

ORANGE COUNTY
BOARD OF EDUCATION

AGENDA ITEM ABSTRACT

Meeting Date: September 9, 2013

AGENDA ITEM No. 13-09-13

ACTION ITEM: (Y/N) Y

SUBJECT: Transportation Services - Special Circumstances Contract Approval

INFO. CONTACT: Pam Jones, Interim Exec. Dir. – Auxiliary Services PHONE: (919) 732-8126

ATTACHMENTS:

- Contract

PURPOSE: To consider approving a contract with D & D Transit, LLC to provide student transportation in special circumstances as deemed appropriate by District Transportation staff.

BACKGROUND: The Transportation Department has heretofore provided transportation for all students—regardless of circumstances—with school staff and school buses. There are certain circumstances where the student may be better served and greater efficiency realized by the District if alternative transportation services were available. Two examples include students with special medical needs or students transported per the McKinney-Vento Act. Students transported per the McKinney-Vento Act may have difficulty being accommodated via traditional bus service due to inconsistent pick up/drop off locations—and could in fact require transportation out of District. In an effort to provide reliable, safe and convenient alternative transportation, the District Transportation staff sought out a provider who has expertise in this type of service, as well as a proven track record with other area Districts. D and D Transit, LLC is the firm being recommended for contract.

D and D Transit, LLC provides this type of service in Cumberland and Harnett County Districts. The proposed contractor receives a favorable recommendation by those Districts.

The School Attorney's office has provided the attached agreement, which is based on agreements used by other Districts for similar services. Special care has been taken to ensure elements affecting student safety is addressed comprehensively.

This agreement will continue from the date of approval through June 30, 2014, unless earlier terminated per the terms in Section III-G of the contract. The Transportation staff will monitor effectiveness of this service delivery method during the next several months and if warranted, present annual renewals to the Board for each subsequent fiscal year.

FINANCIAL IMPACT: Quoted fees per student are \$55/student/day (plus \$55 for any care providers student may require), with a maximum of \$250/day/vehicle. The vendor has expressed his willingness to coordinate with the Transportation staff to minimize costs. For example, in an effort to contain costs, the vendor will bill short duration trips—20 miles or less—at \$2.50 per mile. The total commitment approved in this action is \$50,000. Should additional services be required, an amendment of this contract will be presented to the Board for approval.

It should be noted, the Transportation staff is aggressively pursuing practices that will positively impact the District's Transportation efficiency rating. As the Board may know, the efficiency rating, issued

continued

annually by DPI, directly affects funding provided to the District. The flexibility to provide alternative transportation services through this agreement is expected to improve the rating, thereby increasing funding, which will at least partially offset the cost of this agreement. Funding is available in the FY2014 Transportation budget to cover the full cost of this contract, however.

RECOMMENDATION: The Superintendent recommends the Board approve a contract with D & D Transit, LLC in an amount not to exceed \$50,000 to provide student transportation in special circumstances; and authorize the Chair to sign on behalf of the Board.

AGREEMENT BETWEEN THE ORANGE COUNTY BOARD OF EDUCATION AND D & D TRANSIT, LLC FOR SPECIAL TRANSPORTATION SERVICES

This contract for Special Transportation Services (the "Agreement") is made and entered into this ___ day of _____, 2013 (the "Effective Date") by and between the Orange County Schools Board of Education and D & D Transit, LLC, 2801 Daytona Drive, Raleigh, North Carolina, 27610.

I. PREAMBLE

THIS AGREEMENT as set forth herein between the Orange County Schools Board of Education (hereinafter "OCSBE", "Orange County Schools" or "OCS") and D & D Transit, LLC (hereinafter "Vendor") represents a mutual understanding and recognition on behalf of the parties of specified obligations to be met for the safe and efficient transportation of certain exceptional needs, homeless and/or other specified students enrolled in Orange County Schools ("students").

II. PURPOSE

The purpose of this Agreement is to provide transportation for students in the Orange County Public Schools.

III. TERMS AND CONDITIONS OF AGREEMENT

A. GENERAL TERMS AND CONDITIONS

- (1) Overall Administration. OCS shall be responsible for the overall administration of the transportation of students, and shall establish procedures with regard to Vendor's transportation of students.
- (2) Orientation Session. Prior to beginning transportation services to the OCS, Vendor shall attend an orientation session with OCS Transportation personnel. OCS shall provide Vendor with notice of the date, time and location of the orientation meeting at least three (3) days prior to the meeting. The Vendor shall meet annually with its employees to discuss safety and other topics related to transporting students with special needs. It is the Vendor's responsibility to annually to review this Agreement with each employee.
- (3) Assignment and Routing of Students. Vendor shall be responsible for routing and providing transportation services for all students assigned to it by OCS as provided herein. All routing shall be subject to approval by OCS. OCS may place reasonable restrictions on the number of students per vehicle and allowable ride times.

- (a) Initial Student Assignments. OCS shall provide Vendor with written notice of an arrival and dismissal schedule for all schools prior to the commencement of services under this Agreement. Along with this notice, OCS shall provide the Vendor with a report that lists the students, by school, initially assigned to Vendor, along with a description of each student's designated pick-up and drop-off locations, and any other information deemed relevant by OCS. OCS shall designate, at the time of initial assignment, whether it is anticipated that any students assigned to Vendor will regularly require a mid-day run in addition to morning and afternoon runs. Vendor shall establish routes according to the OCS TIMS office. All routes are subject to verification by the Transportation Office. The OCS shall retain the right to determine the capacity of each vehicle and which students are paired in any given vehicle. Students shall be transported to their schools, as per predetermined route, in the morning and home in the afternoon, without any unscheduled stops except for driver-recognized emergencies. Drivers may not deviate from assigned route except in any emergency situation. Any route changes recommended by a driver, a school administrator, or a parent will be referred to the OCS Transportation Department for approval prior to implementation.
- (b) Reassignments of Assignments and Routes. Any request from any school personnel or parent to deviate from the published arrival/dismissal schedule for any student shall be forwarded to the OCS Transportation Department for review/approval. The Transportation Department must approve in writing, the school or parent's request before any arrival/departure time change is implemented. The Vendor shall not reassign students without prior written permission from the OCS Transportation Department. OCS will endeavor to provide at least twenty-four (24) hours notice of any changes to student assignments, including changes to pick-up or drop-off times or locations or the addition or deletion of mid-day runs, by email, hand delivery, or other means. If for any reason OCS is unable to provide twenty-four (24) hours notice before a change to a student assignment is to take effect, OCS will provide such notice as soon as is practicable. Vendor shall immediately implement any necessary routing changes. Neither Vendor nor any individual driver have the authority or the option to negotiate or change, for any reason, any student's arrival time at school nor dismissal time from school.
- (c) Determining the Number of Students Assigned to Vendor. OCS will keep a running count of the number of students currently assigned to Vendor throughout the contract term and will provide that number to Vendor upon Vendor's written request. If Vendor believes that the number of students assigned to it is greater or lesser than the number provided to it by OCS, it may notify OCS of this belief in writing, and OCS will investigate and report its findings to Vendor as soon as practicable. For purposes of this Agreement, students who have been removed from Vendor's roster by OCS or are otherwise not receiving special transportation services from Vendor shall not be counted as students assigned to Vendor by OCS.

Notice of New Student Assignments. OCS will endeavor to provide at least three (3) school days' notice of any new students assigned to Vendor. If for any reason OCS is unable to provide three (3) school days' notice of any new student assignment, OCS will provide such notice as soon as is practicable. Vendor is responsible for commencing transportation services for any newly assigned students as soon as possible, but in no event later than the morning of the third (3rd) school day after receiving notice of the new assignment from OCS. If Vendor does not commence services within this time frame, a penalty of one-hundred dollars (\$100) shall be assessed to Vendor for each day, including and after the third (3rd) calendar day of receiving notice of the new assignment that the student is not transported. If Vendor believes that extenuating circumstances excuse the untimely commencement of services, Vendor may submit a written explanation to the OCS Transportation Director or designee. OCS will review any such requests and determine, in its sole discretion, whether the penalty shall be waived. Any penalties as described in this subsection shall be deducted from the Vendor's next monthly payment.

- (d) Notice from Vendor to Parents of Transportation Schedule. Whenever a student is assigned to Vendor, at the beginning of the school year or at any point thereafter, Vendor shall be responsible for contacting the student's parents/guardians via telephone or home visit within twenty-four (24) hours of receiving the assignment to let them know when transportation will begin and the times for pick-up and drop-off, vehicle number, and telephone number the parent/guardian should call to report a student's absence or to check on vehicle status. If Vendor is unable to contact the parents/guardians during this twenty-four (24) hour period, Vendor shall contact the administration of the school to obtain any additional phone numbers on file and shall attempt to contact the parents/guardians at those additional numbers as well. If unable to contact the parents/guardians within forty-eight (48) hours of being assigned a student, Vendor shall document its efforts by emailing the OCS Transportation Department. Vendor shall continue attempting to contact the parents/guardians daily until contact is made.
- (e) Emergency Changes to Student Assignments. Notwithstanding subsections III.A.(3).(d) and III.A.(3).(e), Vendor expressly agrees to comply with any and all changes in student assignments made by OCS at any time and in any manner, including but not limited to any last-minute changes to pick-up or drop-off times or locations.
- (f) Responsibility for Routing. Vendor shall be responsible for routing its vehicles in a manner that will ensure the safe and timely delivery of students assigned to it at the designated pick-up and drop-off locations in full compliance with the terms of this Agreement. Vendor may request assistance from OCS in determining appropriate and efficient routes, and OCS will endeavor to assist Vendor in those efforts. In addition, after any new students are assigned to it by OCS or after OCS makes any changes in the designated pick-up or drop-off

times or locations for any student, Vendor may request a copy of a revised TIMS Report for all students then assigned to Vendor, and OCS will endeavor to provide such a report within forty-eight (48) hours of Vendor's request or as soon thereafter as is practicable. Nothing in this Agreement, however, shall be construed to relieve Vendor of its sole responsibility to route its vehicles in a manner that will ensure the safe and timely delivery of all students assigned to it to the designated pick-up and drop-off locations.

(g) Morning, Mid-day, and Afternoon Runs. With respect to each student assigned to Vendor pursuant to this Agreement, Vendor shall be required to provide safe and timely transportation to and from school during morning and afternoon runs. In addition, Vendor may be required to provide safe and timely transportation to and from school for individual students on mid-day runs if transportation services during that time period are required by the student's IEP, 504 Plan, or educational programming needs, or if mid-day runs are necessitated by an emergency, inclement weather, or other unforeseen events or conditions.

(4) Restrictions on Types of Vehicles. All vehicles used for transporting OCS students shall be identified as "Orange County Schools Transportation" on the outside of the vehicle in a highly visible area. All vehicles used for transporting OCS students must also display vehicle numbers in a highly visible area and the work phone number for the driver's supervisor. This information must be visible from at least ten (10) feet away. Vehicles shall be classified as compact or larger. No subcompact vehicles shall be used to transport students. All vehicles used to transport students under this Agreement shall be modified, at Vendor's sole expense, to accommodate wheelchairs in a manner consistent with all state and federal laws and regulations and acceptable to OCS, and shall otherwise meet OCS specifications throughout the term of this Agreement. No vehicle shall be used to transport more than fifteen (15) students at one time without advance written approval from OCS. The carrier shall provide and maintain an adequate number of vehicles, including spares, to safely transport any and all students once assigned to assure uninterrupted service in the event of a mechanical breakdown.

(a) Other Restrictions. In order to ensure that the special needs of the students receiving transportation pursuant this Agreement are met, OCS may impose restrictions on the vehicles, drivers, and/or equipment to be used by Vendor on any and all routes, including but not limited to the following:

- (i) Specific type or size of vehicle to be used.
- (ii) Specific vehicle to be used.
- (iii) Gender of driver, but only when the special needs of one or more individual students are such that the gender of the driver has a direct bearing on the driver's ability to meet those students' needs.
- (iv) Maximum passenger capacity of vehicle.
- (v) Types of passenger restraints and other equipment or safety devices carried on each vehicle.

- (vi) Any requirements dictated by an individual student's IEP.
 - (vii) Any restrictions to meet the requirements of current or future laws, regulations, or rules of the National Highway Traffic Safety Administration (NHTSA).
 - (viii) Any other reasonable rules or restrictions.
- (b) Notice of Other Restrictions. To the extent practicable, OCS will provide notice of any restrictions described in Section III.A.(4).(a) at the time student assignments are made. The parties recognize and agree, however, that changes in routing or in the special needs of individual students may result in the imposition of new or changed restrictions with respect to any particular vehicle or route at any time throughout the school year, and Vendor shall comply with any such new or changed restrictions. To the extent practicable, OCS will endeavor to provide Vendor with forty-eight (48) hours notice of any new or changed restrictions.
- (5) Compensation. For services covered by this Agreement, OCS shall pay Vendor as follows:
- (a) For trips less than twenty-two (22) miles/day, OCS agrees to compensate Vendor at a rate of Two dollars and fifty cents (\$2.50) per mile traveled by the contracted vehicle.
 - (b) For trips greater than twenty-two (22) miles/day, OCS agrees to compensate Vendor at a rate of Fifty-five dollars and zero cents (\$55.00) per day per student on each contracted vehicle.
 - (c) In addition, in the event that a medically fragile student requires one or more healthcare providers to accompany the student during transport, the OCS agrees to compensate Vendor at the lesser of (i) Fifty-five dollars and zero cents (\$55.00) per day per healthcare provider riding on each contracted vehicle, or (ii) in the event that the student and his/her healthcare providers fill the capacity of the contracted vehicle, OCS agrees to compensate Vendor at a rate of Two hundred fifty dollars and zeros cents (\$250.00) per vehicle per day.
 - (d) In no event shall the cost to OCS under the Agreement exceed Fifty thousand dollars and zero cents (\$50,000.00) for the duration of the contract term.
 - (e) In the event of inclement weather, fire, power failure, or other similar occurrence impacting OCS facilities, which may necessitate the cancellation of the delivery of the service(s), and an alternate date cannot be agreed upon, the OCS will be under no obligation to compensate Vendor.
 - (f) The parties further acknowledge that the number of students actually requiring transportation services under this Agreement or systemwide may differ substantially from the estimates initially communicated to Vendor. Each party

expressly assumes the risk that the number of students assigned to Vendor and actually transported at any point throughout the contract term may be greater or less than the reasonable expectations of the Vendor. Vendor acknowledges that nothing in this Agreement guarantees student ridership or terms of service by the OCS.

- (g) No Compensation for Additional Mileage. Vendor shall be compensated as provided in Sections III.A.(5).(a)-(c) above. Vendor understands and acknowledges that some students, particularly students who qualify as “homeless” under the McKinney-Vento Homeless Assistance Act, may require longer trips between their homes and school, and Vendor shall not be entitled to any additional compensation for any additional work such trips may entail.
 - (h) No Extra Compensation for Mid-Day Runs. Vendor expressly acknowledges that it may be required to perform mid-day runs if transportation between the time periods for morning and afternoon runs is required by a student’s IEP, 504 Plan, or educational programming needs or necessitated by an emergency, inclement weather, or other unforeseen events or conditions. Vendor understands and agrees that it will not be entitled to any additional compensation for any such mid-day runs.
 - (i) No Compensation Except as Expressly Provided. Except as expressly provided herein or by subsequent written agreement between the parties, Vendor shall not be entitled to any additional compensation for any reason whatsoever.
 - (j) Conformance with Agreement. OCS shall not pay for any services provided in a vehicle that is not provided in strict conformance with this Agreement. In addition, Vendor shall be in breach of this Agreement if the vehicle provided is not the type designated by OCS or OCS has not specifically consented in writing to the use of a substitute vehicle.
- (6) Students Not Available for Pick-Up. Pick-up of student(s) at home may be cancelled by the parent and/or the OCS Transportation Department only. In the event Vendor makes pick-up stops for two (2) consecutive days in which a student is not transported and notice has not been given by OCS to Vendor to remove the student from the route, Vendor shall notify the OCS Transportation Department. Upon receiving such notice, OCS will instruct Vendor whether to continue making efforts to transport the student. OCS agrees to compensate Vendor at half the daily rate for the two (2) days during which the student is not transported, after which point compensation will be stopped unless OCS notifies the Vendor otherwise. Vendor’s failure to provide OCS with the notice described in this subsection shall be deemed a material breach of this Agreement, and students for whom the required notice is not provided shall not be counted as students assigned to Vendor for purposes of determining whether Vendor is entitled to compensation. Repeated or willful failures to provide the notice described in this subsection shall be grounds for termination by OCS.

- (7) Billing. OCS will pay Vendor on a monthly basis. The billing period for this Agreement will be the first (1st) day of the month to the last day of the month. Vendor shall provide invoices for the previous billing period by the fifth (5th) day of each month, along with daily attendance logs for each vehicle and any other supporting documentation required by this Agreement or reasonably requested by OCS. Vendor shall submit electronic invoices and supporting materials to the OCS Transportation Department, Attention: Anthony Conner (Anthony.Conner@orange.k12.nc.us) by the fifth (5th) day of each month. If invoices and supporting materials are submitted in a timely manner, payment shall be made by check on or about the last day of each month for services rendered during the previous billing period.
- (8) Forms for Reporting of Information. OCS shall provide forms for reporting the following information: health examinations of the drivers, routes, number of vehicles used, student information, and maintenance records. OCS may also provide forms for the reporting of other information required to be provided by Vendor pursuant to this Agreement. If no form is provided by OCS, information required to be provided by Vendor pursuant to this Agreement shall be provided in a form mutually agreeable to both parties.
- (9) Approval of Drivers. OCS may conduct an investigation of all driving and criminal records of drivers proposed to OCS by Vendor as drivers for their students. If OCS determines, in its sole discretion, that a driver is not acceptable to drive students because of lack of skills necessary to perform their duties, inability to control students, failure to comply with rules and regulations, incapacity, unbecoming conduct, or other good cause, it shall notify Vendor of the results of its investigation. Vendor shall immediately stop allowing any driver deemed unacceptable by the OCS to transport students.
- (10) Health and Safety of Students. While Vendor shall be solely responsible for ensuring that its drivers are acceptable to transport students, OCS shall have the right to take any actions it believes are necessary to protect the health and safety of the students, including but not limited to imposing additional rules and restrictions regarding the transportation of specific students, making changes to student assignments, canceling student assignments, and/or terminating this Agreement. In addition, if Vendor fails to follow the written specifications and the terms of this Agreement, it will be considered for termination. OCS reserves the right to immediately suspend Vendor, or any individual vehicles of Vendor, without compensation to Vendor for any payments it would otherwise be entitled to during the period of suspension, if OCS deems that Vendor, or an individual vehicle of Vendor, poses a risk to the safety of its students. Vendor's drivers shall *immediately* report any incidents or concerns relating to student health, safety, or discipline to the designated administrator at the student's school, the student's parent(s) or legal guardian(s), and the driver's supervisor. Before the end of the day, the driver's supervisor shall submit written notification of such issues via

email or facsimile transmission to both the designated administrator at the student's school and the designated official in the OCS Transportation Department.

(11) Performance Reviews and Audits. OCS shall, at its sole discretion, review Vendor's performance to ensure compliance with this Agreement. Vendor agrees to cooperate in all respects with any such performance review and to timely respond to and address any concerns raised by OCS. In addition, OCS may have its Internal Auditor or a private firm conduct an audit of Vendor's business practices and all business records related to this Agreement. Vendor will receive five (5) working days' notice of any audit. Any audit will be limited in scope to only the services provided to OCS. OCS shall have the right to inspect and/or copy any or all records related to this Agreement. If a performance review or audit reveals that OCS has paid Vendor more than required under the terms of this Agreement, any such overpayment shall be immediately refunded by Vendor upon demand, or OCS may, at its option, deduct this amount from the next monthly payment(s) to Vendor. If OCS determines that Vendor intentionally sought or received overpayment, OCS may immediately and permanently suspend Vendor from providing contract transportation and terminate this Agreement.

(12) Independent Contractor. OCS shall retain Vendor as an independent contractor to perform the services called for herein. It is understood and agreed by the parties hereto that Vendor is and shall be an independent contractor. In no event shall any employee hired by Vendor be considered an employee or agent of OCS. Matters governing the terms and conditions of employment of Vendor's employees are entirely within the cognizance of Vendor. Such matters as work schedules, wage rates, and the operations of Vendor are wholly within the cognizance of the Vendor except insofar as Vendor's services must be provided in accordance with the specifications of this Agreement.

(13) Availability of Funds. This Agreement is subject specifically to the availability of funds supplied by the State of North Carolina, United States government, or any other applicable governing authority, to the Orange County Schools for the transportation of students. Vendor specifically acknowledges that payment under this Agreement is subject to the availability of such funds. OCS may terminate this Agreement on thirty (30) days written notice due to unavailability of funds.

B. BASIC SERVICES

(1) Routing and Transportation of Students. Vendor shall respond to all requests for transportation of students by providing vehicles at the appropriate locations and times for pickups and discharges, as determined by OCS. Once students have been assigned, it is Vendor's sole responsibility to ensure the safe and timely transportation of students in accordance with the designated pick-up and drop-off times and locations in full compliance with the terms of this Agreement. With respect to picking students up from school, Vendor shall ensure that drivers are in

position and waiting in their vehicles at the designated location at each school at least five (5) minutes prior to each school's dismissal time, unless OCS waives this requirement for a specific school or student in writing. No OCS student may be picked up from school prior to dismissal without the advance written approval of the Transportation Director or designee. If no adult is present in the afternoon drop-off location, the driver shall contact the OCS Transportation Department for further instructions. **Students shall not be left with anyone except a parent, a guardian, or their designated caretaker unless the driver has a completed authorization form to leave the student unattended, or permission from OCS personnel.**

- (2) **E-Mail notification.** Vendor shall submit e-mail notification to the TIMS operator during the first two days of providing services indicating any problems that may have occurred with the transport of assigned students. For any new students assigned during the year, Vendor shall, within two days of being assigned those students, provide e-mail notification to the TIMS department confirming whether transport of the student/students has begun.
- (3) **Reporting of Information.** Vendor shall submit the following information by email to the TIMS operator by 3:00 pm on the fifth (5th) day of each month: routes, number of vehicles used, student routing information, vehicle inspection and any other information requested by OCS.
- (4) **General Hours of Service.** Vendor shall be prepared to provide drivers and vehicles to transport student under the terms of this Agreement between the hours of 6:00 a.m. to 5:30 p.m., or as such hours may be adjusted due to changes in the start and end times for individual schools. The normal time frame of 6:00 a.m. to 5:30 p.m. does not include any driving time or other time spent by Vendor on any given route before Vendor's first designated pick-up of a student or after Vendor's last designated drop-off of a student on any given day, such as time spent driving to or from a driver's home, Vendor's place of business, or any other destinations not specifically designated by OCS as student pick-up or drop-off sites. Once schedules for students are established, it is the responsibility of the Vendor to have vehicle(s) and driver(s) at the designated location at the scheduled time.
- (5) **Special Hours of Service.** While the majority of transportation services will generally be needed between 6:00 a.m. and 5:30 p.m., or as such hours may be adjusted due to changes in the start and end times for individual schools, the parties recognize that emergency trips, inclement weather, traffic conditions, or other unforeseen events or conditions may occasionally necessitate transportation of students outside this time frame, and Vendor agrees to transport students under such circumstances as needed without additional compensation. In addition, if program hours are adjusted by OCS, Vendor shall provide transportation to accommodate the adjusted schedule.

- (6) Acceptance of Students. Vendor shall handle all routes and transport all students assigned to it by OCS. Vendor shall not refuse any student assigned to it, and the refusal to transport any individual student shall be cause for termination of this Agreement, without limitation to any other remedies available to OCS. Vendor expressly recognizes that some students requiring special transportation services are behaviorally or emotionally challenged and that others may have medical conditions requiring close attention to their needs. Vendor shall ensure that its drivers are appropriately trained and prepared to meet the challenges of transporting special needs students and that all students shall be treated at all times with dignity and respect.
- (7) Vendor Contact. Vendor shall have a single contact person responsible for communication between Vendor and OCS. Vendor shall provide a dispatcher, who shall work at a base station during hours of service, as defined in subsections III.B.(4) and III.B.(5).
- (8) Condition of Vehicles. Vendor shall provide vehicles which are in good operating condition at all times during the term or any renewal of this Agreement. Any and all vehicles used to transport students under this Agreement shall be no more than fifteen (15) years old and shall have accrued no more than 250,000 miles at any time during the term or any renewal of this Agreement, unless either or both of these requirements is waived in writing by OCS with respect to any individual vehicles. In addition, no vehicle that has accrued over 200,000 miles may be used to transport students under this Agreement unless OCS has inspected and approved the vehicle's appearance and has received satisfactory assurances of its safety and roadworthiness from Vendor. Any and all sedans or sport utility vehicles used to transport students under this Agreement shall not be more than ten (10) years old at any time during the term or any renewal of this Agreement, unless this requirement is waived in writing by OCS with respect to any individual vehicles. Before any school bus becomes sixteen (16) years old or accrues over 250,000 miles, and before any sport utility vehicle, sedan or other vehicle becomes eleven (11) years old, Vendor shall replace them with newer vehicles acceptable to OCS at (Vendor's) sole expense, unless this requirement is waived in writing by OCS with respect to any individual vehicles. Vehicles must be clear of trash and debris (bags, cups, cans, etc) at all times. OCS retains the right to decline the use of a vehicle which has remnants of tobacco smoke inside the vehicle.
- (9) Vehicle Safety Standards. All buses must meet all state and federal motor vehicle safety standards applicable to public school buses. All vehicles and buses must be equipped with a three-point seat belt for each passenger. Rear-facing seating arrangements are prohibited.
- (10) Operating Expenses. Vendor shall be solely responsible for all operating expenses for any vehicles used to provide services pursuant to this Agreement,

including any required maintenance, insurance, and costs related to the acquisition of fuel, oil, and all other essential items for the operation of its vehicles.

- (11) Communications Equipment. Vendor shall equip all vehicles used for the transportation of OCS students with two-way radios or an operable mobile phone compatible with that used by the OCS Transportation Department. OCS shall be given a contact person and phone number to notify in case of emergencies. Vendor shall furnish the Transportation Department with a list of the mobile phone numbers assigned to each vehicle or driver for purposes of emergency communications and shall keep that list updated at all times. Vendor will be responsible for all expenses related to the cell phone. Drivers shall not operate electronic devices while driving with students on board.
- (12) Compliance with Legal Requirements. Vendor shall comply with all applicable laws, ordinances, codes, rules, and regulations in performing the services called for in the specifications of this Agreement. Vendor also shall only use vehicles approved by OCS. The use of a mobile phone by a driver of Vendor while the vehicle is in motion is strictly prohibited and constitutes a misdemeanor under G.S. 20-137.4, except for the sole purpose of an "emergency communication" as defined in that statute.
- (13) No Unauthorized Riders. The use of contracted vehicles while in service to OCS shall be limited to the transportation of OCS students under contract with the Vendor. While any vehicle is being used to transport students, it shall be used only for the transportation of students, monitors, or other individuals specifically assigned to that vehicle by OCS. No other persons shall be permitted to ride in vehicles with students without the prior written consent of OCS.
- (14) No Unauthorized Stops. Students shall be picked up and dropped off at the locations designated by OCS. Drivers shall not run any personal errands or make any unauthorized stops while students are being transported (e.g. shopping centers, drugstores, restaurants, etc.). Vehicles will be gassed up in advance and able to complete their routes with stopping for gas.
- (15) Insurance. Vendor shall purchase and maintain insurance in the amounts and coverages as specified below. Failure to furnish and maintain such insurance shall constitute default and serve as grounds for immediate termination of this agreement by the OCS.
 - (a) Worker's Compensation Insurance. Vendor shall maintain during the term of this Agreement all such worker's compensation insurance as is or may be required by the laws of North Carolina.
 - (b) Public Liability Insurance. Vendor shall maintain public liability insurance covering its liability for bodily injury and property damage which may arise from its operations, contractual obligations, products and completed operations,

as well as operations performed by independent contractors, in not less than the following amounts:

- (i) A combined single limit (CSL) of \$2,000,000 each occurrence, or a \$1,000,000 limit for Bodily Injury Liability together with a \$1,000,000 limit for Property Damage Liability.
 - (ii) A Commercial General Liability policy with limits of not less than \$1,000,000 per occurrence and \$3,000,000 aggregate.
 - (iii) An occurrence form of policy will be required, and the certificate of insurance submitted by Vendor must be personally signed by a resident licensed agent of each of the companies listed on that form.
- (c) Automobile Liability Insurance. Vendor shall maintain automobile liability insurance covering his liability for bodily injury and property damage which may arise from his operations, contractual obligations, products and completed operations, as well as operations performed by independent contractors, in not less than the following amounts:
- (i) A combined single limit (CSL) of \$1,000,000 each occurrence.
 - (ii) Automobile liability must cover any auto and cover sexual misconduct with minimum limits of \$100,000/\$300,000.
 - (iii) An occurrence form of policy will be required, and the certificate of insurance submitted by Vendor must be personally signed by a resident licensed agent of each of the companies listed on that form.
- (d) Un-Insured and Under-Insured Liability Insurance. Vendor shall maintain un-insured and under-insured liability insurance in the amount of \$1,000,000.
- (e) Certificate of Insurance. Vendor shall furnish OCS a certificate of insurance reflecting that the required worker's compensation, liability insurance and automobile liability insurance are carried by Vendor. The certificate of insurance must state that it is issued to or at the request of OCS. All insurance vendors shall be licensed to do business in North Carolina or approved to issue insurance coverage by the Commissioner of Insurance of North Carolina.
- (f) Policy Endorsements. Each insurance policy required by this Agreement shall include an endorsement naming the Orange County Schools Board of Education as an additional insured. In addition, each such policy shall include an endorsement providing that said policies shall not be altered or canceled until after thirty (30) days' written notice of such cancellations or alteration has been sent by certified mail to the OCS Transportation Office, Attention: Julian S.

Ramirez, Director, Department of Transportation, Orange County Schools,
Department 231 Holman Dr., Hillsborough, North Carolina 27278.

- (g) Rejection of Insurance. OCS reserves the right to reject any Carrier of Insurance shown in the certificate of insurance by Vendor on the grounds of poor claim service or financial responsibility.
 - (h) Indemnification. Vendor and its insurer shall indemnify and save harmless the Orange County Schools Board of Education, its individual board members, and its agents and employees from suits, actions, damages, and costs of every name and description resulting from Vendor's work under this Agreement.
- (16) On-Time Delivery of Students. Vendor shall be solely responsible for ensuring the safe and on-time delivery of students at each pick-up and drop-off location designated by OCS. After the first ten (10) school days, Vendor shall be considered late in the morning if a school notifies the OCS Transportation Department that the child has arrived late to school due to Vendor's late arrival or if OCS otherwise becomes aware that a child was delivered to school ten (10) minutes or longer after the scheduled drop-off time. After the first ten (10) school days, Vendor shall be considered late in the afternoon if Vendor arrives at a student's school more than fifteen (15) minutes after the student's afternoon dismissal bell. Students will not be released early to accommodate Vendor's routes. If Vendor has a reason it believes relieves it of liability for any late arrival, it must notify the designated representative of OCS within twenty-four (24) hours of the late arrival, or Vendor's explanation will not be considered. If Vendor accumulates two (2) unexcused late arrivals for the same school during the same calendar month, OCS shall notify Vendor, and Vendor shall immediately take all reasonable steps to eliminate late arrivals. After Vendor receives notice pursuant to this Section, OCS shall deduct one hundred (\$100) from Vendor's next monthly payment for each additional late arrival to the same school during the same calendar month, unless such late arrivals are deemed excused by OCS. If Vendor accumulates excessive late and unexcused arrivals after receiving notice pursuant to this Section, OCS may terminate this Agreement for cause as provided herein, without limitation to any other remedies available to OCS.
- (17) Business Records. Vendor shall keep and maintain adequate and proper business records of all services provided under this Agreement.
- (a) Inspection of Records. All books and records, including those concerning vehicle maintenance, maintained by Vendor pertaining to this Agreement will be made available to OCS or its agents for the purpose of inspection, copying, or audit during normal business hours upon reasonable notice.

- (b) Reporting Record. Vendor shall maintain an accurate reporting record with daily and monthly reports due on forms provided by OCS, or, in the event forms are not provided by OCS, in a manner mutually agreeable by the parties.
- (18) Compliance with Title VII and Title IX. Vendor shall provide all services under this Agreement in compliance with Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000d et seq. and all federal regulations which provide that no beneficiary or recipient of the services provided by this Agreement shall be discriminated against on the basis of race, color, creed, national origin, age, ethnic background, or sex. In addition, Vendor shall provide all services under this Agreement in compliance with Title IX of the Education Amendments of 1972, 20 U.S.C. 1681 et seq. and all federal regulations which provide that no individual shall, on the basis of sex, be excluded from participating in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance. Vendor agrees to maintain a training program for drivers and employees on the recognition of and response to sexual harassment.
- (19) Driver Rotation or Reassignment. In recognition of the special needs of the students being transported, Vendor shall not rotate or reassign drivers on individual runs without the prior approval of the OCS Transportation Department. When substitute or replacement drivers are authorized, Vendor shall ensure that such drivers are properly trained and informed regarding route assignments and the special transportation needs of each student to be transported.
- (20) Training and Supervision of Drivers. Vendor shall provide good, quality and reliable service and shall utilize properly trained and supervised employees. Vendor will assume all costs associated with training of employees.
- (21) Maintenance of Vehicles. Vendor shall be solely responsible for the total maintenance of each vehicle. Vendor shall provide the OCS Transportation Department with copies of vehicle inspection and tag dates of all vehicles used to transport OCS students pursuant to this Agreement prior to the vehicle being placed into service. Provider shall provide a motor vehicle, which at all times while students are being transported, meets all North Carolina Division of Motor Vehicles safety inspection regulations. Each vehicle shall be maintained for road-worthiness. This includes but is not limited to: parts, tires, insurance, cleaning, and safety. Vendor shall make regular checks of special equipment (such as belts, restraints, etc.) and assure that the equipment is used appropriately. Vendor will provide a copy of their proposed pre-trip vehicle inspection checklist to the OCS Transportation Department for approval prior to transporting any OCS student pursuant to this Agreement. Once approved, the Vendor shall ensure that each driver inspects his/her assigned vehicle prior to the start of his/her route each morning and again each afternoon. OCS may add additional inspection items as necessary. A regular preventive maintenance program shall be exercised by Vendor. Vendor shall have each vehicle inspected at least once each calendar

month by a qualified person and complete reports of these inspections must be filed with the OCS Transportation Department. Such reports shall summarize the dates of preventative maintenance inspections, unscheduled repairs, parts and mechanic(s) name(s) who were responsible for such work. Vendor shall provide to the OCS Transportation Department a copy of the monthly inspection checklist for review and approval prior to the first scheduled inspection. OCS may administer periodic spot checks of all vehicles to ensure that vehicle inspection reports are accurate. Vendor shall fully cooperate with and submit to any such "spot check" without prior notice. All vehicles used shall always be maintained in neat, clean and safe condition, and the OCS reserves the right to order the Vendor to complete repairs and prohibit the use of any vehicle it considers is not neat, clean or safe until the condition is remedied by Vendor. Vendor shall be solely responsible for providing approved replacement vehicle(s) for any vehicle(s) that is restricted from use by OCS until the condition is remedied by Vendor. If Vendor is unable to provide a replacement vehicle, OCS shall provide alternative transportation at Vendor's expense until the condition is remedied. Vendor shall reimburse OCS for any costs associated with reassigning the route or routes.

- (22) No Unauthorized Vehicles. No children shall be transported in vehicles not properly identified to OCS and for which timely initial and monthly inspection reports have not been provided without the advance written consent of OCS.
- (23) Safety Restraints and Equipment. Vendor shall provide at its sole expense all required safety restraints and safety equipment, including but not limited to car seats for both front and rear passengers, belt positioning booster seats, sure-lock wheelchair securement and EZ-On safety vests. All occupant safety restraints must meet NHTSA safety standards, as well as other applicable federal and state motor vehicle safety standards. Absent express written authorization from OCS to use a different brand or model, Vendor shall utilize the specific approved brands and models of safety restraints and equipments attached hereto as Exhibit A. All safety equipment, including but not limited to booster seats, must be checked at least yearly to ensure that it has not expired or been recalled. All safety equipment that has expired or been recalled must be replaced immediately at Vendor's sole expense. *Students may not be transported without all safety equipment required by their IEPs as well as all safety equipment required by applicable state or federal law or regulations, including but not limited to NHTSA safety standards.*
- (a) Additional Safety Equipment. Vendor shall provide at its sole expense the following safety items in each vehicle: First Aid Kit – Grade A, stocked with the following items: 4" bandage compresses, 2" bandage compresses, 1" adhesive compresses, 40" triangular with two (2) safety pins and plastic gloves. Fire Extinguisher – two and one-half pound (2-1/2) dry chemical stored pressure type with pressure gauge meeting UL, ICC and US Coast Guard requirements, all metal discharge head and valve (no plastic valves). Fire Blanket, Belt

Cutter. Body Fluid Clean-Up Kit containing the following: 2 oz. packages T.I.L.S.C. powder (sanitizes, deodorizes, encapsulates), odor reducing mask, latex gloves, antiseptic wipes, paper crepe towels, scraper, plastic disposal bag with scoop and tie. Blood Borne Pathogen Kit containing the following: one (1) zip lock bag containing: eight (8) pair of gloves (non-latex), four (4) biohazard labels, one (1) face shield mask, one (1) cake icing gel, one (1) CPR face mask (only if employee is certified in CPR), one (1) sharps container, one (1) personal protective kit for each employee, and one (1) antimicrobial hand wipe container.

- (b) In the event OCS has provided restraints (i.e., safety vests), and such restraints are no longer needed, they shall be returned to the OCS Transportation Department. The cost of any such restraint not returned to OCS by the end of the third day after the last scheduled school day for students shall be deducted from the final payment to the Vendor.
- (24) Procedures for Loading Students into Vehicles. Drivers will confirm that students are properly secured in the vehicle before putting the vehicle into motion. Vendor shall use the following procedures when loading students into vehicles:
- (a) Students with IEPs shall be seated in accordance with any provisions in their IEPs regarding where or how they should be seated in vehicles.
 - (b) Students shall not be allowed to unbuckle seatbelts/car seats until they are exiting the vehicle.
 - (c) Students shall not be left unattended at any time.
 - (d) Students with a tendency to remove shoulder harnesses or lean forward in the seat shall be restricted to the back seat of two-row vehicles or the middle row of three-row vehicles.
 - (e) All vehicles transporting students should fill the back seat of two-row vehicles or the middle seat of three-row vehicles before filling other seats.
 - (f) Drivers shall assist parents and school staff in loading/unloading students, including students in wheelchairs. Drivers are responsible for ensuring students in wheelchairs and other restraints are properly secured. All wheelchair bound students must be transported facing front only.
 - (g) Students may be seated in the front seat of a vehicle, or in the back row of a three-row vehicle, *only* if doing so is consistent with the vehicle's owner's manual and all applicable state and federal laws and regulations, including but not limited to NHTSA safety standards. Assuming these conditions are met, students may be seated in the front seat of a vehicle, or in the back seat of a three-row vehicle, under the following terms and conditions:

- (i) Children must weigh at least forty (40) pounds and be at least five (5) years old to ride in the front seat. As a general matter, and subject to the provisions of individual students' IEPs or any student-specific safety concerns, only the largest student transported in a vehicle should ride in the front seat.
 - (ii) Students shall not be permitted to ride in the front seat of any vehicle that has a passenger side airbag.
 - (iii) If students must be transported in the front seat of a vehicle, the front seat should be moved back as far as possible from the dash board.
 - (iv) If students must be transported in the front seat of a vehicle, the driver should instruct the students to keep their lap belt and shoulder harness on at all times, to sit in an upright position, and not to lean forward towards the dash board.
 - (v) Students shall not be permitted to ride in a rear-facing seat of any vehicle.
- (25) Review of Procedures and NHTSA Safety Recommendations. Vendor shall provide each of its drivers with a copy of the procedures described above and shall provide OCS with certification that each of its drivers received a copy of said procedures prior to allowing the driver to transport any OCS students. Vendor shall periodically, and at least two times each school year, review the above procedures and the safety reasons supporting them with the drivers. Vendor shall routinely monitor all recommendations from the NHTSA for the use of passenger side air bags where individuals under eighteen (18) years old are in the passenger seat and immediately alert OCS of any changes which in any way conflict with the procedures established above.
- (26) Driver Training. Before transporting any students pursuant to this Agreement, all drivers shall attend training programs provided deemed acceptable by OCS to teach drivers how to deal with the special needs of students and other transportation safety issues, including, but not limited to applicable North Carolina State Statutes regarding procedures for approaching railroad crossings. The training programs required of all drivers and a list of approved vendors for each required training program is attached hereto as Exhibit B. Other training programs or vendors will not be accepted without the express prior written consent of OCS. When requested by OCS Transportation Department, the Vendor will arrange for drivers to participate in workshops (up to eight hours annually) to receive training and learn new safety techniques that apply to student transportation. If mutually agreeable to the parties, Vendor's drivers may attend some or all of the required training programs along with OCS drivers at dates and locations arranged by OCS. Wherever and whenever such training is provided, Vendor shall be solely responsible for paying any wages to the drivers for their

attendance, as well as any fees charged by the agencies providing these training programs for Vendor's drivers' attendance. If Vendor's drivers attend training programs that are arranged and paid for by OCS, then Vendor shall reimburse OCS for a pro rata portion of any fees charged by these agencies to OCS, based on the number of Vendor's drivers and the total number of persons in attendance. In addition, drivers serving individual students may be required to attend more specialized training sessions to deal with individual student needs as may be necessary. Vendor shall provide OCS with documentation demonstrating that each of its drivers has completed the required training programs, and shall maintain copies of any training materials and related documents in its place of business throughout the term of this Agreement.

- (27) Resolution of Parent Disputes. Vendor shall be responsible for resolving problems and disputes with parents concerning the transportation of students. Vendor shall use its best efforts to resolve all disputes between students or their parents and Vendor. Vendor shall engage in telephone and written communications with OCS regarding any problems or disputes and the resolution of the same. In the event OCS determines that it is spending an excessive amount of time resolving problems and disputes and/or administering this Agreement, it shall notify Vendor. Vendor shall immediately take steps to reduce the amount of time OCS spends resolving problems and disputes and/or administering this Agreement. If Vendor does not promptly take steps which reduce OCS time to an acceptable level, OCS may terminate this Agreement. In addition, if OCS receives four (4) calls regarding any single student, driver or situation during any given school year, OCS may deduct one hundred dollars (\$100) from Vendor's next monthly payment, as well as one hundred dollars (\$100) for each additional call regarding the same student, driver, or situation, unless OCS determines that Vendor has taken all reasonable steps necessary to resolve the situation. The assessment of the hundred-dollar payment(s) shall be in addition to any other penalties assessed against Vendor pursuant to this Section, and shall not prevent the termination of this Agreement. If Vendor believes that any problems or disputes with parents regarding the transportation of students are the fault or responsibility of OCS, Vendor shall notify OCS of its concerns. Under no circumstances shall Vendor disparage OCS or its agents, employees, or students in any of its conversations or interactions with students or parents.
- (28) Drivers and Other Vendor Employees. Vendor shall supply drivers for all of the vehicles required pursuant to this Agreement. Vendor shall also employ at all times during the term of this Agreement all of the supervisors, customer service representatives and other employees required to perform its obligations under this Agreement.
- (a) Safety Assistants. Vendor agrees to provide safety assistants to accompany students on contract transportation as requested by the OCS. Safety assistants are expected to comply with all of the terms and conditions of this Agreement, including but not limited to the Code of Conduct for drivers, criminal records

checks, sex offender registry checks, physical examinations, drug and alcohol testing, and specialized training sessions to deal with individual student needs as may be necessary. In the event a safety assistant does not report for work, Vendor must make every attempt to find a replacement. If the Vendor cannot find a replacement safety assistant, Vendor must advise the OCS Transportation Department prior to dispatching the vehicle on its assigned route.

- (29) Reporting Accidents. In the event of an accident or incident involving an OCS student being transported under the terms of this Agreement, or an accident involving a vehicle operated by the driver while performing services under this Agreement, the driver shall:
- (a) Immediately report the vehicle accident to a local law enforcement agency requesting emergency medical services if necessary.
 - (b) Report the accident or incident to the OCS Transportation Department at (919) 732-2531. When the driver notifies the Transportation Department, the driver must provide all known information, including the location of the accident, extent of student injuries if known and assurance of notification to appropriate law enforcement authorities.
 - (c) Do not notify schools or parents. The notification of schools or parents is the responsibility of the OCS Transportation Department.
 - (d) Do not leave the scene of the accident until approval from OCS transportation official unless immediate medical attention is necessary.

Following an accident, Vendor agrees to provide substitute driver and/or vehicle if requested by the OCS Transportation Department. Vendor further agrees to ensure that drug and alcohol testing is performed in accordance with Section III.C.(9).(b). Results shall be forwarded to the OCS Transportation Department within twenty-four (24) hours of receipt from the testing agency. Vendor shall provide a complete written report of the accident or incident to the OCS Transportation Department within two (2) calendar days of the accident.

The OCS Transportation Department reserves the right to subsequently inspect any vehicle involved in an accident. Vendor understands and acknowledges that such inspection by OCS Transportation Department shall not be considered as a substitute for, nor in any way relieve the Vendor of, Vendor's responsibility to inspect all vehicles and to maintain such vehicles in proper condition and repair. OCS reserves the right, in the event that a question arises regarding the safe operation of a specific vehicle, to require the Vendor to suspend the use of a vehicle pending an inspection by a certified mechanic or safety expert of OCS's choice, and any repairs as necessary.

C. DRIVERS

General Requirements for Drivers. Drivers who transport OCS students shall be hired and supervised by Vendor, and Vendor shall be responsible for ensuring that drivers are aware of and comply with all applicable provisions in this Agreement. All drivers for Vendor shall possess valid North Carolina Driver's Licenses, as well as good driving records and good driving habits. Drivers are subject to all rules, regulations and laws specific to Motor Vehicle drivers and must comply with them. Each driver must be reliable, responsible, healthy, and exhibit high standards of moral conduct and personal hygiene. Each driver shall be neat, clean, orderly, and wear the uniform provided by Vendor, if any, and approved by OCS at all times while providing services pursuant to this Agreement. Drivers shall not use profanity or engage in any loud, boisterous, or disruptive behavior at any time while providing services pursuant to this Agreement. Drivers shall not allow music to be played in the vehicle while transporting students.

- (1) Compliance with IRCA. Vendor represents and warrants that it is in compliance with and agrees that it will remain in compliance with the provisions of the Immigration Reform and Control Act (IRCA) as it relates to all of its employees, including but not limited to the provisions of the Act prohibiting hiring and continued employment of unauthorized aliens, requiring verification and record keeping with respect to identity and eligibility for employment, and prohibiting discrimination on the basis of national origin, United States citizenship, or intending citizen status. The Vendor also agrees to indemnify OCS and hold OCS harmless from all liability, including any attorney fees and liability for interest and penalties OCS may incur as a result of the Vendor failing to comply with any IRCA provision.
- (2) Specific Requirements for Driver. Vendor will directly hire and pay drivers to transport OCS students pursuant to this Agreement, provided that no driver will be authorized to transport OCS students without OCS's express approval. Drivers shall not eat or drink in contract vehicles while transporting students. Vehicles that will be used to transport students shall remain smoke-free at all times, both in and out of service. OCS retains the right to decline the use of a vehicle which has an odor of or remnants of tobacco smoke inside the vehicle, and Vendor shall provide replacement vehicles at its sole expense.
- (3) Reference Checks. Vendor must obtain at least three (3) sealed, confidential reference checks (Exhibit C) for all driver applicants and provide the original copy of each reference to the Transportation Department at the time of submission of the application package. Vendor shall submit written certification that it has contacted a minimum of two (2) previous employers for references (Exhibit D). The original copies of reference checks will be returned to Vendor. A completed "Notification/Release of Information" (Exhibit E) must accompany the application package. All drivers must be approved in writing by OCS Transportation prior to being allowed to transport any OCS students. Expenses incurred for background checks shall be the sole responsibility of Vendor.

- (4) Information about Drivers. No later than ten (10) days prior to the commencement of services under this Agreement, Vendor must furnish a list of drivers and substitutes who will be transporting students together with their driver's license numbers, dates of birth, and current home address. In addition, Vendor shall furnish for each such driver a Driver's License Record Check and a statement, signed by both the driver and an official representative of Vendor verifying that the driver has no criminal record or a statement describing in detail any past criminal convictions. In addition, Vendor shall submit this same information for any new driver hired by Vendor at least ten (10) days before that driver is scheduled to provide services under this Agreement. If any driver is charged with criminal offenses or traffic violations during the term of this Agreement or engages in any activity adversely reflecting on his or her ability or competence to transport students, Vendor shall immediately notify the OCS Transportation Director by telephone and shall follow up in writing within twenty-four (24) hours of receiving notice of the charge or activity. All drivers must be approved by OCS prior to transporting students, and OCS reserves the right to reject any driver, including a previously-approved driver, at any time for any reason it deems necessary or appropriate.
- (5) ID Badges. Vendor shall provide ID badges for all contract drivers. ID badges shall display a current photo of the driver, the company name, and the driver's name and title. The badges must be worn at all times while drivers are on school property and transporting students to and from school. The Vendor must provide OCS with a list of any new drivers who are hired during the contract period. Vendor shall incur any expense involved in obtaining ID badges for employees.
- (6) Certification by Driver. Before any driver begins transporting students, Vendor shall provide the driver with a copy of the relevant portions of this Agreement as determined by Vendor and OCS. The driver shall execute a written statement to OCS certifying that the driver has received the relevant portions of this Agreement, has read or has had explained their provisions, and understands their terms and conditions.
- (7) Driver Code of Conduct. Before any driver begins transporting students, Vendor shall provide the driver with a copy of the Driver Code of Conduct attached to this Agreement as Exhibit H. No driver shall be allowed to transport students pursuant to this Agreement until he or she has signed, initialed, and dated the Driver Code of Conduct, which shall indicate his or her agreement to its terms, and Vendor has provided OCS with a signed copy. To the extent there may be any irreconcilable conflict between the Driver Code of Conduct and this Agreement, the terms of this Agreement shall control.
- (8) Physical Examination. Before any driver begins transporting students during the time period covered by this Agreement, Vendor at its expense shall arrange for a physical examination of each driver. OCS shall provide a form for this purpose to be completed by a medical doctor within the most recent three (3) months prior

to the driver commencing services pursuant to this Agreement (Exhibit F). A physician licensed to practice in North Carolina must complete this form. The result of the physical shall be transmitted directly from the doctor to the OCS Transportation Director no later than ten (10) days prior to the first day the driver transports students. Results of a current tuberculosis test (within three (3) months) must also be submitted. Provided, however, that OCS may in its sole discretion waive this requirement in writing with respect to any individual driver if OCS already has a physical examination form on file for that driver. No driver shall be permitted to transport students if, in the opinion of Vendor or OCS, the driver has a medical condition which could affect his or her ability to safely or efficiently transport students. OCS will notify Vendor in writing as to any driver disqualified under this provision. This provision does not relieve Vendor from any of its other responsibilities as set out in this Agreement, including its duty to provide reliable, responsible, and healthy drivers.

(9) Drug and Alcohol Testing.

- (a) Pre-Service. Before any driver begins transporting students during the time period covered by this contract, Vendor shall, at its sole expense, arrange for a comprehensive drug and alcohol assessment of the driver. The result of this drug and alcohol assessment shall be transmitted directly from the laboratory conducting the testing to OCS at least ten (10) days prior to the first day the driver transports students under this Agreement.
- (b) Post-Accident. Following an accident involving a driver performing services pursuant to this Agreement, OCS may require that driver to undergo, at Vendor's sole expense, a drug and/or alcohol assessment within twenty-four (24) hours notice at a laboratory of OCS's choice.
- (c) Reasonable Suspicion. At any time during the term of this Agreement, OCS may require any driver performing services under this Agreement to undergo, at Vendor's sole expense, a drug and/or alcohol assessment at a laboratory of OCS's choice, based on OCS's or Vendor's reasonable suspicion that the driver may have performed services under the influence of drugs or alcohol.
- (d) Approved Laboratories. Any and all drug or alcohol assessments conducted pursuant to this Agreement shall be conducted by a laboratory certified by the National Institute on Drug Abuse and approved in advance by OCS, and the results shall be transmitted directly from the laboratory to the designated representative of OCS.
- (e) Temporary and Permanent Suspension of Drivers. No driver required to undergo a drug or alcohol assessment under this Section shall be permitted to resume transporting students until the assessment results have been received by OCS and OCS has notified Vendor in writing that the driver may resume transporting students. No person shall be permitted to transport students whose

assessment indicates illegal drug use or excessive use of alcohol or prescription or non-prescription drugs (a “positive result”).

- (f) Mandatory Testing of Commercial Drivers. In addition to the requirements imposed by this Section, Vendor shall be solely responsible for ensuring that it is in compliance at all times with all applicable state and federal laws and regulations regarding mandatory drug testing of commercial drivers. Vendor must submit an annual report indicating that all new drivers have been tested and that current drivers have been randomly tested a minimum of one time during the year. This report shall be submitted to the OCS Transportation Department.
 - (g) Penalties for Breach. Violation of this provision may result in the immediate termination of this Agreement and the permanent suspension of Vendor from providing contract transportation for OCS. This provision does not relieve Vendor from any of its other responsibilities as set out in this Agreement, including its duty to provide reliable and responsible drivers.
- (10) Lunsford Act / Criminal Background Checks. Vendor must furnish an official Department of Motor Vehicles driver’s license record for each driver. In addition, Vendor shall conduct certified criminal records checks from each jurisdiction (county) in which the driver has resided for the last ten years. Vendor shall conduct sexual offender registry checks on each of its employees, agents, ownership personnel, or contractors (“contractual personnel”) who will engage in providing any direct services to OCS students or any service on or delivery of goods to school system property or at a school-system sponsored event. The checks shall include at a minimum checks of the State Sex Offender and Public Protection Registration Program, the State Sexually Violent Predator Registration Program, and the National Sex Offender Registry (“the Registries”). For Vendor’s convenience only, all of the required registry checks may be completed at no cost by accessing the North Carolina Sex Offender Registry website at <http://sexoffender.ncdoj.gov/>. Vendor shall provide certification on a Sexual Offender Registry Check Certification Form provided by OCS that the registry checks were conducted on each of its contractual personnel providing services under this Agreement prior to the commencement of such services. Vendor shall conduct a current initial check of the registries (a check done more than 30 days prior to the date of this Agreement shall not satisfy this contractual obligation). In addition, Vendor agrees to conduct the registry checks and provide a supplemental certification form before any additional contractual personnel are used to provide services pursuant to this Agreement. Vendor shall not assign any individual to deliver goods or provide services pursuant to this Agreement if said individual appears on any of the listed registries. Vendor agrees that it will maintain all records and documents necessary to demonstrate that it has conducted a thorough check of the registries as to each contractual personnel, and agrees to provide such records and documents to the school system upon request. Vendor specifically acknowledges that the school system retains the right to audit

these records to ensure compliance with this section at any time in the school system's sole discretion. Failure to comply with the terms of this provision shall be grounds for immediate termination of the Agreement. In addition, OCS may conduct additional criminal records checks at OCS's expense. If OCS exercises this right to conduct additional criminal records checks, Vendor agrees to provide within seven (7) days of request the full name, date of birth, state of residency for the past ten years, and any additional information requested by the school system for all contractual personnel who may deliver goods or perform services under this Agreement. Vendor further agrees that it has an ongoing obligation to provide the school system with the name of any new contractual personnel who may provide services under the Agreement. OCS reserves the right to prohibit any contractual personnel of Vendor from delivering goods or providing services under this Agreement if OCS determines, in its sole discretion, that such contractual personnel may pose a threat to the safety or well-being of students, school personnel or others. If any driver is charged with a criminal, traffic, or drug offense during the term of this Agreement or engages in any activity adversely reflecting on his or her ability or competence to transport students, Vendor shall immediately (prior to next scheduled run) notify the OCS Transportation Department by phone and shall forward written notification to the Transportation Department within twenty-four (24) hours.

- (11) Other Requirements for Drivers. While on school property or interacting directly with students, drivers are expected to abide by the Orange County Schools Board of Education policies governing conduct on school property. Drivers are expected to respond courteously and informatively to any questions from school staff members concerning routes or students. Any request from a school staff member that conflicts with OCS Transportation guidelines, policies, and/or procedures must be referred to the driver's supervisor and to the OCS Transportation Department for a decision. Drivers will not talk about students' disabilities, home situations, or other personal information except as required to discharge their job duties. All information concerning students will be treated as confidential information and shall not be given, sold, or inadvertently disclosed to any third party by the Vendor, any driver or safety assistants or any other employee or subcontractor. Information concerning any student, whether transported or not, shall not be discussed with anyone other than school personnel with a need to know and the driver's immediate supervisor. The Vendor further understands that any student information and/or routes remain the property of OCS in the event that this Agreement is terminated. This restriction applies to former employees of the Vendor who resign or are dismissed. Drivers will not argue with students, teachers, or administrators, but will report any concerns to their supervisor. Drivers will not punish or threaten to punish students, but will report any discipline concerns to their supervisor. Drivers shall not smoke, eat or drink in contract vehicles while transporting OCS students. Drivers will not give food or drinks to students except as specifically directed by authorized OCS personnel. Drivers will not run personal errands of any kind while students, healthcare providers, or safety assistants are on board.

- D. ADDITIONAL SERVICES. If requested to perform additional services by a duly authorized representative of OCS, Vendor may enter into a separate agreement or separate agreements for the transportation of students to and from field trips or other special events. The services to be performed and compensation to be paid for such separate services shall be identified in the written agreement(s) between Vendor and the duly authorized representative of OCS regarding those additional services, and any invoices or billing inquiries shall be presented directly to the OCS representative who executes the separate agreement. The parties expressly agree that all of the terms and conditions of this Agreement shall be incorporated by reference into any such separate agreement or agreements, except for the terms and conditions in this Agreement pertaining to routing and compensation, except to the extent that the separate agreement or agreements expressly declares that the terms or conditions of this Agreement have been superseded. Vendor shall not enter into any such separate agreements that might interfere with its ability to perform the services described in this Agreement.
- E. INDEMNIFICATION. Vendor shall be responsible for each driver's and employee's actions in the transportation of students pursuant to this Agreement. Vendor agrees to fully indemnify and hold harmless the Orange County Schools Board of Education, its individual board members (current or former), and its agents and employees from any and all liability whatsoever arising from or out of the conduct of Vendor or its drivers, employees or agents.
- F. ASSIGNMENT AND SUBCONTRACTS. Vendor may not enter into any agreement, arrangement, or informal understanding with any other person, organization or company for the performance of any of its obligations under this Agreement, including any agreements to provide one or more vehicles or drivers, without the prior written permission from OCS.
- G. TERM AND RENEWAL. The term of the Agreement shall commence on the Effective Date and shall continue through June 30, 2014, both dates inclusive, unless terminated earlier as herein provided.
- H. TERMINATION. Vendor may terminate this Agreement for cause after thirty (30) days written notice. OCS may terminate this Agreement for cause after seven (7) days written notice. OCS may terminate this Agreement with thirty (30) days written notice based on a change in federal or State law, guidelines or regulations or NHTSA recommendations or regulations regarding the transportation of students in automobiles. The obligations of the Agreement shall continue in effect through any period of written notice of termination given by either party to the other or until a date mutually agreed upon in writing by the parties. This provision does not limit the rights of OCS to terminate or seek other remedies as provided elsewhere in this Agreement. Section III.E of this Agreement shall survive, and in no way be affected by, any termination of this Agreement.

- I. MODIFICATIONS. This Agreement with the Exhibits attached hereto contains the entire agreement between the parties and supersedes all previous agreements and proposals, oral or written, between the parties related to the subject matter hereof. Any modification or amendments to this Agreement shall be in writing and shall be made a part hereof only when signed by both parties.
- J. GOVERNING LAW. This Agreement shall be governed by the law of the State of North Carolina.
- K. HEADINGS. Any and all headings and subheadings in this Agreement are for ease of reference only and shall not be given any weight in interpreting the meaning of the terms or conditions of this Agreement.

*-- REMAINDER OF PAGE INTENTIONALLY LEFT BLANK --
-- SIGNATURE PAGE AND EXHIBITS FOLLOW --*

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year indicated below.

**ORANGE COUNTY SCHOOLS
BOARD OF EDUCATION**

D & D TRANSIT, LLC

By: _____
Donna Coffey, Chair

By: _____
Ronald Dendy, Owner

Date: _____

Date: _____

Attest: _____
Dr. Del Burns, Interim Superintendent

State of North Carolina
_____ County

I, _____, a Notary Public for _____ County, North Carolina, do hereby certify that Ronald Dendy, a member of D & D Transit, LLC, personally appeared before me this day and acknowledged that he as a member, being authorized to do so, executed the foregoing instrument on behalf of the company.

Date: _____

Notary Public

My commission expires: _____

(Official Seal)

This instrument has been preaudited in the manner required by the School Budget and Fiscal Control Act.

Donna Brinkley, Finance Officer

Date

EXHIBIT G
OTHER FORMS AND DOCUMENTS

These forms may be changed from time to time by OCS throughout the term of this Agreement. OCS may also require additional forms to be completed by vendors and/or drivers consistent with the terms of this Agreement.

EXHIBIT H DRIVER CODE OF CONDUCT

_____ I will be professional in appearance and have a good attitude with families, students and school personnel.

_____ I will maintain a high level of professionalism as I am the first point of contact for families.

_____ I understand that I am transporting children with disabilities who will need my extra patience and calm at all times.

_____ I will introduce myself to the family and children I am transporting and provide my company's contact numbers to parents and school personnel.

_____ I will do my best to ensure that students are safe and comfortable at all times.

_____ I will follow all required safety procedures when loading, unloading, and transporting students.

_____ I will abide by all state motor vehicle laws and other applicable laws and regulations while operating my vehicle.

_____ I will not talk to anyone about a particular child's disability, home situation, or personal information except as required to discharge my job duties.

_____ I will not punish students or threaten to punish them in any way at any time.

_____ I will treat students with dignity and respect at all times. I will not shout, berate, use profanity, or otherwise use language that is not appropriate for children.

_____ I will not use any tobacco products in the transportation vehicle at any time. I understand that vehicles used to transport students and school grounds must remain tobacco free at all times.

_____ I will not leave children in transportation vehicles unsupervised or out of my field of vision for any length of time.

_____ I will notify my supervisor immediately (while my vehicle is stopped) of any incidents relating to student health, safety, or discipline.

_____ I understand that this Code of Conduct does not list all of my duties and responsibilities. I specifically acknowledge that I am responsible for understanding and following ALL applicable provisions of my company's contract with OCS. I will ask my supervisor if I have any questions about contract requirements.

_____ I certify that I have read and understand this Driver's Code of Conduct and the applicable provisions of my company's contract with OCS, which I have reviewed with my supervisor.

Printed Name

Date

Signature