Failure to maintain the buses in a condition acceptable to the School District will constitute a default of this Contract. The Contractor shall provide annually to the School District a schedule which details all routine and preventative maintenance scheduled for each School District-owned and Contractor-owned bus, as well as a monthly report to the School District, detailing all service done to each School District-owned and Contractor-owned bus. Once the existing allotment of Spare Parts (as defined in Section 4.2.5), hand tools, supplies, materials and equipment is exhausted, it shall be Contractor's responsibility to procure all Spare Parts, hand tools, supplies, materials and equipment necessary to provide the Transportation Services and Maintenance Services required under the Contract.

4.2.2 **Additional Vehicle Maintenance.** If requested by the School District, the Contractor shall maintain other School District-owned vehicles (referred to herein as the School District's "White Fleet") in a good and safe mechanical and operating condition. Mechanically, the White Fleet shall be maintained in a condition approximating that set out by the original manufacturer(s). Failure to maintain the White Fleet in a condition acceptable to the School District shall constitute a default of this Contract.

- 4.2.3 **Cost of Bus Maintenance.** The Contractor shall be responsible for all costs and expenses associated with the maintenance of all School District-owned buses and Contractor-owned buses serving the School District (both parts and labor) throughout the Initial Term and Renewal Terms, if any.
- 4.2.4 **Cost of White Fleet Maintenance.** If requested by the School District, all costs for labor and parts required for the maintenance and repair of the White Fleet will be paid for by the School District. Necessary labor to maintain and repair the White Fleet shall be reimbursed at the hourly (or ¼ hour fraction thereof) rate set forth in **Exhibit B.** The Contractor will be responsible for ordering all necessary parts through the applicable approved vendor(s). All such orders shall be titled in the name of the School District. Any such parts shall be solely used to perform the White Fleet Maintenance Services. Invoicing and payment of these White Fleet Maintenance parts will be directly between the vendor and the School District. Notwithstanding the foregoing, the Contractor will be responsible for the payment of any orders of excess or incorrect White Fleet Maintenance parts placed by the Contractor, its employees or agents.
- 4.2.5 **Credit of Existing Parts Inventory.** Prior to the Effective Date, the School District and the Contractor shall mutually inventory all spare parts, including but not limited to motor oil, spark plugs, windshield wipers, air filters, tires, etc. (collectively the "Spare Parts"), supplies, materials and equipment which are owned by the School District and located at the Facility (the "Inventory"). Those Spare Parts and Inventory which are mutually deemed to be obsolete will be properly disposed of, and the Contractor shall assist the School District in disposing of any such obsolete parts as necessary. Any and all Spare Parts and Inventory which are mutually deemed useable by School District and Contractor for the provision of the Transportation Services and Maintenance Services under this Contract may be utilized by Contractor. The School District and Contractor shall mutually agree upon a value of those mutually agreeable usable parts in writing. The Contractor shall credit the School District for the value of the mutually agreeable usable parts upon the use of the parts each month until exhausted. Such existing Spare Parts shall be used solely for the maintenance and repair of School District-owned vehicles and buses. The Contractor shall document and update the useable parts inventory until depleted.
- 4.3 **Routing.** Throughout the Initial Term, and any Renewal Term(s) which is/are exercised, the Contractor shall provide for efficient routing of all Transportation Services of the School District as more fully set forth in Section 8.1 of this Contract.
- 4.4 **Personnel.** Throughout the Initial Term, and any Renewal Term(s) which is/are exercised, the Contractor shall select, train, compensate (both wages and benefits) and retain all personnel necessary for the provision of the Transportation Services and Maintenance Services as more fully set forth herein.

- 4.5 **Student Discipline.** The Contractor's bus drivers will be responsible for the safe management of their buses and when necessary, must initiate student discipline in accordance with the School District's Bus Code. Throughout the Initial Term, and any Renewal Term(s) which is/are exercised, the Contractor shall cooperate with the School District regarding any Student discipline arising out of the Transportation Services, as requested and as mandated by School District policies, procedures and guidelines, as those may be amended from time to time by the School District's Board of Education. The Contractor shall comply with all applicable Family Educational Rights and Privacy Act ("FERPA").
- 4.6 **Communication.** Throughout the Initial Term, and any Renewal Term(s) which is/are exercised, the Contractor shall provide effective communication with the School District, including, but not limited to, all Contractor personnel, parents, students and the community. Additionally, the Contractor shall be responsible for monitoring and responding to e-mail communications and complaints received through the School District's dedicated transportation e-mail account.
- 4.7 **Inclement Weather Responsibilities.** The Contractor shall be responsible for assisting the School District in conducting road checks and providing feedback on safety issues when the School District is considering cancelling school due to inclement weather. The decision to cancel school will be at the School District's sole and absolute discretion.
- 4.8 **Student Safety Programs.** The Contractor shall prepare and administer Student safety programs that instruct Students on proper bus riding practices and safety. These safety programs shall be in accordance with the School District's policies, procedures and practices. These shall include practice bus evacuations at least three (3) times each school year. The Contractor will also be required to participate in the School District's kindergarten round-up programs held at each elementary school.

## 5. BUSES

- 5.1 **School District-Owned Buses.** The Contractor shall utilize those School District-owned buses currently in service and identified by the School District to provide the Transportation Services. Title to School District-owned buses shall remain with the School District. The Contractor shall use School District-owned buses only to provide the Transportation Services. The School District shall provide prior to the commencement of the Initial Term, the model, year, body type and odometer reading of each School District-owned bus that will be made available for use by the Contractor for the Transportation Services.
- 5.2 **Contractor-Owned Buses.** The Contractor shall procure new/additional Type I or Type II buses (as defined in the Pupil Transportation Act), at the Contractor's sole cost and expense, during the Initial Term of this Contract as needed to perform the Transportation Services and maintain the eight (8) year average age and fourteen (14) year maximum age of the daily route buses in the transportation fleet as set forth in Section 5.6 of this Contract, provided, however, that prior to ordering or purchasing any new buses, the Contractor shall obtain the School District's written approval regarding which School District-owned buses the new

bus(es) will replace, and as part of this approval process, the School District shall have the right to not approve new bus purchases proposed by the Contractor if the School District has the ability to secure new buses. Moreover, the School District reserves the right to review and approve any bus(es) proposed to be purchased by the Contractor to ensure they meet the safety and operational requirements of the School District, and the School District shall have the right to alter these operational requirements at any time. Title to the new buses purchased by Contractor, if any, shall remain with the Contractor. These buses shall be used, in conjunction with the School District-owned buses, to provide the Transportation Services. All Contractor-owned buses shall have "WALLED LAKE CONSOLIDATED SCHOOLS" on the belt line. Spare buses may exceed the fourteen (14) year maximum age and not be used in the calculating the average age of the fleet, provided the spare buses shall be maintained in the same manner as the daily route buses.

- 5.3 Bus Specifications and Equipment.** All buses used to provide the Transportation Services shall be operated, equipped and maintained in strict compliance with all applicable Federal, State and Local laws, rules and regulations, including but not limited to the Pupil Transportation Act, as well as all School District Board of Education policies, procedures, rules and regulations. If any equipment or portion of a bus in the fleet is damaged due to the acts or omissions of the Contractor, the Contractor shall be liable for, and shall repair or replace such damage to a condition as good as prior to such damage occurring, at its sole cost and expense.

- 5.3.1 Radio Communication System.** All School District-owned and Contractor-owned buses shall be equipped with a two-way radio communication system. All School District-owned buses are currently equipped with a narrow-band compliant two-way radio communication equipment. To ensure that the radios are in good operating condition at all times, the Contractor shall maintain all radio communication equipment in good working order. The Contractor shall maintain the entire radio communications system, and shall document existence of a maintenance contract annually to the School District, at its sole cost and expense. The Contractor may utilize the radio communication equipment currently installed in School District-owned buses, as well as spare equipment and base station(s) for Contractor's on-site management personnel, at no cost to the Contractor. The Contractor may upgrade the radio communication system for the buses if it so desires, upon the prior written approval of the School District. All radio communication equipment on School District-owned buses shall be used exclusively for Transportation Services operated for the School District. The Contractor shall instruct all bus drivers and other appropriate personnel regarding the use and operation of the radio communication equipment in accordance with all applicable laws, rules, policies and procedures, including but not limited to those of the Federal Communication Commission (the "FCC") and the School District. If the Contractor changes, modifies or upgrades any of the radio communication equipment, at the expiration or earlier termination of this

Contract, all School District-owned buses shall be equipped with a fully operational radio communication system of like or equal quality as the system on the School District-owned buses at the commencement of this Contract, at no cost to the School District.

5.3.2 **Additional Equipment and Systems Added by Contractor.** Contractor agrees to implement and install the Zonar Global Positioning Satellite ("GPS") System on all School District-owned and Contractor-owned buses serving the School District. Further, Contractor agrees to implement and install an integrated electronic Child Reminder System on all School District-owned and Contractor-owned buses serving the School District. All of these aforementioned systems shall be purchased, implemented, installed, operated and maintained at the Contractor's sole cost and expense. At the expiration or earlier termination of the Contract, all buses servicing the School District shall have equipment in good working order.

5.3.3 **Video Surveillance System.** Eighty (80) buses in the School District's fleet are equipped with a four (4) camera color video and audio surveillance system. The successful Contractor may utilize this video surveillance system currently installed in School District-owned buses, as well as spare equipment, at no cost. If the School District requests Contractor to install any additional video surveillance camera systems on buses, these shall only be installed by Contractor at the School District's written request. The School District will either pay for the camera system directly, or if the Contractor purchases, the School District will be billed at the per diem rate set forth in **Exhibit B**. The successful Contractor shall maintain the entire video surveillance system, at its sole cost and expense utilizing manufacturer authorized personnel and parts. The successful Contractor may upgrade the video surveillance system, or may substitute this system for their own, at its sole cost and expense, upon the prior written approval of the School District. At the expiration or earlier termination of the Contract, all buses servicing the School District shall have equipment equal to that which is on those buses at the commencement of the Contract, which equipment shall be in good working order. The Contractor acknowledges that it shall cooperate with the School District regarding, and adhere to the School District's policies, procedures, rules and regulations relating to, the use of video surveillance tapes, viewing and disclosure thereof in connection with any Student disciplinary or other actions relating to Students arising from the Transportation Services.

5.4 **Bus Inspections.** All buses shall be inspected by Contractor on a daily basis for defects (mandatory federal and/or state pre-trip inspections) and Contractor shall cause to be remedied any defects before using said buses. All buses shall be inspected annually in accordance with the Pupil Transportation Act (by the Michigan Department of State Police (the "MSP") or other entity authorized by law and approved by the School District in advance and in writing) and the Contractor shall submit, in writing, the inspection results of all School District-

owned and Contractor-owned buses serving the School District within thirty (30) days of the completion of the inspections required by law. Contractor shall verify to the School District in writing prior to the commencement of the Initial Term of this Contract, that all buses used for the provision of the Transportation Services have been inspected as required by law and have passed that inspection. Contractor shall neither operate nor permit to be operated any bus which has not been inspected as required by law or has failed inspection. The School District shall have the right to inspect, at any time, any and all buses used for the provision of the Transportation Services for purposes of ensuring compliance with all applicable laws and the terms and conditions of this Contract. Any violation of this subparagraph 5.4 will result in an automatic and immediate termination of this Contract.

- 5.5 Spare Buses.** The Contractor shall keep and maintain, in strict accordance with all applicable laws and this Contract, seventeen (17) spare buses (or 18% of the number of Route buses if the number of Route buses is increased/reduced above/below 97 buses) to perform the Transportation Services in accordance with the terms and conditions of this Contract, unless otherwise agreed to by the School District in writing. If the School District requires the Contractor to maintain any fleet of spare buses greater to or less than the quantity required above, the Parties agree to negotiate in good faith to either: (i) adjust the pricing to reflect the increased/decreased maintenance/overhead costs associated with the modified spare bus fleet size; or (ii) agree upon the fees which the School District will pay for the maintenance and overhead costs for the additional spare buses if a larger spare bus fleet size is required in addition to that required above.
- 5.6 Age of Buses.** Type I and Type II buses used for the provision of the Transportation Services shall not exceed the age of fourteen (14) years (except buses dedicated as spares). The average age of the daily route buses in the fleet shall not exceed eight (8) years. The "age" of a bus shall be determined each July 1 based upon the model year of the bus. These age limits shall be maintained by the Contractor unless approved in advance by the School District in writing. Subject to Section 5.2 above, the Contractor shall purchase new buses, which title to said new buses will remain with the Contractor, during the Initial Term or any Renewal Term(s) in order to maintain these replacement standards. If the purchase of new buses is approved by the School District, the Contractor shall notify the School District in writing at least thirty (30) days prior to purchasing a replacement bus and such notice shall indicate the School District-owned bus(es) which is/are being permanently retired/replaced to enable the School District to sell or dispose of said retired School District-owned bus(es). Notwithstanding the foregoing, spare buses may exceed the maximum age requirements set forth above, provided all federal, state, School District and Contractor safety, operational and mechanical requirements are met, and further provided that if the School District requests to maintain buses in excess of the replacement requirements set forth above, the School District shall be responsible for all maintenance costs (both parts and labor) associated with those buses.

5.7 **Bus Re-Purchase.** In the event this Contract expires or is earlier terminated as provided for herein, the School District shall have the right to purchase, at its sole discretion, Contractor-owned buses serving the School District in order to permit the School District to operate all necessary transportation services. If this option is exercised by the School District, the School District shall pay the Contractor an pro-rata amount determined by amortizing the Contractor's full acquisition cost over a 14 year "life limit" of the bus using a straight-line depreciation calculation. This re-purchase transaction shall be in a form acceptable to the School District and in compliance with all applicable laws.

5.8 **Removal From Service.** A bus shall be declared unfit for service and removed from service if the bus:

- 5.8.1 Does not comply with the legal requirements, including, but not limited to, the Pupil Transportation Act; or
- 5.8.2 Is defective in a way that threatens the safety of Students or of persons near or around the bus; or
- 5.8.3 Is defective in a way that, if the bus were operated, it may damage the bus or damage the School District's property.
- 5.8.4 Exceeds the Contractor's standards for the age of the bus being a maximum age of fourteen (14) years for Type I buses and fourteen (14) years for Type II buses, unless approved in advance by the School District in writing.

Such buses shall not be returned to service until the defect or cause of non-compliance has been corrected.

5.9 **Fuel.** The School District agrees to purchase diesel fuel associated with the Transportation Services provided under this Contract. The Contractor shall not use any fuel purchased or paid for by the School District for any purpose other than to operate the school buses used to perform the Transportation Services for the School District required under this Contract. The Contractor shall utilize the School District's system for tracking fuel usage for the buses. The Contractor shall monitor the volume of the School District's fuel tanks regularly, maintain the required records for such monitoring, and submit this information and fuel usage information in the recording system to the School District at times requested by the School District, provided however, the School District reserves the right to review the fuel usage recording system at any time. Any damage caused by the Contractor, its employees or agents to the School District's fueling station or equipment, or the fuel tracking system or its components shall be repaired/replaced at the Contractor's sole cost and expense. Moreover, the Contractor shall provide Class C underground storage tank ("UST") training to all bus drivers or other individuals dispensing fuel.

## 6. **CONTRACTOR PERSONNEL**

The Contractor shall provide all personnel necessary for the provision of the Transportation Services and Maintenance Services under this Contract. All Contractor personnel shall wear uniforms that are acceptable to the School District. All Contractor

personnel shall wear a Contractor-issued picture identification badge, approved by the School District, at all times and said badge shall be worn above the waist.

6.1 **Management Personnel.** The Contractor shall, at a minimum, provide throughout the Initial Term and any Renewal Term(s) of this Contract, one (1) on-site, full-time experienced manager, and all necessary corresponding administrative assistants, dispatchers, routers and other personnel, who shall be responsible for the Contractor's performance of its management obligations under this Contract. The Contractor shall be responsible for all costs of employment, including any costs and expenses for wages, benefits, payroll taxes, workers' compensation and unemployment insurance and any other related costs of employment, mandatory or otherwise for all Management Personnel. The Contractor must schedule the Management Personnel so that all components of the Transportation Services and Maintenance Services are covered Monday through Friday, with office/management coverage from at least 5:30 a.m. to 5:30 p.m. It is expected that no lapse in office coverage will occur. Additionally, it will be expected that appropriate Contractor personnel will respond to any emergency calls associated with the Transportation Services after normal hours and on weekends. The assigned manager shall have, at a minimum, qualifications which meet the standards set forth in the requirements of the Pupil Transportation Act. The manager must hold and maintain a current commercial driver's license and a current school bus driver certificate in accordance with the Pupil Transportation Act.

6.2 **Maintenance Personnel.** The Contractor shall, at a minimum, provide throughout the Initial Term and any Renewal Term(s) of this Contract, one (1) on-site lead certified mechanic (with the minimum qualifications as required by the State of Michigan) and at least four (4) on-site certified mechanics (with the minimum qualifications as required by the State of Michigan), who shall be responsible for all Maintenance Services. Maintenance Services must be available and performed between 5:00 a.m. and 6:30 p.m. daily, Monday through Friday. It is expected that no lapse in coverage will occur and that all buses necessary to perform the Transportation Services will be maintain and operational on all days needed. The lead mechanic and other mechanics must hold and maintain a current commercial driver's license and a current school bus driver certificate in accordance with the requirements of the Pupil Transportation Act, as well as other licenses, certifications and endorsements necessary to perform the Maintenance Services. The Contractor shall be responsible for all costs of employment, including any costs and expenses for wages, benefits, payroll taxes, workers' compensation and unemployment insurance and any other related costs of employment, mandatory or otherwise, for all Maintenance Personnel. All Maintenance Personnel must be in the federally mandated DOT and non-DOT pool for random drug and alcohol testing. Moreover, the Contractor shall have a certified Class A and Class B underground storage tank ("UST") operator for the operation of the School District's fuel tanks.

### 6.3 Bus Driver Personnel.

The Contractor shall provide throughout the Initial Term and any Renewal Term(s) of this Contract, all necessary drivers and/or paraprofessionals/transportation aides, as required to perform the Transportation Services contemplated herein. The Contractor shall be responsible for all costs of employment, including any costs and expenses for wages, benefits, payroll taxes, workers' compensation and unemployment insurance and any other related costs of employment, mandatory or otherwise, for all Bus Driver Personnel.

**6.3.1 School District's Philosophy:** It is the School District's intent to provide high-quality Transportation Services and to ensure the safety and comfort of the School District's Students. The Contractor hereby recognizes the following examples of safety standards for its personnel.

**6.3.1.1** For the protection of Students, the drivers and other persons who have contact with Students and their families shall meet or exceed all certifications and requirements mandated by all applicable federal, state and local laws, rules and regulations.

**6.3.1.2** The Contractor shall neither allow any person to drive a school bus if that person's conduct might in any way expose Students to any impropriety of word or conduct, nor shall the Contractor allow any person to drive a school bus who is not, at any time, in a condition of mental and emotional stability.

**6.3.1.3** The use of tobacco and the possession or use by any person of alcohol, controlled substances, illegal drugs, firearms, knives, or other weapons are prohibited on school buses, or School District property.

**6.3.1.4** All drivers and paraprofessionals/bus aides shall comply with School District policies concerning student management and discipline, including, but not limited to, non-discrimination and corporal punishment of Students.

**6.3.1.5** No driver or paraprofessional/bus aide shall be assigned by the Contractor to work in the School District if they have been dismissed or removed from performing services for another school district or client of Contractor for unprofessional or illegal conduct.

**6.3.2 Pre-employment Screening:** The Contractor shall be responsible to develop and implement a pre-employment interview and/or screening program for all candidates for employment with the Contractor to perform the Transportation and Maintenance Services. It is expected that all Contractor personnel are in compliance with any and all applicable federal and state laws, rules, ordinances, School District policies and regulations and licensing and permitting requirement applicable to providing the Transportation Services contemplated in this Contract, including, but not limited to:

**6.3.2.1** Meeting all of the requirements of the Pupil Transportation Act, including, but not limited to, (i) not permit any person 17 years of

age or less operate any bus; (ii) not permit any person to operate a bus unless that person possesses a valid chauffeur's license, the appropriate vehicle group designation, a passenger vehicle endorsement, and a school bus endorsement as required under section 312e of the Michigan vehicle code, 1949 PA 300, MCL 257.312e; (iii) not permit any person with a commercial driver license to operate a bus, unless the operation is in compliance with the drug and alcohol testing regulations under 49 CFR parts 40 and 382; (iv) ensure a commercial driver license skills test has been passed by all persons who have violated any portion of MCL 257.1849(4); and (v) ensure that all bus drivers appropriately self-certify their commercial driver's license.

**6.3.2.2** Providing all training for all bus drivers, regardless of whether they are full-time, temporary or substitute drivers. All drivers shall, at a minimum, receive at least six (6) hours of in-service training bi-annually from Contractor as required by the Pupil Transportation Act. All drivers shall be adequately trained to ensure proficiency in operating the bus to which the driver will be assigned. Drivers who are assigned to transport special needs Students shall be adequately trained and physically able to carry out the transportation of the special needs Students.

**6.3.2.3** Establishing and administering tests acceptable to the School District that are designed to determine the presence of illegal drugs, controlled substances, or alcohol. The Contractor shall conduct random and reasonable suspicion drug and alcohol testing for all safety sensitive employees according to Federal and Michigan law, rules and regulations and School District policy. The Contractor shall have a zero tolerance policy for testing positive to drugs and alcohol and shall immediately remove a driver or other personnel from working under this Contract if they refuse to submit to a drug test, tests positive for illegal drugs, controlled substances or alcohol or violates the law, possesses, sells or consumes illegal drugs, controlled substances or alcohol on School District property.

**6.3.2.4** Not providing or allowing any bus drivers under this Contract who have more than six (6) points currently on his/her driving record pursuant to the State of Michigan point system maintained by the Michigan Secretary of State for safety of all Students. Contractor shall also not provide any drivers under this Contract who have been convicted at anytime of driving under the influence of intoxicating liquor or an illegal substance. All drivers shall be carefully selected as to character and ability and must meet and pass all requirements and tests provided under federal and state laws, rules and regulations, including, but not limited to, the Pupil Transportation Act.

6.3.2.5 Meeting the requirements of the *School Safety Initiative Legislation*, being MCL 380.1230, 380.1230a, 380.1230c, 380.1230d and 380.1230g. The Contractor acknowledges and agrees that unless the School District notifies the Contractor that it is not subject to the provisions of Michigan Public Act 84 of 2006, as amended, the Contractor will have any and all of its agents, employees or representatives who will regularly and continuously be on any School District premises to carry out the Transportation Services or Maintenance Services contemplated by the Contract Documents, fingerprinted and subjected to criminal history and background checks through the Michigan State Police and Federal Bureau of Investigation, as detailed in Public Act 84 of 2006, as amended, prior to commencing any work under this Contract by presenting themselves, or any of its agents, employees or representatives, for proper fingerprinting and criminal background checks, as directed by the School District, or provide written notification to the School District that Contractor or its employee(s) has previously completed fingerprinting and a criminal history and background check in connection with contracting or working for another Michigan school district, intermediate school district, public school academy or nonpublic school (each an "Agency") and consents to the sharing or transferring of the appropriate fingerprinting and criminal history background report from the other Agency. If Contractor wishes to receive a copy of any report, it shall have the employee provide written consent to the School District acknowledging its consent to provide Contractor with a copy of the report at the time fingerprinting and background checks are initiated. Additionally, unless notified it is not subject to Michigan Public Act 84 of 2006, as amended, the Contractor represents and warrants to the School District that it will at all times during the Initial Term or any Renewal Term of this Contract be in compliance with the provisions of Michigan Public Act 84 of 2006, as amended, including, but not limited to, reporting to the School District within 3 business days of when any of its agents, employees or representatives who will regularly and continuously be on the School District's premises to carry out the Transportation Services and/or Maintenance Services contemplated by the Contract Documents, is/are charged with a crime listed in Section 1535a(1) or 1539b(1) of the Revised School Code, being MCL 380.1535a(1) and 380.1539b(1), or a substantially similar law, and to immediately report to the School District if that person is subsequently convicted, plead guilty or plead no contest to that crime. The Contractor shall indemnify, defend and hold the School District, its employees, Board of Education, and each member thereof, agents and consultants, harmless from and against any and

all claims, counter-claims, suits, debts, demands, actions, judgments, liens, liabilities, costs, expenses, including actual attorneys fees and actual expert witness fees, arising out of or in connection with any violation of, or the Contractor's failure to comply with, the requirements of Michigan Public Act 84 of 2006, as amended, or this paragraph. The Contractor shall be responsible for all costs and expenses associated with the above-required fingerprinting and background checks. The Contractor shall supply all necessary data and information, as requested by the School District, to enable the School District to properly submit Contractor and its employees and agents for inclusion in the State of Michigan Department of Education's list of "registered educational personnel."

## **7. CONTRACTOR RECORDS AND REPORTING REQUIREMENTS**

The Contractor shall make available to the School District at any time all operating, personnel and maintenance records that the School District may request. Additionally, the Contractor will provide certain regular reports to the School District as specified by the School District.

### **7.1 Records To Be Maintained By The Contractor:**

**7.1.1 Operating Records:** The Contractor, during the Initial Term and any Renewal Term of this Contract, shall maintain, and permit the inspection of by the School District at its request, records indicating route numbers, bus numbers, the name and number of Students transported to each school site, the number of miles and hours driven, and the program to which the Students are assigned (being either regular education or special education). These operating records shall contain all information necessary for the School District to completely fulfill all reporting requirements mandated by the State of Michigan, including but not limited to, Pupil Transportation Forms SE-4094, SE-4096, and SE-4107. These records must be provided to the School District at least two (2) weeks prior to the required filing date so that the School District may timely file all of the necessary aforementioned reports to receive any and all allotted transportation reimbursement from the State of Michigan or its respective Intermediate School District ("ISD").

**7.1.2 Personnel Records:** The Contractor, during the Initial Term and any Renewal Term of this Contract, shall maintain, and permit the inspection of by the School District at its request, records that include documentation of all drivers, management, and support staff compliance with all legal requirements and with all standards and requirements set forth in the Contract or requested by the School District. The Contractor shall furnish to the School District the following information semi-annually relative to each driver, and Contractor shall be responsible for keeping such information current:

**7.1.2.1** Name of driver (last, first and middle initial):

- 7.1.2.2 Proof of proper licensure, including the driver's driving permit and driver's license number, beginning bus certification cards, and 2-year continuing education cards;
  - 7.1.2.3 Bus Driver Certification status and schedules;
  - 7.1.2.4 Normal routing assignment;
  - 7.1.2.5 Normal bus assignment.
  - 7.1.2.6 Unprofessional Misconduct Reports.
  - 7.1.2.7 Up-To-Date Criminal Background Check Reports.
  - 7.1.2.8 DOT card and certification of medical fitness.
  - 7.1.2.9 Commercial Driver's license self-certification record.
- 7.1.3 **Bus Records:** The Contractor, during the Initial Term and any Renewal Term of this Contract, shall maintain, and permit the inspection of by the School District at its request, the following records, at no cost to the School District:
- 7.1.3.1 The number of buses unavailable for service during each school bus operating shift (morning run, midday run, or afternoon run) due to inspection, repair, or other reason;
  - 7.1.3.2 The number and details of any roadway breakdown or halt of service suffered by buses that serve the School District;
  - 7.1.3.3 Details of Other Transportation Services, including hours and mileage of each run performed; and
  - 7.1.3.4 All pre-trip inspection sheets completed by drivers transporting the School District's Students.
  - 7.1.3.5 The model, year, body type and odometer reading of each bus and the Contractor shall provide this information annually, by June 30 or each year, to the School District.
- 7.1.4 **Maintenance Records.** The Contractor, during the Initial Term and any Renewal Term of this Contract, shall maintain, and permit the inspection of by the School District at its request, the following records, at no cost to the School District:
- 7.1.4.1 Bus and vehicle owners' manuals that include documentation of compliance with all legal requirements and with all standards and requirements set forth in this Contract, including, but not limited to, the requirements of the Pupil Transportation Act;
  - 7.1.4.2 All records necessary to indicate all maintenance or repairs completed on any bus or White Fleet vehicle, the reason for the repair, the number of hours to complete the maintenance or repair and the cost of the repair. These records shall be provided to the School District on a monthly basis during the first year of the

Initial Term. After the Initial Term, these records will be available upon request.

**7.1.5 Reports to Be Submitted Regularly to The School District By The Contractor:**

If any of the following events occur during the Contractor's performance of the Contract, the Contractor shall report to the School District the described information within a period of one (1) working day:

**7.1.5.1** If permanent route driver assignments change, the Contractor shall provide an updated list of routes and drivers assigned to those routes. If several changes are made, a list is required no more than once per week.

**7.1.5.2** If a Student is cited for behavior or other reason(s) while riding a bus, the Contractor shall report in writing to the School District the nature, time, and date of the incident(s). Every driver shall at all times adhere to the School District's established student disciplinary policies.

**7.1.5.3** If the Michigan State Police (or other authorized entity) inspects any vehicles serving the School District or inspects the facility where the buses are parked and maintained, the Contractor shall provide to the School District a copy of the inspection report(s) within five (5) days of the date of the inspection(s).

**7.1.5.4** At the request of the School District, the Contractor shall immediately remove from service any and all buses that are determined unfit for service by the School District or by the MSP. The School District shall provide specific reasons to the Contractor for such requests to remove buses from service.

**7.1.5.5** If any runs were late or missed during a week, the Contractor shall submit a written summary for the week of all late or missed trips, including the cause of the problem and any corrective action taken.

**7.1.5.6** If any bus is pulled over, stopped, detained or otherwise cited by any law enforcement agency, the Contractor manager/supervisor shall immediately notify the School District liaison of the incident and the circumstances surrounding the same. Thereafter, the Contractor shall provide a written report to the School District liaison within 24 hours, which report shall detail, at a minimum: (i) the incident; (ii) the basis for the bus being pulled over, stopped, detained or otherwise cited by the law enforcement agency; (iii) the name of the law enforcement agency; (iv) the bus number; (v) the name of driver involved; (vi) whether students were on the bus at the time of the incident; (vii) whether a citation issued or other action taken by the law enforcement agency; and (viii) what corrective action was taken, or will be taken, by the Contractor.

- 7.1.6 **Accident Response.** If an accident occurs with a School District or Contractor-owned bus, the Contractor shall respond in accordance with the following protocol:
- 7.1.6.1 The bus driver shall immediately notify the Contractor's dispatcher and/or manager/supervisor;
  - 7.1.6.2 The Contractor's manager/supervisor shall immediately notify both the School District liaison and the school building administrator at the building the Students attend;
  - 7.1.6.3 The Contractor shall promptly notify all affected Students' parents of the accident and related information via the School District's "Sky Alert" account; and
  - 7.1.6.4 The Contractor's manager/supervisor shall immediately respond to the screen to access/monitor situation and take detailed pictures of the accident scene and provide copies of said pictures to the School District.

- 7.1.7 **Accident Reports.** All accidents or incidents involving the School District's Students, personnel, and equipment shall be verbally reported to the School District immediately. The driver involved in any accident shall at the discretion of the School District's liaison or supervisor, submit to Drug and Alcohol Testing immediately following the accident or upon return to transportation facility after completion of the bus run, unless otherwise required by law. A written report shall be submitted to the School District by the Contractor, on forms mutually agreeable to the School District and Contractor, within 24 hours of the time of the accident. Accident reports shall make clear or provide at a minimum the following:

- 7.1.7.1 Whether Students were on the bus or loading or unloading from the bus at the time of the accident;
- 7.1.7.2 Whether any injury occurred;
- 7.1.7.3 The driver, location, involvement of other vehicles, and nature and extent of any property damage;
- 7.1.7.4 A list of all known witnesses; and
- 7.1.7.5 Police Report Number, when applicable.

The Contractor shall provide to the School District any accident reports obtained from the Michigan State Police or from any other law enforcement agency as soon after the accident as they become available. The Contractor shall use the Michigan Department of Education form as mandated by the State of Michigan. If a Contractor bus driver is issued and convicted of a traffic citation, such driver cannot return to driving until that have completed a road test and other requirements required by law.

7.1.8 **Record Retention.** The Contractor shall maintain all records in accordance with the State of Michigan Education Bulletin #522 Revised and School District policy.

## 8. ROUTING

8.1 **Establishment of Routes.** Contractor agrees to work in cooperation with the School District to establish the most advantageous routing plan for the safety of Students within the guidelines provided for in this Contract and the School District's Board of Education policies and procedures. Contractor agrees to work with School District designees regarding necessary Individual Education Plan (IEP) and 504 plan transportation requirements. Contractor shall pick-up Students identified by the School District at any location and at times approved by the School District to transport to the classes/facilities set by the School District. Contractor shall transport designated Students to such locations, arriving at times approved by the School District and return them to their stops, using Routes recommended by Contractor and approved by School District. All pick-ups of Students may be curb-to-curb or in groups as specified by School District policies. If special needs Students are not assigned to dedicated special needs routes, the routes, stops and schedules of the routes they are placed on shall conform with the necessary IEP and applicable laws. Subsequent to approval by the School District of the of the Contractor's recommended routing plan, Contractor shall make no substantial changes thereto without prior notice to, and written approval by, the School District. The Contractor will provide their recommended routing plan to the School District no later than three (3) weeks before the first day of school each year. If a Route needs to be modified during the school year, the Contractor shall modify the route(s) either by addition/deletion or modification, as soon as possible, but in no more than three (3) days after receiving notice from the School District. The Contractor will be advised of any transportation-related issues included in any Student's IEP, where such information is relevant to the Contractor's Transportation Services. If permitted by law, the Contractor may request input into a Student's IEP process where the conduct or needs of a Student on a school bus may be a health or safety concern to that Student or other Students.

8.2 **Other Transportation Service Routes/Scheduling.** The School District shall use its best efforts to provide the Contactor with three (3) days prior notice, whenever possible, of any scheduled Other Transportation Services, including, but not limited to, field trip, extra-curricular or athletic route, identifying the destination and the number of buses required. The School District may cancel any scheduled Other Transportation Services upon notice to the Contractor.

8.3 **Notification to School Buildings and Students.** The Contractor shall prepare and distribute back-to-school information for transportation of all Students to each school building, including parochial schools and specials needs departments. This information must be prepared in accordance with the School District's policies, procedures and practices, and must include, at a minimum, bus driver

information, route detail and shuttle information. This information must be delivered to all school buildings at least two (2) weeks prior to the first day of classes each school year. After approval of the recommended routing plan by the School District, the Contractor shall notify each Student with a "route post card" or other approved communication at least one (1) week prior to the start of each school year of the applicable pick-up times and shall notify each Student as to any subsequent change in time of pick-up or route, as approved by School District, which will affect any Student. The Contractor and the School District shall mutually agree in writing on a method of notification to parents and Students of scheduled pick-up times prior to the start of each school year and the costs for notification shall be borne by the School District. The Contractor shall notify each Student as to any subsequent change in time of pick-up, location, or route, as approved by School District, which will affect any Student. All necessary continuing communications shall be in conjunction with the School District. This communication must include the bus number, specific pick-up and drop off times and location of bus stop(s). The Contractor shall provide all necessary information regarding the transportation routes to the School District to ensure all applicable transportation information is placed on the School District's transportation website in conjunction with the School District's IT department.

- 8.4 **Complaints.** Contractor agrees to promptly, courteously and continuously address any and all complaints or concerns brought to its attention by guardians, family members, School District staff, or other parties representing the interests of any Students and shall promptly notify School District authorities. Contractor shall submit a summary of all complaints and concerns brought to its attention by guardians, family members, School District staff, or other parties representing the interests of any Students, along with a summary of the resolution of such complaint or concern, on a weekly basis to the School District.
- 8.5 **Routing System/Software.** The Contractor shall maintain the transportation portion of the current student database contained in the computer routing system. The Contractor's computer routing software shall be able to accept data transport from the School District's current student package and its current routing software, and shall be able to accommodate use in conjunction with the School District's systems used to notify parents regarding transportation issues. The computer routing software must be able to optimize routes and perform route simulations and generate alternatives for planning purposes. The Contractor shall be responsible for any software upgrades to, and licensing fees for, the routing system, if required. If any change in the computer routing system is desired by the Contractor, the School District shall receive prior notice and shall consent to and approve any change in computer routing system desired by Contractor, in writing, which consent and approval shall not be unreasonably withheld. The Contractor shall be responsible for any and all costs associated with any new computer routing system. At the expiration or earlier termination of this Contract, the School District shall be given all appropriate access to the most recent routes and accompanying Student data, and be able to use such system for its operations.

- 8.6 **Miscellaneous Routing Issues.** Contractor shall permit authorized School District representative(s) to ride all buses on all routes for the purpose of determining bus stop, route scheduling, or parent/community complaints, the mechanical conditions and cleanliness of buses, driver evaluation, discipline, whether the schedules are being met, and similar matters. No persons other than Students, Contractor employees, School District authorized personnel or employees, or drivers in training, are to ride the buses without the written approval of the School District's Superintendent or his/her designee. In no event will a bus be loaded with Students such as to transport more than 100% of the number of Students for which the bus has a rated seating capacity. Moreover, in accordance with the School District's policies and procedures, the Contractor shall cooperate with the School District as necessary to demonstrate to Students' parents that actual distance between a residence and the appropriate assigned school building is within or outside of the School District's defined busing parameters, utilizing School District and County maps. The Contractor shall provide written all necessary details and information to the School District (especially building administrators) so that such information is available for the School District to use in connection with its operations, such as communications with parents.
- 8.7 **Mechanical Break-down.** In the event of a mechanical failure or breakdown of any bus providing Transportation Services required hereunder, Contractor agrees that a spare bus and driver shall respond to the site of the breakdown, as quickly as possible, for transfer of Students for delivery to their destination in accordance with this Contract. The Contractor shall also provide road side assistance and service calls for all buses.
- 8.8 **Sex Offender Issues.** As part of these routing services, the Contractor shall be responsible for registering School District zip codes with the Michigan State Police Sex Offender Registry Database to receive regular updates on resident locations of registered sexual offenders. Moreover, the Contractor shall, twice annually in July and January, update the School District's map to identify the resident location of registered sexual offenders, and provide this list to each school building administrator. Finally, this information shall be considered when creating and establishing bus stops and routes.

9. **FACILITIES, STORAGE AND MAINTENANCE OF BUSES AND VEHICLES**

The School District agrees to allow to the Contractor to use the School District's existing transportation facility located at 46740 W. Pontiac Trail, Walled Lake, Michigan 48390 (the "Facility"), the School District's large tools and special equipment (being those large tools and special equipment which are fixtures or immovable), in accordance with the terms and conditions contained in the Use Agreement between the Parties, which Use Agreement is attached hereto and incorporated herein by reference as **Exhibit A**. The Facilities have a transportation maintenance garage, bus parking area, a bus wash, space for an office(s), drivers and mechanics lounges and a kitchen. All buses, related equipment and other personal property under this Contract shall be stored, maintained, and serviced at the Facilities. The School District, at its sole and absolute discretion, may permit other public, private and parochial school districts to use the Facilities for their

bus servicing operations, provided such use does not interfere with the School District's or Contractor's operations under this Contract. The Contractor shall be responsible for unlocking and locking the Facility each day Services are performed and the Facility is operational.

## 10. RATES, INVOICING AND PAYMENT

Unless otherwise stated herein, rates are as follows:

**10.1 Rates.** Rates for Transportation Services shall be in accordance with Contractor's Pricing Form, attached hereto and incorporated herein by reference as Exhibit B. All Rates include all costs of employment, including any costs and expenses for wages, benefits, payroll taxes, workers' compensation and unemployment insurance and any other related costs of employment, mandatory or otherwise, as well as any other costs and expenses necessary to perform the Transportation Services and Maintenance Services in accordance with the terms and conditions of this Contract.

The School District shall not be charged for any Transportation Services that are not rendered. Contractor agrees to abide by the School District's closing of schools, delay of schools and early dismissal of schools for weather-related or other calamity(ies). If the School District needs to cancel any Transportation Services due to a calamity(ies), the School District shall not be charged for those cancelled Transportation Services, provided that the School District notifies the Contractor that Transportation Services are cancelled by 5:30 a.m. the day of the cancellation relative to Daily Transportation Services (and related shuttles) and at least two (2) hours prior to the departure time for Other Transportation Services.

**10.2 White Fleet Maintenance Rates.** Rates for maintenance and repair of the White Fleet shall be in accordance with Section 4.2.3 above. The School District will reimburse the Contractor for all parts at cost. All maintenance and repair of the White Fleet shall only be completed upon receipt of written approval from the School District.

**10.3 Rate Adjustment.** Adjustments to the rates for Transportation Services, paraprofessional/transportation aide rates as required by the School District and Maintenance Service rates for any Renewal Term(s) will be effective July 1 of that contract year. The rates for the first Renewal Term, if exercised by the School District, or any extension of this Contract beyond the enumerated Renewal Terms shall be determined in accordance with Exhibit B. The rates for any subsequent renewal term(s) beyond those identified in Exhibit B shall be mutually agreed to in writing by the Parties, provided the rates shall not increase in any one year by more than three percent (3%). Rates may otherwise only be modified upon the mutual written agreement of the Parties.

**10.4 Invoices.** Contractor shall invoice the School District on a once-per-month basis for all Transportation Services and Maintenance Services rendered under this Contract. Invoices shall itemize charges as requested by the School District. The Contractor will invoice the School District for all approved White Fleet Maintenance completed on a separate invoice and shall submit said invoice to the

School District together with the regular monthly invoice. Invoices shall be submitted to the Director of Operations, Walled Lake Consolidated School District, 850 Ladd Road, Building D, Walled Lake, Michigan 48390.

- 10.5 Payments.** Payment of undisputed amounts in each invoice shall be made within thirty (30) days of receipt of the invoice. The School District will issue one payment per month. Disputes regarding amounts contained in any invoice will be communicated to Contractor by the School District, in writing, within ten (10) business days of the receipt of the disputed invoice. Payments of disputed amounts will be delayed unless Contractor is able to resolve the matter to the School District's satisfaction within ten (10) business days prior to payment due date. The School District will not be assessed any late payment penalties, fines or charges for disputed amounts not timely paid due to Contractor's failure to timely resolve the matter as set forth above.

## **11. INSURANCE**

The Contractor shall maintain the following insurance in force at all times during the Initial Term and any Renewal Term(s) of this Contract, with an "A" rated Best insurance carrier acceptable to the School District. The School District and the Contractor agree that the Contractor shall maintain such insurance scheduled below as primary insurance to any insurance available to the School District and that the School District's insurance shall not contribute to any liabilities covered under the scheduled insurance below, but shall be considered excess of all such insurance. The Contractor and/or its insurer/claim administrator will be responsible for claim investigation and claim payments for all losses covered by its policies. It is further agreed that, for claims arising specifically under or relating to this Contract, the Contractor shall name the School District, including all elected and appointed officials, all employees and volunteers, all boards, commissions and/or authorities and board members, including employees and volunteers thereof, as an "Additional Insured" under each separate policy of insurance scheduled below, in a form of endorsement to the policies approved by the School District in writing. The Contractor agrees that each vehicle used to provide Transportation Services with respect to this Contract will be scheduled on any Automobile Insurance as required by the agreed upon commercial insurer.

<u>Policy</u>	<u>Minimum Limits</u>
(a) Workers Compensation	Statutory
(b) Comprehensive General Liability	
(1) Bodily Injury Liability	\$1,000,000 each person \$1,000,000 each occurrence \$2,000,000 aggregate
(2) Property Damage Liability	\$1,000,000 each occurrence
(c) Comprehensive Automobile Liability	
(1) Bodily Injury Liability	\$1,000,000 each person \$1,000,000 each occurrence

(2) Property Damage Liability	\$1,000,000 each occurrence
(d) Excess Umbrella Liability	
Combined Single	\$9,000,000 each occurrence
Limit Bodily Injury and/or	\$9,000,000 aggregate
Property Damage	
(c) Employer Liability Insurance	\$500,000 each occurrence

Note: Comprehensive Liability to include, but not limited to:

- i) Existence of busses or vehicles on Location (both owned and non-owned);
- ii) Contractual obligations;
- iii) Student Discipline; and
- iv) Negligent Hiring.

These coverages and limits are to be considered minimum requirements under this Contract and shall in no way limit the liability or obligations of the Contractor under this Contract. The Contractor shall cause all policies to include an endorsement to the effect that the policies shall not be modified, canceled or terminated without thirty (30) days prior written notice to the School District Superintendent or his/her designee, as well as the requirement that the insurance carrier immediately notify the School District when fifty percent (50%) of any aggregate limits on any of the above-required policies have been reached. In case of termination, the Contractor shall provide evidence of new insurance at the earliest possible date, but not later than ten (10) days prior to the termination of the original policy. Contractor shall provide said insurance before the effective date of this Contract and prior to the beginning of each school fiscal year. Moreover, the Contractor agrees to notify the School District Superintendent or his/her designee immediately of any claim arising pursuant to said policies.

The Contractor shall not commence operations under this Contract until the Contractor has obtained all insurance stated in these requirements, all insurance has been reviewed by the School District, and Certificates of such insurance have been made available to the School District.

## 12. INDEMNIFICATION

**12.1 General Indemnification.** Contractor shall indemnify, defend and hold harmless the School District, its Board and its Board Members in their official and individual capacities, its employees and agents, from and against all claims, counter-claims, suits, debts, demands, actions, judgments, liens, liabilities, costs, expenses, damages, and actual attorney fees and actual expert witness fees arising out of or in connection with Contractor's performance of the Transportation Services and Maintenance Services pursuant to this Contract and/or from Contractor's violation of any of the terms of the Contract, including, but not limited to: (i) the negligent acts or willful misconduct of the Contractor, its officers, directors, employees, agents and subcontractors; (ii) any breach of the terms of this Contract by the Contractor, its employees or agents; (iii) any violation of applicable state and/or federal law, rule, ordinance, policy or regulations and/or licensing and permitting requirement applicable to providing the Transportation Services or Maintenance Services by Contractor, its employees

or agents; or (iv) any breach of any representation or warranty by the Contractor under this Contract by Contractor, its employees or agents. The Contractor shall notify the School District by certified mail, return receipt requested, immediately upon knowledge of any claim, suit, action, or proceeding for which it may be entitled to indemnification under the Contract.

**12.2 School District Indemnification.** To the extent permitted by law and acknowledging the representation of the School District that Michigan law currently prohibits the School District from indemnifying the Contractor, the School District shall indemnify, defend and hold harmless the Contractor, its shareholders, directors, officers, employees and agents from and against any and all claims, counter-claims, suits, debts, demands, actions, judgments, liens, liabilities, costs, expenses, damages, and reasonable attorney fees and reasonable expert witness fees arising out of or in connection with the School District's performance under this Contract and/or from the School District's violation of any of the terms of this Contract, including, but not limited to: (i) the negligent acts or willful misconduct of the School District, its employees or agents; (ii) any breach of the terms of this Contract by the School District, its employees or agents; (iii) any violation of applicable state and/or federal law, rule, ordinance, policy or regulations by Contractor, its employees or agents; or (iv) any breach of any representation by the School District, its employees and agents under this Contract, except to the extent any of the above are caused by the acts or omissions of the Contractor its officers, directors, employees, agents and subcontractors. The School District shall notify the Contractor by certified mail, return receipt requested, immediately upon knowledge of any claim, suit, action, or proceeding for which it may be entitled to indemnification under this Contract. However, the foregoing does not, and is not intended to impair, divest, delegate, or contravene any constitutional, statutory, and/or other legal right, privilege, power, obligation, duty or immunity of the School District shall not be construed to waive any defense of governmental immunity held by the School District.

**12.3 Environmental Indemnification.** Throughout the Initial Term, or any Renewal Term of this Contract, Contractor shall not permit itself or any third party to use, generate, handle, store or dispose of any Hazardous Substances in, on, under, upon or affecting any School District property in violation of any applicable law or regulation. As used herein, the term "Hazardous Substances" shall mean (i) any hazardous or regulated substance as defined by all federal, state and local environmental laws, including, but not limited to, Federal Water Pollution Control Act (33 U.S.C. §§ 1251 et seq.) ("Clean Water Act"), the Resource Conservation & Recovery Act (42 U.S.C. §§ 6901 et seq.) ("RCRA"), Safe Drinking Water Act (42 U.S.C. §§ 300f-j-26), Toxic Substances Control Act (15 U.S.C. §§ 2601 et seq.), Clean Air Act (42 U.S.C. §§ 7401 et seq.), the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. §§ 9601 et seq.) ("CERCLA"), the Emergency Planning and Community Right to Know Act, 42 U.S.C. §§ 11001 et seq. ("EPCRA"), the Michigan Natural Resources and Environmental Protection Act (MCL § 324.101 et seq.) the administrative rules and regulations promulgated under such statutes, or any other similar federal, state or local law or administrative rule or regulation of similar effect, each as

amended and as in effect and as adopted as of the date of execution of this Contract, (ii) any other pollutant, contaminant, hazardous substance, solid waste, hazardous material, radioactive substance, toxic substance, noxious substance, hazardous waste, particulate matter, airborne or otherwise, chemical waste, medical waste, crude oil or any fraction thereof, radioactive waste, petroleum or petroleum-derived substance or waste, asbestos, PCBs, radon gas, all forms of natural gas, or any hazardous or toxic constituent of any of the foregoing, whether such substance is in liquid, solid or gaseous form, or (iii) any such substance the release, discharge or spill of which requires activity to achieve compliance with applicable law. This paragraph shall survive the expiration or earlier termination of this Contract.

Contractor hereby agrees to indemnify, defend and hold harmless School District, its successors, assigns, officers and members of its Board of Education (in their individual and official capacities) and employees, from and against any and all fines, charges, penalties, losses, costs, damages, liabilities, cleanup or response activity costs and/or expenses (including reasonable attorneys' fees and actual consultants' fees) incurred by the School District as a result of any claims, demands, actions, causes of action, suits, proceedings, investigations, assessments and audits, whether of law or in equity (collectively "Claims") attributable to: (i) any third party claim or demand arising out of or in connection with any Hazardous Substances generated, stored, leaked, spilled, discharged, emitted, or otherwise disbursed, in, on, under, above or about the Facilities, or violation of any Environmental Laws by Contractor, its employees or agents after the Effective Date of this Contract; (ii) injuries sustained or other tort actions brought for Claims arising out of or related to any Hazardous Substances or the Contractor's use/occupancy of School District property or Facility; (iii) the presence, disposal (including off-site disposal), escape, leakage, discharge, emission, release or threatened release of any Hazardous Substances by Contractor, its employees or agents in, on, under, above, from or about the Facility from and after the Effective Date of this Contract; and (iv) compliance with any administrative notice, order, request or demand relative to any Hazardous Substances on the Facilities or violation of any Environmental Laws by Contractor. Contractor's indemnification described above specifically includes, but is not limited to, the direct obligation of the Contractor to promptly perform any remedial or other activities required or ordered by any administrative agency or government official, or are otherwise necessary to avoid injury or liability to any person or property, to prevent the spread of any pollution and/or contamination, or to permit the continued safe use of the Facility. This Section 12.2 shall survive the expiration or earlier termination of this Contract. Notwithstanding the foregoing, the Contractor shall have no liability for any violations of Environmental Laws or environmental conditions existing on School District property prior to the Effective Date of this Contract, or for any violations of Environmental Laws or environmental conditions which occur or are caused by the School District, its employees or agents or other third parties outside of Contractor's control during the Initial Term or Renewal Term(s), if any, or

subsequent to the date Contractor ceases use or occupancy of the School District's property following the expiration or earlier termination of this Contract.

### 13. TERMINATION

**13.1 Termination For Cause.** In the event the Contractor fails, at any time, to comply with, fully perform and strictly adhere to any covenant, condition or representation contained in this Contract or the Contract Documents, whether it be performed by the Contractor, its agents or employees, the School District shall have the right to provide written notice to the Contractor of such breach. If such breach, in the School District's reasonable discretion, causes the Contractor to provide the Transportation Services or Maintenance Services in any unsafe manner or process, including but not limited to, bus driver recruitment and training, bus driver safety process and procedure, Student passenger safety process and procedure, vehicle specifications, inspection and maintenance, facility management and environmental compliance, routing, or Student passenger pick-up/drop-up points, the Contractor shall be afforded forty-eight (48) hours to remedy any such breach from the time of receipt of such written notice. For any other such breach by Contractor, Contractor shall have fifteen (15) business days to remedy such breach from the time of receipt of such written notice. Notwithstanding the foregoing, if such safety breach is impossible to remedy within forty-eight (48) hours, only because of weather conditions making roads impassable or other acts of God or strikes, the School District, at its option, may extend said remedy period in its sole discretion, in writing. If Contractor fails to cure any breach with the forty-eight (48) hour or fifteen (15) day periods, or as those periods may be extended by the Parties, this Contract shall immediately terminate without the requirement of further notice to the Contractor. Further, failure to exercise the School District's rights within forty-eight (48) hours or fifteen (15) days does not preclude any subsequent right to exercise at a later date. If the Contract is terminated in accordance with any of the provisions contained herein, all rights of the Contractor under the Contract shall cease.

**13.2 Termination for Convenience.** Notwithstanding Section 13.1, this Contract may be terminated by the School District without cause upon three (3) months advance written notice to the Contractor, provided however, that such termination shall become effective at the end of the then current fiscal year (June 30), unless otherwise agreed to in writing by both parties. Additionally, the Parties agree that the School District, in its sole and absolute discretion, may immediately terminate this Contract if the Michigan Employment Relations Commission ("MERC"), a court or an arbitrator enters a temporary restraining order, preliminary injunction, or interim or final order requiring the School District to use School District employees to perform any services contemplated under this Contract. If this Contract is terminated by the School District pursuant to this Section 13.2, the School District shall be liable to pay Contractor the following amounts:

**13.2.1** The unemployment claims expenses incurred directly by Contractor that related specifically to those Contractor employees who are performing Transportation or Maintenance Services at the School District at the time

of the effective date of the termination and who the Contractor is unable to relocate to other operating services.

13.2.2 For any Contractor-owned bus that has been placed into exclusive service at the School District that the School District does not elect to purchase from the Contractor, the amount equal to the difference, if any, between the "buy back" value calculated in accordance with Section 5.7 above, and the fair market value of the bus as determined by a mutually agreeable third-party appraiser or by open sale of the bus under competitive bidding. If the difference is negative, the School District shall not owe any amount under this subsection.

13.2.3 The following actual amounts incurred by the Contractor specifically relating to the "start-up" of its operations for this Contract:

13.2.3.1 For fingerprinting and criminal background checks required by the School Safety Legislation of the Michigan Revised School Code, being MCL 380.1230 *et seq.*, for Contractor personnel assigned to perform services for the School District.

13.2.3.2 For costs to recruit (but only those costs specifically related to recruiting personnel to perform services for the School District) train and certify those Contractor employees who perform the Transportation Services and Maintenance Services for the School District to bring said employees in compliance with all laws.

13.2.3.3 For costs to bring Contractor's corporate personnel, who are not School District dedicated, to the School District to train and certify Contractor employees.

13.2.3.4 For the pro-rata portion of the costs of technology (e.g., Zonar GPS installations, cameras, adaptive equipment) installed on School District-owned buses by Contractor that have not been fully reimbursed by the School District as of the date of termination, or installed on Contractor-owned buses at the request of the School District which cannot be utilized by Contractor after the date of termination.

In order to be eligible for reimbursement of the amounts permitted by this Section 13.2, the Contractor shall identify the actual amounts through detailed documentation and supporting data acceptable to the School District and provide this documentation and data to the School District. The amounts set forth in Section 13.2.3 shall be amortized over the first thirty-six (36) months of this Contract on a 1/36<sup>th</sup> basis and if this Contract is terminated in accordance with this Section 13.2, the School District shall only be obligated to pay the unamortized balance of the amounts permitted under Section 13.2.3. By way of example, if the Contract is terminated in accordance with this Section 13.2 after 15 months, the School District shall only be obligated to pay the Contractor 21/36<sup>ths</sup> of the total actual amounts permitted under Section 13.2.3. Additionally, the amounts permitted under this Section 13.3 shall not include any anticipatory

or lost profit, or actual or consequential damages. Furthermore, the maximum amount the School District is obligated to pay under this Section 13.2 is \$100,000.

- 13.3 If the Contract is terminated in accordance with any of the provisions contained herein, all rights of the Contractor under the Contract shall cease. Notwithstanding the foregoing, if the School District exercises its right to terminate this Contract for convenience Section 13.2 above because the School District has elected to no longer provide transportation for its students as provided for by law, and then the School District later elects to reinstate the transportation services, the Contractor shall have the first right of refusal to resume the Transportation Services, provided that the Contractor repays the School District any monies the School District paid to the Contractor pursuant to Section 13.2 or adjusts/modifies the rates in order to account for any monies paid by the School District under Section 13.2.

14. **PERMITS, LICENSES AND COMPLIANCE WITH LAWS**

- 14.1 **Permits and Licenses.** Contractor, its employees and agents shall secure, at its sole cost and expense, and maintain all necessary permits, licenses and certifications as required by federal, state and local laws, including, but not limited to the Pupil Transportation Act.

- 14.2 **Compliance with Laws.** The Contractor shall comply with any and all laws, rules, regulation, ordinances, policies (including all permits and plans applicable thereto) and School District policies, applicable to providing the Transportation Services and Maintenance Services contemplated under this Contract. The Contractor, including its employees and agents, shall be responsible for knowing the School District's policies concerning appropriate behavior of persons in its schools, on its properties and in its buses, including for example, the prohibitions of sexual harassment, alcohol and smoking, and shall comply with all such policies. The School District shall use its best efforts, as reasonably requested by the Contractor, to assist the Contractor to comply with any and all applicable federal, state or local laws, rules and regulations, as well as all School District policies, procedures, rules and regulations. The Contractor by execution of this Contract represents and warrants that it shall at all times be in compliance with any and all applicable federal and state laws, rules, ordinances, policies and regulations and licensing and permitting requirement applicable to providing the Transportation Services and Maintenance Services contemplated under this Contract. The Contractor shall in the performance of such Transportation Services and Maintenance Services, fully comply with any and all applicable federal, state, or local laws, rules and regulations, and shall indemnify, defend and hold the School District harmless from any liability from Contractor's, its employees' or agents' failure to so comply. Notwithstanding the foregoing, in the event any federal, state, local or other governmental body's laws, rules or regulations are revised, changed or amended, or in the event there are revisions, changes or amendments to the School District's policies, procedures, rules and regulations, the Contractor shall comply with all such revised, changed or amended laws, rules, regulations or policies, provided however, to the extent such revisions, changes or amendments to applicable laws, rules, regulations or

policies cause a material increase to Contractor's costs to operate the Transportation Services or require material modifications to the School District-owned buses used to provide the Transportation Services, the School District and Contractor agree to negotiate in good faith a mutual agreeable reasonable adjustment, if any, to the Contractor's Rates under this Contract. Moreover, any adjustments Contractor makes to its own internal policies and procedures shall not be cause to increase Contractor's Rates or scope of Transportation Services or Maintenance Services under this Contract.

- 14.3 OSHA Compliance.** All Transportation Services and Maintenance Services to be furnished by the Contractor and the Contractor's working conditions and employment practices shall comply with all applicable state and federal requirements, including, but not limited to, the Occupational Safety and Health Act.

**15. GOVERNING LAW**

This Contract shall be governed by and construed in accordance with the laws of the State of Michigan. The parties hereby agree to the exclusive jurisdiction and venue of courts sitting in Oakland County, Michigan.

**16. TAXES**

Contractor is responsible for sales taxes and any other applicable taxes related to the Transportation Services or Maintenance Services provided under this Contract.

**17. REPAIRS TO PROPERTY DAMAGE**

Damage to the School District Facility or School District property caused by the Contractor, its agents or employees shall be repaired so the Facility or properties are in as good condition as before entering into this Contract. All repairs shall be accomplished at no cost to the School District.

**18. ASSIGNMENT AND SUBCONTRACTING**

This Contract shall not be assigned, nor subcontracted, in whole or in part, without the prior written consent of the School District, but in no case shall such consent change the terms of the Contract. Notwithstanding the foregoing, the Contractor may assign this Contract if the assignment is made to a parent company, wholly-owned subsidiary or affiliated company.

**19. NOTICES**

Unless otherwise provided in this Contract, all notices, requests, demands and other communications shall be in writing and are effective three (3) days after deposit in the U.S. mail, certified and postage paid, or upon receipt if personally delivered or sent by next-business-day delivery via a nationally recognized overnight courier to the addresses set forth below. The School District or the Contractor may from time to time designate any other address for this purpose by providing written notice to the other Party.

- 19.1 To the School District.** All required notices to the School District shall be delivered to the Superintendent, Walled Lake Consolidated School District, 850

Ladd Road, Building D, Walled Lake, Michigan 48390, with a copy to Jeremy S. Motz, Esq., Clark Hill PLC, 151 S. Old Woodward Ave., Suite 200, Birmingham, MI 48009.

19.2 To the Contractor. All required notices to the Contractor shall be delivered to Dean Transportation, Inc., Attn: President, 4812 Aurelius Road, Lansing, Michigan 48910.

**20. SEVERABILITY**

In the event any provision(s) of this Contract shall be illegal or invalid for any reason, said provision(s) shall be deemed to be fully severable without affecting the remaining provisions of this Contract and this Contract shall be construed and enforced as if said illegal or invalid provision(s) had never been inserted herein.

**21. NO WAIVER**

No waiver of any term or condition of this Contract shall be valid or binding on either Party unless the same shall have been mutually assented to in writing by both Parties. The failure of either Party to enforce at any time any of the provisions of this Contract, or the failure to require at any time performance by the other Party of any of the provisions of this Contract, shall in no way be construed to be a present or future waiver of such provisions, nor in any way affect the validity of either Party to enforce each and every such provision thereafter.

**22. COUNTERPARTS**

This Contract may be executed in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute one instrument.

**23. ENTIRE CONTRACT**

This instrument contains the entire Contract entered into between the Parties hereto, its terms may not be modified except in writing signed by the Contractor and the School District. This Contract supersedes and takes the place of all prior contracts, and/or understandings, whether written or oral between the School District and the Contractor.

**24. INSOLVENCY**

In the event, the Contractor becomes insolvent or seeks the protection of the U.S. Bankruptcy Court, then at the School District's option; this Contract may be immediately terminated by the School District.

**25. NON APPROPRIATION OF FUNDS**

The School District represents (1) that it has adequate funds to meet its obligations under this Contract during the 2013-14 fiscal year, (2) that it intends to maintain this Contract from the full period set forth herein and has no reason to believe that it will not have sufficient funds to enable it to make all payments due hereunder during such period, and (3) that it will use its best effort to obtain the appropriations and that the availability of funds is contingent upon varied sources. If the School District determines, in its discretion, that it lacks adequate funds to pay part or all of the payments for the Transportation Services or Maintenance Services described in this Contract, the School District's obligation under this Contract will terminate as of the date that the funding

expires without further obligation to the Contractor, except the payment of any monies owed to Contractor in accordance with the formulas set forth in Section 13.2. If the School District later determines it has sufficient funding to re-instate its Transportation Services, the Contractor will hold the first right of refusal to resume such Transportation and Maintenance Services under the terms and conditions of this Contract.

**26. FORCE MAJEURE**

The Contractor agrees that its failure to comply with any of the terms and conditions of this Contract shall be grounds for termination of this Contract by the School District in accordance with Paragraph 13 hereof. Notwithstanding the foregoing, if the performance by either party hereto of its respective non-monetary obligations of this Contract is delayed or prevented in whole or in parts by acts of God, fire, floods, storms, explosions, accidents, epidemics, war, civil disorder, strikes or other labor difficulties, or any law, rule regulation, order or other action adopted or taken by any federal, state or local government authority, or any other cause not reasonably within said Party's control, whether or not specifically mentioned herein, such party shall be excused, discharged and released of performance only to the extent such performance or obligation is so delayed or prevented by such occurrence without liability of any kind.

The School District shall have the right to take over the operation of the buses if Contractor is prevented from operating for the reasons described above, whether such buses are supplied by Contractor or the School District, and may operate such buses with school employees or other persons, as the School District may deem appropriate until Contractor is able to resume its regular operations. The School District shall pay to Contractor for the use of such Contractor-owned buses, the compensation which would be due in accordance with the Contract had Contractor operated such buses, less all expenses and costs incurred in securing the services of operating personnel and other such costs of operation; provided, however, that School District's deduction of such costs and expenses shall not exceed the difference between the total compensation paid to Contractor for such buses less Contractor's fixed costs of operation. If the School District chooses to use Contractor vehicles, the School District will be required to sign a vehicle lease agreement and provide a certificate of insurance.

Notwithstanding the foregoing, in the event of a strike, the Contractor shall procure replacement personnel necessary to perform the Transportation Services and Maintenance Services. If the Contractor does not procure such replacement personnel, the School District may procure the same and the deduct the associated costs and expenses from the amounts owed to the Contractor, or terminate this Contract. It is agreed that a change in market conditions does not constitute force majeure.

**27. LIQUIDATED DAMAGES**

The School District and Contractor agree that in certain circumstances, the actual amount of damages incurred by the School District will be difficult to assess and/or may be immeasurable. Accordingly, under the following circumstances, the School District may assess damages against the Contractor, to be paid as liquidated damages and not as a penalty or forfeiture. These damages accrue in addition to the School District's expectation that it will not pay for any Transportation Services or Maintenance Services that have not been provided.

No liquidated damages will be assessed during weeks in which 98 percent of all runs operated by the Contractor are neither early nor more than 15 minutes late when compared to the scheduled departure and arrival times. If fewer than 98 percent of all runs are operated on time, liquidated damages may be assessed for the following infractions:

**A. Early, Late, and Missed Runs**

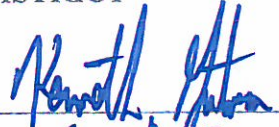
Each bus that is either early or more than 15 minutes late, during which time a stop is missed (causing a need to backtrack or re-route another bus), or if a run is missed, the Contractor shall be subject to the assessment of \$150 in liquidated damages. In any case, no bus route shall be assessed more than three times that amount (\$450) per day for liquidated damages under this subsection. The provisions of this subsection do not apply when delays are caused by conditions beyond the control of the Contractor, as determined by the School District.

**B. Operation of a Bus That Is Unfit For Service**

If the Contractor operates a bus unfit for service as determined by this Contract and all applicable laws, rules and regulations, the amount of \$1,000 will be paid as liquidated damages, and not as a penalty or forfeiture, by the Contractor to the School District.

**IN WITNESS WHEREOF:** the Parties hereto on this day execute this PUPIL TRANSPORTATION AND TRANSPORTATION FLEET MAINTENANCE SERVICES CONTRACT as of the Effective Date.

**WALLED LAKE CONSOLIDATED  
SCHOOL DISTRICT**

By:   
Name: Kenneth Gylman  
Title: Superintendent  
Date: 10.3.13

**DEAN TRANSPORTATION, INC.**


By:   
Name: KELLIE P. DEAN  
Title: PRESIDENT/CEO  
Date: 8/27/13

EXHIBIT A

Facility Use Agreement

Attached

## EXHIBIT A TO CONTRACT

### TRANSPORTATION MAINTENANCE FACILITY USE AGREEMENT

THIS TRANSPORTATION MAINTENANCE FACILITY USE AGREEMENT (hereinafter the "Agreement") is made and entered into as of July 1, 2013 (the "Effective Date"), by and between the **WALLED LAKE CONSOLIDATED SCHOOL DISTRICT**, a Michigan general powers school district, whose address is 850 Ladd Road, Building D, Walled Lake, Michigan 48390 (hereinafter the "School District") and **DEAN TRANSPORTATION, INC.**, a Michigan corporation, whose address is 4812 Aurelius Road, Lansing, Michigan 48910 (hereinafter the "Contractor").

#### RECITALS

A. The School District issued a Request For Proposals for Pupil Transportation Services (the "RFP"), dated February 28, 2013, as amended by the Addendum 1 and Addendum 2, dated March 11, 2013 and March 19, 2013 respectively (collectively the "RFP"), the purpose of which was to solicit proposals from qualified vendors with the ability to provide the Transportation Services and Maintenance Services for the School District.

B. The Contractor submitted to the School District a Proposal in response to the RFP, dated March 22, 2013, to provide Pupil Transportation Services and Maintenance Services to the School District (the "Proposal").

C. The Parties have, in accordance with the provisions of the RFP, conducted negotiations concerning the Contractor's Proposal.

D. Pursuant to the Pupil Transportation and Transportation Fleet Maintenance Services Contract between the School District and the Contractor, dated July 1, 2013 (the "Contract"), incorporated herein by reference as if fully set forth herein, the Contractor shall provide certain Transportation Services and Maintenance Services (as those terms are defined in the Contract) for the School District.

E. In accordance with the Contract, the Contractor desires to utilize the School District's Transportation Maintenance Facility, including parking areas, located at 46740 W. Pontiac Lake Road, Walled Lake, Michigan 48390 (the "Facility"), in order to provide the Transportation Services and Maintenance Services for the School District under the Contract.

**NOW THEREFORE**, in consideration of the foregoing and the mutual covenants set forth herein, the Parties agree as follows:

1. Facility: In consideration of the covenants and conditions contained herein, and as further defined in Paragraph 2 of this Agreement, the Contractor has the non-exclusive right to use the Facility solely to carry out its obligations under the Contract.

2. Use of Facility: During the Term of this Agreement, Contractor shall use and occupy the Facility for the sole purpose of storage, maintenance, service and repair of School District-owned buses and Contractor-owned buses, if any, and the School District's White Fleet (as defined in the Contract), that are used to service the School District and to provide the Transportation Services and Maintenance Services required under the terms and conditions of the Contract and for no other purpose(s) without the prior written consent of School District. The Contractor will have the non-exclusive ability to use of the Facility, subject to this Paragraph and

Paragraph 23 of this Agreement. Additionally, the School District may, at its sole and absolute discretion, permit other public, private and/or parochial school districts to use a portion of the Facility for their bus servicing operations, provided such use does not interfere with the Contractor's provision of the Transportation Services and Maintenance Services contemplated under the Contract. Contractor shall not do or permit to be done any act or thing upon the Facility that will increase the cost of casualty and liability insurance above the insurance costs normally associated with Contractor's principal activities as described herein and in the Contract. Contractor shall not use the Facility or permit the Facility to be used for the doing of any act or thing that constitutes a violation of any valid federal, state or local law, order, rule or regulation of any governmental authority. Contractor is responsible for verifying that anyone performing work on behalf of Contractor under this Agreement or the Contract has obtained and maintains all necessary licenses and permits to provide the Transportation Services and Maintenance Services under the Contract. Contractor shall use and occupy the Facility subject to all School District policies, procedures or regulations of School District. Contractor shall not perform any acts or carry on any practices which may injure the Facility or be a nuisance and shall keep the Facility clean and free from rubbish and dirt at all times, and it is further agreed that in the event the Contractor shall not comply with these provisions, and the School District incurs additional costs and expenses to maintain the Facility, the Contractor agrees to pay all reasonable charges that School District shall pay for hauling rubbish and dirt or excess cleaning charges incurred or expended by the School District. Said charges shall be deducted by School District from the amounts owed to Contractor under the Contract. In addition to the capital equipment set forth above, the Contractor will be able to utilize the existing office equipment, such as desks, chairs, phones (long distance charges will be billed to Contractor at School District's rates) and a copier; however, the Contractor shall pay for all copies made on the School District copier on a "per click" basis in accordance with the School District's then applicable rental agreement. The Contractor will also be able to utilize the School District's computers which are necessary for the current routing, scheduling and maintenance operations of the School District's systems. Aside from the above, there is no office equipment, computers or other tools at the Facility which would be available to the successful Contractor.

3. Term: The term of this Agreement shall be the same as the term of the Contract (the "Term"). The Term shall commence on July 1, 2013 and end when the Contract expires or is earlier terminated. Contractor hereby acknowledges that it has no expectation of the use of the Facility beyond the Term.

4. Acceptance of the Facility: Contractor acknowledges that it has examined the Facility prior to executing the Contract and this Agreement and knows the conditions thereof. Contractor further acknowledges that no representation as to the condition or state of repairs thereof have been made by School District or its agents which are not herein expressed. Contractor hereby accepts the Facility in their present "AS IS" condition as of the date of this Agreement.

5. Alterations and Improvements: Contractor shall not make any alterations, additions, or improvements to the Facility without School District's prior written consent.

6. Maintenance and Repairs: The School District will maintain responsibility for all grounds work at the Facility, maintenance of the fuel dispensing system, and capital expenditures reasonably required for the operation of the Facility. Notwithstanding the foregoing, the Contractor

shall be responsible for all damages to the Facility or property of the School District caused by the negligence or willful acts of Contractor and Contractor's agents, representatives, employees, invitees and licensees.

7. Utilities: The School District will pay for the cost of all reasonable utilities supplied to the Facility during the Term. Any excess usage by the Contractor will be billed to the Contractor at the then current rates. The School District shall not be responsible to Contractor for any loss or interruption of any utility services.

8. Janitorial Services: The School District or another School District contractor shall furnish all janitorial services for the operation of the Facility, provided however, the Contractor shall be responsible for the cleaning of the mechanics garage/shop, storage room and bus wash facilities. However, in the event the Contractor's use of the Facility shall render the Facility with excessive dirt and rubbish, as determined in the sole and absolute discretion of School District, the Contractor hereby agrees to reimburse School District for the direct expense that School District incurs in providing janitorial services to remediate such condition, including salary and/or hourly wage of its employees or agents as well as any overtime expenses incurred and the cost of janitorial supplies. The Contractor shall keep the Facility in clean working order at all times.

9. Snow Removal and Grounds Maintenance: The School District will be responsible for all general snow removal from the lot at the Facility, but the Contractor will be responsible for snow removal from the buses (both from and between buses etc.) and any ancillary snow removal around the entrances to the Facility. The School District or another School District contractor will be responsible for general grounds maintenance for the Facility.

10. Parts, Hand Tools, Supplies, Materials and Equipment: The School District shall be responsible for the repair and/or replacement of any large tools and equipment, being such tools and equipment which are fixtures or immovable tools and equipment within the Facility (the "Large Equipment"). Such Large Equipment will be specified in the Inventory mutually conducted by the School District and Contractor under the Contract and will be maintained by Contractor and returned to School District upon the expiration or earlier termination of this Agreement, normal wear and tear excepted. Any damage to, or loss of, any tools, supplies, materials and equipment in the Inventory shall be repaired or replaced at Contractor's sole cost and expense.

11. Contractor's Personal Property: Any personal property kept on the Facility by Contractor, its employees and agents shall be insured at Contractor's sole risk, and Contractor shall acquire such policy or policies of insurance thereon as Contractor in its best judgment shall determine.

12. Building Insurance: The School District shall cause the Facility and their improvements to be insured against loss or damage under a policy or policies of fire and extended coverage insurance, including "additional perils."

13. Insurance: In addition to the insurance required under the Contract, Contractor, at its sole cost and expense during the Term, shall maintain and keep in effect (i) commercial general liability insurance in an amount not less than One Million and 00/100 (\$1,000,000.00) Dollars for injury to or death of one person, or not less than Two Million and 00/100 (\$2,000,000.00) Dollars for injury to or death of more than one person, in any one accident or

occurrence and One Million and 00/100 (\$1,000,000.00) Dollars for damage to property. The policy or policies of such insurance shall include School District as both an additional named insured and loss payee. Contractor agrees to deliver to School District, within fifteen (15) days after the receipt of a request, either a duplicate original or certificate of all policies procured by Contractor in compliance with its obligations hereunder, together with evidence of payment thereof, and including an endorsement which states that such insurance may not be cancelled except upon ten (10) days written notice to School District. Contractor may, at its option, bring its obligation to insure under this Paragraph within the coverage of any so-called blanket policy or policies of insurance which it may now or hereafter carry, by appropriate amendment, rider, endorsement or otherwise; provided, however, that the interest of School District shall thereby be as fully protected as they would otherwise if this option to Contractor to use blanket policies were not permitted.

14. Indemnification: Contractor shall indemnify, defend and hold the School District, the officers and members of its Board of Education (in their official and individual capacities), administrators and employees harmless from and against any and all claims, counter-claims, suits, debts, demands, actions, judgments, liens, liabilities, costs, expenses, including actual attorneys fees and actual expert witness fees, arising out of or in connection with Contractor's use of the Facility, from the negligence of Contractor, its agents, representatives, employees, contractors, licensees, invitees, and/or from Contractor's violation of any of the terms of this Agreement.

15. Damage or Destruction - Fire or Other Cause: In the event of a partial destruction of the Facility, the School District shall, as promptly as possible, unless School District shall elect not to rebuild or repair the same, provided such repairs can reasonably be made within ninety (90) days (or within such other period as School District and Contractor may agree upon) from said destruction or damage under normal working conditions, and pursuant to applicable law, ordinances, and regulations. In such case, this Agreement shall not be terminated. In the event that such repairs cannot reasonably be made within ninety (90) days time (or such other period as School District and Contractor may agree upon), or in the event School District shall elect not to rebuild, repair the same, either party hereto at its option may terminate this Agreement upon written notice to the other. In any event, the destruction of substantially all of the Facility shall cause this Agreement to automatically terminate, without the requirement of notice.

16. Environmental Warranty: Contractor represents, warrants and covenants to School District the following:

Contractor's use of the Facility and its activities thereon shall comply with all "Environmental Laws," which, for purposes of this Agreement, shall mean all federal, state and local environmental laws, including, but not limited to, The Hazardous Materials Transportation Act, (47 USC §§ 1801 *et seq.*), Federal Water Pollution Control Act (33 U.S.C. §§ 1251 *et seq.*) ("Clean Water Act"), the Resource Conservation & Recovery Act (42 U.S.C. §§ 6901 *et seq.*) ("RCRA"), Safe Drinking Water Act (42 U.S.C. §§ 300f-j-26), Toxic Substances Control Act (15 U.S.C. §§ 2601 *et seq.*), Clean Air Act (42 U.S.C. §§ 7401 *et seq.*), the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. §§ 9601 *et seq.*) ("CERCLA"), the Emergency Planning and Community Right to Know Act, 42 U.S.C. §§ 11001 *et seq.* ("EPCRA"), the Michigan Natural Resources and Environmental Protection Act (MCL § 324.101 *et seq.*) the administrative rules and regulations promulgated under such statutes, or any

other similar federal, state or local law or administrative rule or regulation of similar effect, each as amended and as in effect and as adopted as of the date of execution of this Agreement.

The Parties acknowledge that the Contractor's activities as defined in Paragraph 2 above may involve the use, generation and storage of Hazardous Substances as defined below; however, Contractor shall not dispose of or allow the release, spillage or emission of Hazardous Substances on the Facility. For purposes of this Agreement, "Hazardous Substances" shall mean (i) any hazardous or regulated substance as defined by Environmental Laws (ii) any other pollutant, contaminant, hazardous substance, solid waste, hazardous material, radioactive substance, toxic substance, noxious substance, hazardous waste, particulate matter, airborne or otherwise, chemical waste, medical waste, crude oil or any fraction thereof, radioactive waste, petroleum or petroleum-derived substance or waste, asbestos, PCBs, radon gas, all forms of natural gas, or any hazardous or toxic constituent of any of the foregoing, whether such substance is in liquid, solid or gaseous form, or (iii) any such substance the release, discharge or spill of which requires activity to achieve compliance with applicable law.

Contractor shall immediately and promptly notify School District of any release, discharge, spill or emission of Hazardous Substances on, to or from the Facility, and any complaint, summons, citation, notice, directive, order, claim, litigation, judicial or administrative proceeding, inquiry or investigation judgment, letter or other communication from any governmental agency, department, bureau, office or other authority, or any third party involving violations of Environmental Laws with respect to the Facility.

The School District shall be responsible for any environmental conditions existing on the Facility prior to the commencement of the Term.

17. Environmental Indemnification

A. Contractor hereby agrees to indemnify, defend and hold harmless School District, its successors, assigns, officers and members of its Board of Education (in their individual and official capacities) and employees, from and against any and all fines, charges, penalties, losses, costs, damages, liabilities, cleanup or response activity costs and/or expenses (including reasonable attorneys' fees and actual consultants' fees) incurred by School District as a result of any claims, demands, actions, causes of action, suits, proceedings, investigations, assessments and audits, whether of law or in equity (collectively "Claims") attributable to (i) any third party claim or demand arising out of or in connection with any Hazardous Substances generated, stored, leaked, spilled, discharged, emitted, or otherwise disbursed, in, on, under, above or about the Facility, or violation of any Environmental Laws by the Contractor, its employees or agents, from and after the date of this Agreement; (ii) injuries sustained or other tort actions brought for Claims arising out of or related to any Hazardous Substances or Contractor's use/occupancy of the School District property or Facility; (iii) the presence, disposal (including off-site disposal), escape, leakage, discharge, emission, release or threatened release of any Hazardous Substances in, on, under, above, from or about the Facility by the Contractor, its employees or agents; and (iv) compliance with any administrative notice, order, request or demand relative to any Hazardous Substances on the Facility or violation of any Environmental Laws by the Contractor, its employees or agents.

B. Contractor's indemnification described above specifically includes, but is not limited to, the direct obligation of the Contractor to promptly perform any remedial or other activities required or ordered by any administrative agency or government official, or are

otherwise necessary to avoid injury or liability to any person or property, to prevent the spread of any pollution and/or contamination, or to permit the continued safe use of the Facility. This Section 17 shall survive the expiration or earlier termination of this Contract. Notwithstanding the foregoing, the Contractor shall have no liability for any violations of Environmental Laws or environmental conditions existing on School District property prior to the Effective Date of this Contract, or for any violations of Environmental Laws or environmental conditions which occur or are caused by the School District, its employees or agents or other third parties outside of Contractor's control during the Initial Term or Renewal Term(s), if any, or subsequent to the date Contractor ceases use or occupancy of the School District's property following the expiration or earlier termination of this Agreement.

18. Assignment: Contractor shall not assign, or in any manner encumber this Agreement, nor any part, right, or interest thereof, nor shall Contractor allow or permit any part of the Facility to be used or occupied by others for any reason whatsoever, without School District's advance written consent, which consent is discretionary in the School District solely. Any assignment, transfer or hypothecation without the prior written consent of School District shall give School District the right to terminate this Agreement and re-enter and repossess the Facility.

19. Default and Termination: Default and termination shall be governed by terms and conditions of the Contract. Notwithstanding the foregoing, upon termination of this Agreement, School District may without further notice re-enter the Facility and dispossess Contractor or any other occupant of the Facility and remove its effects and hold the Facility as if this Agreement had not been made, saving and reserving to School District any other remedies which School District may have for the recovery of damages due or to become due by virtue of this Agreement or the breach thereof by Contractor. Any failure at any time by either of the parties hereto to enforce any of the provisions of this Agreement shall not be construed as a waiver of such provisions nor of such party's right to enforce the same upon any subsequent occasion or default.

20. Bankruptcy: If Contractor shall file a petition in voluntary bankruptcy or be voluntarily or involuntarily adjudicated bankrupt or insolvent, or shall make an offer of composition to its creditors, or shall make an assignment for the benefit of creditors, or shall file a petition or answer seeking reorganization or readjustment under the federal bankruptcy laws or any other law or statute of the United States or any state thereof, or if a receiver or trustee shall be appointed for Contractor or for all or a substantial part of the property of Contractor and Contractor is not released from such receiver or trustee within thirty (30) days after appointment, or if an order shall be entered approving the reorganization of Contractor or the readjustment of Contractor's debts or obligations under the federal bankruptcy laws or any other law or statute of the United States or any state thereof, then any of such events shall be deemed to be a breach, default and anticipatory breach of this Agreement, and the School District may terminate this Agreement, reserving to School District all such rights as it may have for damages or otherwise because of said default, breach or anticipatory breach of Contractor.

21. Surrender of Facility: Upon the expiration of the Term, Contractor shall surrender the use of the Facility to School District in good order and condition, ordinary wear and damage excepted; and subject to Paragraph 6 hereof, Contractor shall remove all of its property and shall repair any damage to the Facility or any of School District's property, real or personal, caused by such removal.

22. Mechanics' Liens: Contractor shall keep the Facility, their improvements, and the land of which the Facility are a part, free and clear of all mechanics' liens resulting from any services done by or for Contractor.

23. Access to Facility: The School District shall at all times have the right to access the Facility for the purpose of, without limitation, carrying out its day-to-day operations, to inspect the Facility, preventing waste, loss, or destruction, removing obstructions, making such repairs or obligations as are necessary to protect the Facility, performing any of its duties and obligations under the terms and conditions of this Agreement or the Contract and/or monitor the Contractor's activities to ensure Contractor's compliance with the terms and conditions of the Contract. Moreover, in the event of an emergency which requires School District to use the Facility, School District's needs/requirements for the Facility shall take precedence over Contractor's rights hereunder. Determination of priority of use of the Facility shall be determined by School District in its sole and absolute discretion.

24. Compliance: Contractor shall, at its own expense, under penalty of forfeiture and damages, promptly comply with all laws, orders, regulations or ordinances (including all permits and plans applicable thereto) of all Municipal, County, State, and Federal authorities affecting use of the Facility with respect to the cleanliness, safety, occupation, and use of same.

25. Challenge: School District, although presently unaware of any such non-compliance, does not covenant that the Facility are in compliance with applicable Municipal, County, State, and Federal laws, including, but not limited to, fire, safety, handicap, barrier free, zoning and use ordinances or laws and other governmental regulations relating to the use of the facility for the purpose intended through this Agreement.

26. Taxes and Special Assessments: The Contractor shall be liable for any and all taxes, real or personal or otherwise, assessed as a consequence of the Contractor's provision of the Transportation Services or Maintenance Services under the Contract or its use of the Facility under the Contract and this Agreement. The School District recognizes that Contractor's pricing and rates under the Contract assume no property or real estate taxes will be payable on the Facility, and as such no tax basis has been included in the pricing/rates of the Transportation or Maintenance Services. If a subsequent determination of a tax basis by any municipality, county, state, or other tax authority is established, the Parties agree to convene to bargain in good faith an adjustment to Contractor's rates, or otherwise account for the payment of such taxes.

27. No Waiver: The failure of either party to enforce any covenant or condition of this Agreement shall not be deemed a waiver thereof or of the right of either party to enforce each and every covenant and condition of this Agreement. No provision of this Agreement shall be deemed to have been waived unless such waiver is in writing.

28. Notices: Unless otherwise provided in this Agreement, all notices, requests, demands and other communications shall be in writing and are effective three (3) days after deposit in the U.S. mail, certified and postage paid, or upon receipt if personally delivered or sent by next-business-day delivery via a nationally recognized overnight courier to the addresses set forth below. The School District or the Contractor may from time to time designate any other address for this purpose by providing written notice to the other Party.

A. To the School District. All required notices to the School District shall be delivered to the Superintendent, Walled Lake Consolidated School District, 850 Ladd Road,

Building D, Walled Lake, Michigan 48390, with a copy to Jeremy S. Motz, Esq, Clark Hill PLC, 151 S. Old Woodward Ave., Suite 200, Birmingham, MI 48009.

B. To the Contractor. All required notices to the Contractor shall be delivered to Dean Transportation Inc., Attn: President, 4812 Aurelius Road, Lansing, Michigan 48910.

29. Heirs and Assigns: The covenants, conditions and agreements contained in this Agreement shall bind and inure to the benefit of School District and Contractor and their respective successors and assigns, subject to the limitation on assignment as herein contained.

30. Condemnation: If any part of the Facility are taken for any public or quasi-public purpose pursuant to any power of eminent domain, or by private sale in lieu of eminent domain, either the School District or the Contractor may terminate this Agreement, effective the date the public authority takes possession. All damages for the condemnation of the Facility, or damages awarded because of the taking, shall be payable to the sole property of the School District.

31. Policies/Regulations: Contractor, including its agents, representatives, employees, contractors, invitees, licensees and students shall at all times comply with all of the School District's policies, procedures and regulations.

32. Miscellaneous Provisions: The following miscellaneous provisions form a part of this Agreement:

A. Time is of the essence of each provision of this Agreement.

B. The unenforceability, invalidity, or illegality of any provision shall not render the other provisions unenforceable, illegal, or invalid.

C. This Agreement shall be construed and interpreted in accordance with the laws of the State of Michigan.

D. This Agreement contains all of the agreements of the parties and cannot be amended or modified except by a written agreement.

E. The captions of this Agreement shall have no effect on its interpretation.

F. The parties hereto agree that no employees, volunteers, agents and personnel of either party shall be considered to be employees of the other, and acknowledge that this Agreement does not create a partnership or joint venture between them.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the day and year first above written.

WALLED LAKE CONSOLIDATED  
SCHOOL DISTRICT

By: Kenneth Gibson

Name: Kenneth Gibson

Its: Superintendent

Date: 10.3.13

DEAN TRANSPORTATION INC.

By: Kellie P. Dean

Name: KELLIE P. DEAN

Its: PRESIDENT / CEO

Date: 8/27/13

**EXHIBIT B**

**Contractor Pricing Forms**

**Attached**

## DEAN TRANSPORTATION

### TRANSPORTATION AND MAINTENANCE SERVICES COMPENSATION

#### CONDITIONS

1. Regular route charges shall be assessed on a Per Diem plus Variable Hourly operated basis.
2. The Per Diem base charge shall cover the first four (4) hours of service per day per Bus (and per Attendant if applicable) on regular routes.
3. The Variable Hourly charge for regular routes and attendant charges shall only apply to those hours in excess of the Per Diem base in Condition 2 of this Appendix. Variable Hours shall be calculated to the nearest 10<sup>th</sup> of an hour and shall be agreed to by November 1 by Dean and the School District in writing. The measurement week used in determining the Variable Hours will be the October Transportation count week for school year runs, or the first full week in which all programs served by the transportation system are in full operation. The measurement week for summer runs shall be determined by the first full week in which all of a run's programs are in regular session. The daily actual hours or the Per Diem Base of 4.0 hours, whichever is greater, shall be totaled for the week. The sum of those hours shall be divided by the number of actual run days for that week, and any hours in excess of the 4.0 hour Per Diem Base will be the Variable Hours for that run.

The Variable Hours shall remain at the agreed upon amount until such time changes occur that cause a 15 minute increase or decrease in the hours, or as measured by a billing period's most representative service week in which all programs served by the transportation system are in full operation. The District shall have the right to review and discuss all run or route changes with Dean.

By way of example:

**Example A: A five (5) day per week Fall Run.**

	Run Hours	Run Minutes	Convert to Decimal	Billable Run Hours
• Monday	4	15	4.3	4.3
• Tuesday	4	5	4.1	4.1
• Wednesday	3	45	3.8	4.0
• Thursday	4	30	4.5	4.5
• Friday	4	20	4.3	4.3
Total	19	115	21.0	21.2
			Run Days	5
			Average daily hours/run	4.2
			Minimum hours/run	4.0

<b>Example A Daily Run Variable Hours</b>	<b>0.2</b>
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**Example B: A four (4) day per week Summer Run.**

	<b>Run Hours</b>	<b>Run Minutes</b>	<b>Convert to Decimal</b>	<b>Billable Run Hours</b>
• Monday	3	50	3.8	4.0
• Tuesday	4	5	4.1	4.1
• Wednesday	4	0	4.0	4.0
• Thursday	4	15	4.3	4.3
• Friday	0	0	0.0	0.0
Total	15	70	16.2	16.4
			Run Days	4
			Average daily hours/run	4.1
			Minimum hours/run	4.0
<b>Example B Daily Run Variable Hours</b>				<b>0.1</b>

4. Regular route bus hours shall be determined from the transportation facilities provided by the School District unless an alternate location is mutually agreed upon.
5. The charges for regular route buses transporting students from multiple school districts shall be prorated between those districts by a methodology mutually agreed to by the Contractor and the School District in writing.
6. Field trips, CBI trips, or other special trips shall be charged on an hourly basis. Dean reserves the right to provide field trips or special trips at a reduced charge, or at no charge, at the discretion of Dean (such as Special Olympics trips). Time calculations shall be determined as in Item 4, or by the marginal amount of time such trip adds to a bus already in service if less, with a two-hour minimum for trips not able to be integrated with a "regular route" run driver.
7. All Per Diem and Variable Hourly charges identified in Items 1 through 3 of the "CHARGES" section below shall increase July 1 of each contract year over the life of the Agreement as follows:

2013 - 14	Base Year
2014 - 15	0.00%
2015 - 16	0.00%
2016 - 17	2.75%
2017 - 18	3.00%
2018 - 19	3.00%

8. It is the understanding of the Parties that the Contractor has based its pricing and fixed costs of the system on the School District operating school and requiring "regular route" transportation services on 171 days per academic year. To cover certain fixed costs of the system occurring regardless of whether school is in session, a 168-day Per Run Academic Year Minimum shall apply to "regular route" runs. It is the understanding of the Parties that the School District will not be charged for "regular route" runs on any days in which school is not in session, provided that the 168-day Per Run Academic Year Minimum is maintained. If the School District operates less than 168 days per academic year, the School District will be charged the base Per Diem Bus & Driver rate for each regular route as set forth in Item 1 of the "CHARGES" section below. Notwithstanding the foregoing, if the School District operates more than 171 days of school per academic year (excluding days operated for summer or extended year programs), then the Parties

agree to meet in good faith to adjust the Per Diem Bus & Driver Rate set forth in Item 1 of the "CHARGES" section below to account for the additional days over which the Contractor's fixed costs are applied.

Moreover, the Per Run Academic Year Minimum shall also be applied to runs that begin or end mid-year based on the ratio of the run's actual operating days relative to the calendar days of program(s) it serves if less than 168 days. By way of example, a run to a 168-day program needs to be split into 2 routes, 30 days into the school year because of student behavior. This caused one new run to be created.

Original Run  
Charged for 168 days (minimum)

New Run  
Charged for 138 days. The new minimum of 138 was determined by subtracting 30 from 168.

9. In the event that there are significant, documented increases or decreases in the costs of providing transportation services under this Agreement, such as (but not limited to) changes in the Patient Protection and Affordable Care Act (PPACA) or local/state/federal tax policies, Dean and the School District may, by mutual written agreement, adjust the base charges to reflect such cost changes.
10. The rates outlined in the "CHARGES" Section of the Exhibit B of this Contract were provided and agreed to by the Parties under the RFP's assumption that the School District would provide all fuel related to the Services covered under this Contract.

## CHARGES

### 1. BUS & DRIVER REGULAR ROUTE BASE RATES (DISTRICT-PROVIDED BUSES)

	Per Diem	Variable Hourly
2013-14 Bus & Driver Rate	\$238.46	\$28.28
Vendor-provided Bus (Additional Charges)	\$44.26	
Air Conditioning Protocol Premium	\$12.08	
On-bus Four-Camera Premium	\$2.36	

These rates include all maintenance on all School District and Contractor-owned buses, except as to the decision by the School District to retain fleet vehicles beyond the spare ratios as described in Section 5.5 of this Contract.

### 2. IEP ATTENDANT (REGULAR ROUTE BASE RATE CHARGE)

	Per Diem	Variable Hourly
2013-14 Attendant Rate (SE Aide)	\$84.77	\$21.19

This rate is for para-professional staff working 4 hours per day, who are not expected to hold nursing or similar certifications. If, due to legislation or otherwise, attendants are required to have such certification, and the rate of pay is greater than for existing trained lay-persons a new rate may be added for such certified personnel.

3. FIELD TRIPS, CBI TRIPS, OR OTHER SPECIAL TRIPS (DISTRICT-PROVIDED BUSES)

		<b>Hourly Rate</b>
2013-14	Vehicle In-service Time (Loading / Unloading / Driving)	\$37.83
	Waiting Time (if driver required to stay)	\$37.83
	Extended Hours Rate (if applicable for "In-Service" or "Wait" time)	\$52.96

(Contractor shall in good faith coordinate special trips to reduce the likelihood of the Extended Hours Rate, with the common understanding that certain factors such as familiarity with special needs students, extended trips, or other logistical considerations may mitigate Contractor's ability to eliminate all extended hours of drivers.)

4. WHITE FLEET MAINTENANCE LABOR RATE (DISTRICT VEHICLES)

		<b>Per Hour</b>	<b>Extended Hours</b>
2013-14	Maintenance Rate (Excluding Required Buses)	\$44.36	\$62.10

(Charge does not apply if maintenance occurs during standard fleet service hours and does not interfere with standard bus fleet maintenance schedules requiring Contractor maintenance staff to work extended hours.)

