

MANCHESTER SCHOOL DISTRICT

TITLE: Supplemental Specialized Transportation Contract

COMMITTEE ON FINANCE PHONE POLL OF: August 6, 2019

ACTION: X

CONSENT:

INFORMATION:

BACKGROUND

Coordinated Transportation Services, (CTS), is a transportation management company. They are the only company that responded to the RFP. We have utilized CTS this past school year and they have proven to be a very reliable and responsive company to work with. This contract is to supplement the current Easter Seals contract. Easter Seals is no longer able to meet the needs of the district due to the driver shortage. This contract will service Bakersville, Beech Street, Hallsville, Wilson and McKinney-Vento transportation for Gossler.

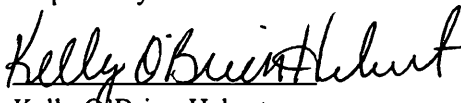
Our current expenses with STS for these school runs is approximately \$415,855.84. The CTS proposal will be approximately \$635,712.00. This is an increase of approximately \$219,856.16. This proposal is for one year with the option to renew for two additional years.

FISCAL VERIFICATION: X

RECOMMENDATION:

That the Committee on Finance approve the contract, via phone poll, and forward this item to the Full Board of School Committee for Approval.

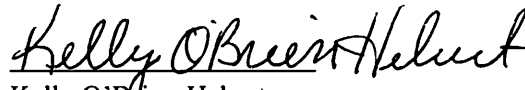
Prepared by:



Kelly O'Brien-Hebert

Transportation Coordinator

Presented by:



Kelly O'Brien-Hebert

Transportation Coordinator

TRANSPORTATION CONTRACT [DWM redlines 7-29-2019 CTS Revisions 7-30-19]

Between

The Manchester School District, SAU 37

And

Coordinated Transportation Solutions, Inc.

Articles of Agreement, hereinafter called "Contract," made this ____ day of _____, 2019, between the Manchester School District, Manchester, Hillsborough County, New Hampshire, hereinafter called "District," and Coordinated Transportation Solutions, Inc., a Company with a principal place of business at 35 Nutmeg Drive, Suite 120, Trumbull, CT 06611, hereinafter called the "Contractor."

In consideration of the mutual covenants set forth herein, the parties agree as follows:

Article I - Definitions

- A. As used in this Contract, "School Year" shall mean the school calendar adopted annually by the District, which shall determine the number of days and dates on which vehicles/buses shall be in operation, subject to minor modifications resulting from weather conditions or other unusual circumstances.
- B. "Emergency Situations" as referred to in this Contract shall mean such medical, vehicle, road, weather, traffic, or other conditions which constitute a danger, hazard, or jeopardy to the safety of the bus or its occupants.
- C. "Board Policies" as used in this Contract shall mean such written guidelines adopted by the Manchester Board of School Committee governing the health, safety, and welfare of the Manchester School District students.
- D. "Students with Disabilities" as used in this Contract shall include such students as designated by the District as requiring special transportation to be provided by the Contractor under the terms of this Contract.
- E. "Bus" as used in this Contract is a general term and shall refer to a car, van, bus, or similar vehicle that is used to transport students pursuant to this Contract. Details on the capacity and features of vehicles required under this Contract are contained herein.
- F. "Proposer" shall refer to a firm or individual submitting a Proposal pursuant to the terms and conditions of the Request for Proposals ("RFP") issued by the District on or about June 25, 2019, which RFP and Proposal in Response to the RFP by Contractor, dated July 16, 2019 (the "Proposal") are incorporated by reference into this Contract. The term "Proposer" as used in this Contract shall mean the "Contractor."
- G. "Contractor" is a firm or individual awarded a contract pursuant to the terms and conditions of these specifications.

Article II - Contract with Contractor

The District agrees to and does hereby contract with the Contractor as transporter of designated preschool, elementary, middle and high school students with disabilities or any students with specialized needs of the District, and the Contractor agrees to transport upon such routes and on such schedules as shall be designated and approved by the District.

Article III - Term of Contract

The term of this Contract shall be one year (1) year commencing on September 1, 2019 and concluding August 31, 2020. The District and Contractor may agree to up to two 1-year extensions, subject to the negotiation of mutually agreed to terms and conditions. Any extension shall be finalized no later than six (6) months prior to the end of said Contract term.

Article IV - Rates, Payments and Credit

A. In-District Transportation Charges:

1. The District agrees to pay a price per day, per vehicle, based on the actual usage and vehicle features. The prices shall be based on a daily rate with two (2) hours in the AM and two (2) hours in the PM included. The Proposer shall include a rate per hour for mid-day routes with a one (1) hour minimum guaranteed. The Proposer shall also submit an Excess Hourly Rate for time that exceeds the two hours in the AM or PM with the Excess Hourly Rate billed in 15-minute increments rounded to the nearest quarter hour. Bus usage for in-district routes shall begin at the first pick-up and end at the last drop-off with “deadhead” time to and from the Contractor’s terminal not included in the billable time. Should a vehicle only be required for a half-day (AM or PM), the rate paid shall be no more than 65% of the daily rate for that sized vehicle. The prices shall be as provided by the Proposer in its Proposal. The following chart defines the current vehicle usage:

VEHICLE CAPACITY	DAILY USAGE				
	AM ROUTE	PM ROUTE	MID DAY ROUTE	MONITOR REQUIRED	EXCESS HOURLY
7	2	2			
7	2	2			
7	2	2		Y	
14	2	2			
14	2	2			
14	2	2			
14	2	2			
14	2	2		Y	
14	2	2		Y	
14	2	2		Y	

Additional In-District work during the school day may include but will not be limited to: students on a shortened day (late arrival/early dismissal), transportation to local businesses for student work programs, shuttles between schools for CTE programming. Additional work

outside the school day may include but will not be limited to: students attending before or after school programming, students participating in Unified Sporting Programs.

The District foresees a steady increase in PreK programming and enrollment, which in turn will increase the amount of students transported to these programs. It should also be noted that Manchester is exploring several different redistricting plans which will impact the transportation program.

2. Extended School Year: The District provides Extended School Year (ESY) services for students with disabilities. In-District ESY programming is offered at three (3) SAU sites for six (6) weeks between July 1st and August 30th. A portion of students may be placed in Out of District sites or alternative locations. Rates for ESY transportation will follow school-year charges. Enrollment and transportation need varies from year to year.

3. Monitors: The Proposer shall submit a rate per hour for monitors with the length of day paid to the monitors coinciding with the length of day for the vehicle (i.e., an AM & PM bus guaranteed for four hours would pay the monitor for four hours).

4. Field Trips: Field Trips shall be provided at the Hourly Rate as stipulated in the Proposal with a two-hour minimum payable per trip. Field trips are restricted to approved students with disabilities, their guides and chaperones and any other individuals the District wishes to place on the vehicle to fill it to capacity.

For any field trips that may transport students out-of-district, the District shall pay the Contractor for a rate per mile for all miles over 50. This per mile payment for over 50 miles per trip would be in addition to the hourly rate. The rate per mile shall be entered on the Request for Proposal form.

5. Adding or Subtracting Buses from In-District Service: This contract envisions the Contractor providing the District a per unit price for the necessary vehicles and services. Any additional buses required, or any buses eliminated from the fleet, shall be charged or credited at the per unit price on a per day basis.

If the District requests additional time frames or schools that the transportation system cannot accommodate, the Contractor and the District shall evaluate and work together to implement the most cost effective solution to meet the desired transportation needs, including outsourcing to other vendors.

B. Out-of-District Transportation Charges:

During the term of this Contract the District shall require the Contractor to provide services to out-of-district locations. The Contractor shall provide rates for these services on the basis of the cost per student to the designated location with the price per student determined by the number of students on the vehicle, as follows: Quote to be provided on an as needed basis.

Should additional destinations occur during the term of the contract, the Contractor shall provide a quotation to the District based upon the number of students being transported to that

location.

In addition to out of district placements, the District experiences many families over the course of the school year that require transportation from surrounding areas to Manchester schools under McKinney Vento protections or DCYF placement. Current inbound locations include: Nashua, Derry, Hillsboro, Windham, Goffstown, Merrimack, Bow, Londonderry, New Boston, Laconia, Hooksett, and Raymond.

- C. Annual rate increases: The contract prices as stipulated by the Contractor shall increase each year by the Consumer Price Index for All Urban Consumers – Northeast SMSA as published by the Bureau of Labor Statistics in June of each year (June to May period). In no event shall the increase be less than 2% nor more than 4%.
- D. Spare vehicles: The Contractor shall maintain a sufficient number of spare vehicles, for each vehicle type; to provide services to the District should a vehicle be removed from service for any reason. The spare vehicles shall be maintained by the Contractor at no incremental cost to the District. At a minimum, the Contractor must have at least one spare vehicle for every 10 vehicles, or portion thereof, by vehicle capacity. For example, if there are seven (7) 20-passenger buses, the Contractor would be required to have at least one (1) spare 20-passenger bus. If there were thirteen 20-passenger buses, there would be a requirement for two (2) spare 20-passenger buses.
- E. Special Services: In the event that the District requests services that were not envisioned in the pricing structure included in this Contract, the Contractor and the District shall negotiate an appropriate rate prior to the implementation of the service. It is the Contractor's responsibility to bring to the attention of the District any situation where services are requested but where pricing procedures are not in place. Failure to notify the District shall result in the District solely determining the price to be paid.
- F. Payment: The Contractor shall bill the District no less frequently than monthly. Payment is due by the last day of the month after the services were provided. Invoices must be received by the 10th day of the month following the month of service, to be paid by the end of the following month. Any overdue amounts shall be subject to interest charges. Overdue amounts are any balances that are not paid by the last day of the month after services were provided. Interest shall be charged at 1% per month, beginning from the day the payment was due.
- G. ~~Fuel Fluctuation Clause [1]: The District shall reimburse the Contractor for the cost of fuel if the fuel prices are 10% higher or lower than the base line rate of \$1.89 per gallon for diesel, and \$1.80 per gallon for gasoline. The amount of fuel shall be limited to that used in direct performance of this Contract based upon the following:~~
 - ~~One (1) gallon of diesel for each eight (8) route miles for buses in excess of 20 passengers;~~
 - ~~One (1) gallon of diesel for each twelve (12) route miles for vehicles of 8 to 20 passengers;~~
 - ~~One (1) gallon of gasoline for each eighteen (18) miles for 7 passenger vehicles, or less.~~

Fuel Adjustment Rates^[2]:

~~For the purpose of the calculation of allowable gallons for the allocation of fuel, the amount shall be based on actual fuel usage, as mutually agreed between the District and the Contractor.~~

~~The Contractor and the District shall meet after the routes have been established at the beginning of each school year to determine the allowable route mileage and the estimated annual fuel allowance by vehicle type. Periodic meetings shall occur throughout the school year to evaluate any route changes and the potential impact on the fuel allowance. Should the Contractor utilize a vehicle to transport children from another district on the same run as one of more Manchester School District students, the District and the Contractor shall agree on a pro rata method for determining the allowable route mileage assessed to the District.~~

~~There will be a fuel fluctuation clause based on a base price range of \$_____ to \$_____ per gallon for gasoline and \$_____ to \$_____ per gallon for diesel. If the delivery price for fuel used for district work falls below the base price range, the District will receive a credit for the difference in delivery price from the bottom of the range multiplied by the allowed gallons. Should the delivery price for fuel used for district work fall above the price range, the Contractor will receive a credit for the difference in delivery price from the top of the range multiplied by the allowed gallons.~~

~~The clause shall be reviewed annually, or as designated by the District and the Contractor. All fuel used to complete the District work shall be counted in this clause.~~

Pursuant to the Specifications issued by the Manchester School District, the undersigned proposes to provide the services as described herein at the following rates:

A. In-District Transportation Services: See Pricing Sheet, attached to the Proposal.

	Daily Rate (4 Hours)	Mid-Day Hourly Rate	Excess Hourly Rate
	\$	\$	\$

B. Monitors: Price per hour with a four (4) hour daily guarantee on full day buses. Half day buses would provide a 2.5-hour guarantee. Price per Hour: \$_____ See Pricing Sheet, attached to the Proposal.

C. Field Trips:

Hourly Rate \$ _____ See Pricing Sheet, attached to the Proposal.

Rate per Mile for miles over 50 for Out-of-District trips only: \$ _____ See Pricing Sheet, attached to the Proposal.

D. Out of District services: See Pricing Sheet, attached to the Proposal.

The District is exempt from taxes and the cost of fuel shall reflect the price as if purchased directly by the District. In order to ensure that the District controls its cost of fuel, the District shall not reimburse the Contractor for any fuel costs if the price per gallon exceeds the rate that could be purchased directly by the District through the City of Manchester.

For the purposes of the calculation of allowable miles for the allocation of fuel, the Contract shall be based upon actual route miles as mutually agreed between the District and the Contractor. Route miles do not include deadhead miles from the Contractor's terminal to the route or location.

The Contractor and the District shall meet prior to the beginning of each school year to determine the allowable route mileage and the estimated annual fuel allowance by vehicle type. Periodic meetings shall occur throughout the school year to evaluate any route changes and the potential impact on the fuel allowance. Should the Contractor utilize a vehicle to transport children from another district on the same run as one or more Manchester School District students, the District and the Contractor shall agree on a pro rata method for determining the allowable route mileage assessed to the District.

Article V - Early Dismissals/Calendars/Service Cancellations

- A. In the event of early dismissal of students by the District or of any school serviced pursuant to this Contract, the Contractor agrees to provide the normal level of bus service for such early dismissal, provided, however, that the District shall provide the Contractor with reasonable notification as to any such early dismissal or other unique transportation needs.
- B. The Contractor shall follow the calendar for the District and all other calendars approved by the District.
- C. On days when weather creates a dangerous situation for travel, the Superintendent or his/her designee shall have the authority to determine if transportation shall be provided. The Contractor shall be notified no later than 6AM unless a unique situation prohibits notification. In the event that Manchester Schools are closed, no transportation shall be provided in the system, including service to out-of-district placements where school may be in session. On days when service is delayed, all service shall commence at the end of the announced delay period. The District reserves the right to delay or cancel service to out-of-district placements if severe weather conditions exist at the point of destination.

Article VI - Increase or Decrease of Buses

- A. The District reserves the right to increase or decrease the number of buses used in transportation of school children in order to conform to changes in student population, District appropriations, or changes in Board Policies. Such decreases shall become effective immediately and any increases shall become effective within three (3) days of written notice to the Contractor.
- B. In the event of such increase or decrease, the contractual obligations herein shall be modified in accordance with the final schedule of fees as set forth in Article IV.

Article VII - Bus Identification and Route Number

- A. The Contractor shall provide the District with the Contractor's number designation for all buses and substitute buses to be used in performance of duties pursuant to this Contract prior to the beginning of each school year.
- B. Each bus must operate on its designated route unless an emergency situation exists or the District authorized a change in route.
- C. All vehicles shall be owned and/or leased and operated by the Contractor. The name of the owner/operator is to be clearly displayed on the outside of the vehicle. The Contractor shall maintain its vehicles in good running condition and adhere to the NH specifications for School Bus Transportation rules. All school buses supplied by the Contractor in the performance of this agreement shall meet or exceed the standards established by the law governing New Hampshire school bus transportation.

Article VIII – Route Jurisdiction

- A. All routes, as well as opening and closing times, shall be approved by the Superintendent of Schools or his/her designee. The Contractor shall develop the proposed routes based upon student data supplied by the District. All proposed routes shall then be submitted to the District for approval. The final determination of routes and vehicle assignments shall rest with the District.
- B. All students shall arrive at their drop-off point no later than 45 minutes after dismissal from school with the exception of out-of-district transportation.
- C. After the start of school, the District has the right to add in-district students to existing route structures without additional cost, providing the total number of students in-district is within the parameters of this Contract and the requested change or addition can be handled within the capacity of the existing system and the assigned vehicle. Any necessary route changes that require additional cost for the system shall be discussed with and approved by the District prior to implementation. The Contractor shall be allowed three working days following the mutually agreed upon request to implement the requested change. When a route change is requested because extreme conditions exist which affect the welfare of a student or his/her family, the Contractor shall make an effort to accommodate the requested change in less than three days.

- D. The District is responsible for providing a copy of the school calendar for each school location assigned to the Contractor. The District shall provide a complete list of students with correct addresses and their scheduled destination locations 30 days prior to the start of school. The Contractor is responsible for maintaining communications with the District's Transportation Coordinator and parents with regards to scheduled pick-up and drop-off times and any unscheduled program changes. The District must approve all unscheduled changes. The District shall make referrals and determine who is eligible for specialized transportation.
- E. Mixing of populations (based on student age; disabilities; or schools) shall only be done with the approval of the District's Transportation Coordinator.
- F. The Contractor shall determine all vehicle routes and driver assignments subject to District approval. The Contractor, at the District's direction, shall initiate and maintain contact with the parent/guardian relative to route details including pick-up and drop-off times, bus number, and driver name(s). The Contractor shall make contact, prior to the beginning of service for the new school year, to provide said information. Notification to parents/guardians shall be postmarked 14 days prior to the start of school, providing system information is forwarded to the Contractor at least 30 days prior to the start of school. Otherwise, the Contractor shall notify parents/guardians as soon as possible following the development of transportation routes.
- G. Service to Manchester students with disabilities shall be designated as "curb-to-curb" service. It is the responsibility of the parent or guardian to meet the bus or van at the designated pick-up or drop-off point. Alternate pick-up or drop-off locations such as alleyways or cross streets shall be approved if the District and Contractor designate the location safe and reasonable. Pick-up points and destinations must be accessible, free of debris and well maintained. Destinations and pick-up locations must be clear of snow and ice during winter months. If equipment, other than vehicle safety belts and wheelchair tie down equipment, is requested or required, the cost or the provision of such equipment shall become the responsibility of the requesting party.
- H. In the event that no authorized person is at the approved destination to accept responsibility for the student, the Contractor shall continue to the next stop, complete the remaining route and return to the original stop. If no authorized person is still available, the emergency information card shall be utilized to determine a pre-approved alternate drop-off location. If no emergency card has been completed or there is no approved drop-off location, the Contractor shall contact the District's Transportation Coordinator for instructions on how to proceed. If no information is available, the student shall be transported to the District office or school of attendance as determined by the District's Transportation Coordinator. Chronic problems at a destination or pick-up location shall be communicated to the District by the Contractor. Appropriate action plans shall be developed between the family, the District and the Contractor. The District and the Contractor shall make after-hour contact numbers available.

Article IX - Maintenance

At the Contractor's sole expense, all buses shall be maintained in safe mechanical condition at all times, and shall be properly equipped, cleaned and painted in accordance with any applicable federal laws, New Hampshire Statutes and Rules and Regulations. The Contractor shall develop and maintain a preventive maintenance schedule for all buses. All records based on such maintenance shall be made available to the District upon request.

Article X - Storage of Buses

The Contractor is responsible for providing secure and adequate parking for all buses when not in service. The Contractor shall supply with its proposal the address of all locations that shall be utilized in the performance of this Contract. The District reserves the right to inspect these locations at any time during the term of the Contract.

Article XI - District's Right to Inspect Buses

All buses must be available at the location agreed upon in Article X of this Contract and ready for inspection by the District on or before August 20th of each school year, as well as at any time thereafter during the school year as deemed necessary by the District. The District has the right to request maintenance on any bus it believes to be in need of service; however, the maintenance and care of the vehicles shall be the responsibility of the Contractor. The failure on the part of the District to request maintenance shall not exempt the Contractor from its duty to maintain the vehicles.

Article XII - Technology Requirements

The Contractor agrees to have all vehicles equipped with either a two-way communication device or cellular telephone that shall be maintained in working order. The Contractor agrees to inform and train the drivers on the appropriate use of any communication device, and said device shall only be operated pursuant to State and Federal regulations.

The Contractor agrees to operate cameras in buses consistent with the Camera Use policy as established by the District. The Contractor is expected to have camera systems in all vehicles. The District reserves the right to direct the placement of cameras in specific buses should activities warrant. The Carrier shall not utilize cameras or similar devices without the expressed permission of the District. In all cases, cameras or similar devices shall be operated consistent with established policies, regulations, and laws, including RSA 570-A:2, II(k) (requiring, among other things, signage in buses informing occupants of recording).

The Contractor agrees to operate GPS tracking systems in all vehicles to allow “real-time” monitoring of vehicle location, as well as reporting. The Contractor agrees to allow the District access to vehicle GPS data. If the Contractor’s fleet is currently not equipped with or outfitted to use GPS functionality as requested in the RFP, you may submit a quote as your fleet is currently outfitted and with the addition of GPS functionality. The District understands there is an upfront cost to upgrade, however maintenance costs are low.

The Contractor agrees to provide trip logs in a digital format for the purposes of district data collection for use as, but not limited to, Medicaid and other reimbursement opportunities.

Article XIII - Compliance with Statutes, Rules and Regulations

In the performance of its obligations under this Contract, the Contractor shall comply with all provisions of State and Federal laws and local school board policies regarding school transportation motor vehicles, with all requirements issued in writing by the Commissioner of Motor Vehicles of the State of New Hampshire, and with all requirements of the State Board of Education affecting the transportation of school children, including any enacted or coming into effect during the term of this Contract.

Article XIV - Responsibility for Students

- A. The Contractor shall be fully responsible for the safety, welfare, conduct and control of students during the period of transportation. Students shall be considered subject to the rules and policies under the jurisdiction^[3] of the School District from the time they board a bus until the time they exit the bus.
- B. The Contractor has the right to request the suspension of services to students of the District when it deems that a dangerous situation exists which may cause an accident or injury if transportation is continued. In such cases the Contractor shall work with the District's Transportation Coordinator and any other appropriate enforcement agency to resolve existing issues as quickly as possible. The Contractor shall enforce the reasonable rules and regulations of the District as they pertain to student transportation and shall abide by the provisions of NH RSA 189:9-a. In all cases the final decision relative to the provision of services rests with the District.
- C. The District shall require that emergency cards, which include medical information and authorization for treatment if the parent or guardian cannot be reached, be completed for all students who are authorized for transportation. The emergency card shall also list alternate drop locations and a responsible individual for the care of the student if no one is available to accept the student at the time of drop.
- D. The Contractor shall keep accurate records of passenger incidents. All incidents of a serious nature shall be recorded in writing on an incident report. The incident shall be reported to the Contractor's Operations Office as soon as possible and the incident report completed no later than the next business day. The Operations Office shall review the completed form and forward a copy of the incident report to the District's Transportation Coordinator, the Principal of the school which the student attends, and the parent or guardian. The Contractor shall work with the District's Transportation Coordinator, school personnel, family, and any other appropriate party to assure that interruption of service is a last resort.
- E. The Contractor shall not overload any vehicle. Vehicles shall be modified with appropriate adaptive equipment to transport District students with disabilities. Any adaptive equipment other than standard equipment on the vehicle is the responsibility of the parent or District and

must meet all Federal and State safety standards. Younger students should not be placed in the front seats of vehicles equipped with SRS (air bags). Any equipment installed by the Contractor must meet all State and/or Federal regulations.

- F. The Contractor shall supply Child Restraint Systems in accordance to NH RSA 265:107-a, but in addition for all PreK aged students regardless of the vehicle.

Article XV - Insurance – Liability and Property Damage

- A. The Contractor shall, at its sole expense, purchase and provide Comprehensive General Liability, automobile liability and excess or umbrella policies to protect it and the District from any and all claims, demands, actions and causes of actions, damages, costs, loss of service, expenses and compensation, including, but not limited to, any and all claims of personal injury, death and property damage, which may, in any way, arise from or out of the operations of the Contractor pursuant to the terms of this Contract, whether such operations be performed by the Contractor itself, or anyone directly or indirectly employed by it or any other person or company retained in any way by it to carry on all or a portion of the operations necessary to abide by the terms of this Contract.
- B. The Contractor agrees that the Manchester School District and the City of Manchester shall be named as an “Additional Insureds” in any and all such insurance policies required by virtue of this Contract, and the Manchester School District and the City of Manchester shall be entitled to written notice a minimum of ten (10) days prior to the cancellation of any such policy.
- C. The Contractor shall, at its sole expense, indemnify and hold harmless the District and the City of Manchester, the Manchester Board of School Committee, the Superintendent of Schools, or his/her designees from any and all claims, demands, actions and causes of action, damages, costs, loss of service, expenses and compensation, including, but not limited to, any and all claims of personal injury, death and property damage which may, in any way, arise from or out of the breach by the Contractor of its obligation pursuant to this Contract, whether such operations be performed by the Contractor itself, or anyone directly or indirectly employed by it or any other person or company retained in any way by it to carry on all or a portion of the operations necessary to abide by the terms of this Contract. Nothing in this paragraph shall be deemed to diminish Contractor’s obligations pursuant to the Hold Harmless Agreement, dated July 15, 2019, and submitted with the Proposal.
- D. ~~The District shall, at its sole expense, indemnify and hold harmless the Contractor from any and all claims, demands, actions and causes of action, damages, costs, loss of service, expenses and compensation arising solely from independent negligent acts or omissions of the District, and not of the Contractor[4].~~
- E. Certificates[5] of any and all insurance shall be filed with the District prior to entering into a contract and then prior to August 20th of each school year thereafter and the adequacy of such insurance shall be subject to approval by the District. Any and all such insurance shall have a minimum liability coverage of: with respect to the commercial general liability, one million dollars (\$1,000,000) per incident for liability and two million dollars (\$2,000,000) in the

aggregate; with respect to the automobile liability and physical damage policy, one million dollars (\$1,000,000) for physical damage and five million dollars (\$5,000,000) for auto liability; and a four million dollar (\$4,000,000) umbrella policy.

Article XVI - Insurance - Workers' Compensation

The Contractor shall provide workers' compensation coverage at or above minimum statutory limits, at its sole expense, for all employees hired by the Contractor pursuant to this Contract, and shall provide the District with certificates of such insurance prior to August 20th of each school year.

Article XVII - School Bus Drivers and Monitors

- A. The Contractor shall, at all times, have available a sufficient number of qualified drivers and substitute drivers to fulfill its obligation under this Contract. No bus driver shall transport students until he or she has completed the State required driver-training course conducted by the Contractor. No bus driver shall be considered the employee of the District and the Contractor alone shall be responsible for the acts, omissions, conduct and control of any and all personnel in its employ. All bus drivers must be licensed by the State of New Hampshire to operate school buses in accordance with RSA 263:29 and have successfully completed the Criminal Records Check in accordance with RSA189:13a. The Contractor agrees to periodically furnish the District with a complete list of all persons engaged in the operation of school buses, including substitute drivers.
- B. The Contractor shall, at its sole cost, conduct physical examinations of all drivers in compliance with New Hampshire Statutes Chapter SAF-C 1300, School Bus Transportation, Section 1304.02, Physical Examination.
- C. The Contractor shall, at its sole cost, ensure that school bus driver candidates receive training in compliance with New Hampshire Statutes Chapter SAF-C 1300, School Bus Transportation, Section 1305.2, Pre-Service Instruction, sub-section (c) and that candidates are certified as satisfactorily completing the pre-service instruction program, in accordance with sub-section (d).

During the course of their employment, regular ongoing training shall be provided to drivers and monitors with regards to behavior management, passenger assistance techniques, First Aid and CPR, emergency procedures and other training programs related to transportation for students with disabilities.

- D. Bus drivers shall be neat in appearance, courteous to parents and children, and cooperative with teachers and school officials. No alcoholic beverages or intoxicants may be brought to or consumed upon the District's premises or buses utilized pursuant to the Contract by any employee of the Contractor, nor shall any employee be under the influence of or impaired by any alcoholic beverages, intoxicants, or prescription drugs. Additionally, smoking is not allowed on the buses, or on school property, by Contractor's employees prior to or during the provision of services to the District's students. The Contractor is required to fully inform its

employees of this provision. No alcoholic beverage or intoxicant shall be allowed at the bus terminals. The Manchester School District has a “drug free zone” policy on school property.

The Contractor agrees that the District or its Superintendent of Schools shall have the right to direct the Contractor to remove from school bus operations any person who in his/her reasonable opinion shall detract from the safe and efficient operation of school buses and/or the safety of the students thereon under the Contract, pending an investigation by the Contractor and the District into the conduct or actions alleged to cause such detraction. Upon a conclusion by the Contractor and District that such allegations are true and that the safe and efficient operation of school buses or the safety of students is impaired, the Contractor shall permanently reassign such person or take other more severe action, as it deems necessary. In the event the Contractor and District are unable to agree as to whether the allegations are true or whether the safe and efficient operation of school buses or the safety of students is impaired, and the Contractor desires to return the person to school bus operations, the Contractor and District shall meet, confer, and seek to reach an agreement as to an assignment that shall not detract from the safe and efficient operation of school buses or the safety of students. However, if the Contractor and District are unable to promptly agree, the District may require the removal of the driver and the Contractor shall immediately comply with the District’s decision.

The Contractor shall inquire of applicants or place a question on its job application concerning whether an applicant has ever been employed by the District, and shall notify the District in writing of any affirmative responses which it receives. If the District has any information or knows of any reason why the applicant may not be suitable for hire it shall inform the Contractor within twenty-four (24) hours of such notice; but in any event the Contractor is not obligated to obtain the consent of the District before it hires any individual.

- E. Monitors shall be required on all designated vehicles unless waived by mutual agreement.
- F. For the safety and security of the students, and the efficiency of the student transportation system, it is the District’s desire that drivers be consistently assigned to routes beginning with the first day of school. The Contractor shall at all times maximize the consistency of driver assignment to routes so as to minimize impact on students.

Article XVIII - Reporting of Accidents

The Contractor shall make immediate oral reports and detailed written reports in a format approved by the District, within 24 hours of any accident that involves a vehicle engaged in transportation of school children pursuant to this Contract. The District reserves the right to be an active participant in any accident review process.

Article XIX - Authority of Superintendent

All notices, reports, approvals, instructions, or other written communications required hereunder to be given to, or to be provided by the District, shall be deemed properly completed when given to, or provided by, the Superintendent of Schools, or his/her designee.

Article XX - Availability of Contractor's Manager

The Contractor agrees that a manager, or individual with responsibility to make decisions, shall be personally available to the District between the hours of 7:00 AM and 4:30 PM on school days, and available by phone at all other times, with whom arrangements may be made in the event of unique transportation needs, emergency situations or unforeseen circumstances including school cancellations. Home telephone numbers and cell telephone numbers of the Contractor's student transportation managers shall be provided to the District and the District shall provide the Contractor with the necessary home and cellular telephone numbers for its use. The Contractor shall maintain a "hot line" for the District's sole use, which shall be a separate line that is not in hunt rotation. The District shall provide to Contractor direct phone numbers to each school in the District, including direct phone numbers to the administrative offices.

Article XXI – Non-Performance Damages

The District has included non-performance damages in the event that financial remedies are needed to ensure a high-quality transportation service. It is not the District's intention, or desire, to utilize this option unless it is deemed necessary. Prior to the implementation of any penalty, the District shall attempt to meet with the Contractor to determine if there are any mitigating circumstances that have caused the service issue that might lead to the issuance of a penalty.

The Contractor and the District shall have a grace period of three (3) weeks from the start of school to work out route deficiencies due to unexpected, overcrowded or underutilized buses. The Contractor and District shall have time to combine, separate, or change routes due to inadequate time factors. In view of the difficulty the District shall suffer by reason of defaults on the part of the Contractor, the following sums are hereby agreed upon and shall be deemed damages for breach of this Contract:

- A. If at any time the Contractor does not provide the required number of buses, drivers or monitors necessary to meet the requirement for transportation services under the Contract, the District may eliminate any payment for that vehicle for that day, plus \$50.00.
- B. This Contract envisions a quality transportation program where the Contractor promptly acknowledges communication from the District and proposes solutions to operating problems in a timely fashion. When an operating problem is communicated by the District to the Contractor, the Contractor shall promptly acknowledge receipt of the communication. When the operating problem is within the sole and exclusive responsibility of the Contractor, the Contractor shall also promptly inform the District of the proposed solution and take any necessary corrective action. If the Contractor fails to acknowledge the District's communication, or in the latter case, fails to propose a solution or take corrective action, the District shall communicate the problem in writing; whereupon, if the Contractor fails to timely acknowledge the written communication, or when the matter is within the sole and exclusive responsibility of the Contractor, also fails to propose a solution and take any necessary corrective action, the District reserves the right to assess a penalty of one hundred dollars (\$100.00) for each subsequent unacknowledged communication regarding the same problem. This penalty shall be in

addition to any other applicable penalties set forth in this agreementContract.

- C. If at any time the Contractor uses a driver in the performance of this Contract who does not meet the requirements of the State of New Hampshire, the Contractor is subject to damages of three hundred dollars (\$300.00) per day for each driver used.
- D. A reliable transportation system is important to meet the educational requirements of the students and the District. To this end, students must be picked up in the AM in a timely and consistent manner, and students must be delivered home in the PM in an efficient manner. If a bus is more than 15 minutes late arriving to the school in the AM, or more than 15 minutes late departing from the school in the PM, the Contractor shall be subject to damages of one hundred dollars (\$100.00) per bus per occurrence. Penalties would not be assessed if circumstances beyond the control of the Contractor caused the delay in service.
- E. Extra-curricular transportation is an important element of the District's educational program. Failure by the Contractor to provide the necessary driver(s) for a confirmed trip shall result in no billing by the Contractor for the trip, damages of one hundred dollars (\$100.00) per missed trip assessed to the Contractor, and reimbursement to the District for any financial damages that the District may incur as a result of the missed trip.
- F. The District requires that all buses that are utilized in the performance of this Contract have operating and active two-way radios, or comparable communication devices. Additionally, the District requires that out-of-district buses be equipped with communications equipment permitting a means of contact with Contractor's base control personnel. A fifty-dollar (\$50.00) per day per bus penalty may be assessed for each instance of failure to meet this requirement.
- G. The Contractor and/or drivers are prohibited from changing any routes without prior District approval. If such unauthorized changes are made, the District reserves the right to apply an assessment of fifty dollars (\$50.00) per day in damages for any bus routes that are modified in an unauthorized fashion.
- H. Buses are required to carry proper identification signs. This identification is essential for the school staff and students to identify the buses. Buses displaying no identification at all or more than one identification, or the wrong identification, generate confusion, inefficiency, and are sometimes costly in duplicating transportation. In order to enforce the requirements to display the prescribed identification, the District may assess fifty dollars (\$50.00) per day as damages for each bus run operating in violation of these requirements.
- I. The District shall have the right to terminate the Contract at the end of any school year where the Contractor has failed to meet its obligation under the Contract, as evidenced by non-performance damages pursuant to this contract, which equal or exceed five thousand (\$5,000.00) in any contract year. It is understood and agreed by the Contractor that the assessment of non-performance damages shall be in addition to the right of the District to terminate this Contract, and that in the event of termination; the above penalties shall be

applied and assessed for the full period of any non-compliance during the school year. The rights and remedies set forth in this Section are in addition to any other rights or remedies available to the District under this Contract, in law and equity.

As stated, it is not the District's desire to utilize the non-performance damages provisions unless it is deemed necessary. To this end, the District shall accumulate any penalties and delay any assessment to the Contractor unless and until the accumulated penalties reach or exceed two thousand (\$2,000.00) in any contract year. Should the assessment level be reached, the District reserves the right to assess all accumulated penalties. During the term of any accumulation, the District shall provide the Contractor notice of penalties assessed and provide the Contractor an opportunity to respond to the District's determination. It is expressly understood by the Contractor that the District, by not exercising its rights, or by waiving any of the provisions of this contract, or by exercising the provisions of this contract in a particular way, shall not be deemed to have waived any of its rights or the contract requirements.

The Contractor shall be entitled to a waiver of penalty from the District for delays or cancellations caused by extreme weather conditions, power failures, street closures and detours, fires, decisions or actions by district personnel, acts of God or acts of war, riots, strikes and lockouts, and other events solely beyond the control of the Contractor.

- J. If the Contractor is to be assessed a penalty by the District under this Article the Contractor shall be notified of such assessment in writing within twenty (20) working days of said incident. The Contractor shall have the opportunity to dispute the assessed penalty and shall be given a reasonable time to correct any such infraction.

Article XXII - Miscellaneous

- A. In the event of the failure of the Contractor to provide the transportation services under this Contract the District shall have the right to secure other transportation as may be necessary, and charge the cost of same to the accounts due to the Contractor. Deductions shall be made from payments to the Contractor for each day of service not rendered due to such interruption. The Contractor shall be entitled to written verification of such costs and payments.
- B. The District may cancel the contract if the Contractor becomes insolvent, bankrupt or makes an assignment for the benefit of creditors.
- C. This Contract, including the RFP and the Proposal, sets forth the entire agreement between the District and the Contractor concerning the subject matter herein. There are no representations, either oral or written, between the District and the Contractor other than those contained in this Contract.
- D. In the event the Contractor is unable to provide the transportation services herein specified because of any act of God, civil disturbance, fire, flood, riot, war, oil or fuel shortage or embargo, governmental action or any condition or cause beyond the Contractor's control, the District shall excuse the Contractor from performance under this Contract, and the District shall have no further payment obligation under this Contract.

- E. The District and Contractor agree there shall be one day of dry runs by the designated driver before each school year begins. These dry runs shall be operated at the times of operation in a normal school day, so as to reflect as closely as possible actual service to be operated at the opening of school.
- F. The District actively seeks reimbursement for specialized transportation from the NH Medicaid to Schools program. The Contractor is expected to comply with any and all requirements to ensure accurate, acceptable billing. Any and all other information that may be required for Medicaid billing shall be provided at no additional charge to the District. This may include but not be limited to the following: trip logs, attendance sheets, transportation reports, etc.
- G. This Contract may be executed in counterparts, each of which shall be deemed an original, but together shall constitute one and the same instrument.

Article XXIII - Contract Assignment

The Contractor shall not assign or in any way transfer all or any portion of its rights, nor delegate any of its duties pursuant to this Contract without the prior written consent of the Manchester Board of School Committee.

Article XXIV - Default

A. The District may declare the Contractor in default if:

1. Contractor makes an assignment for the benefit of creditors;
2. A voluntary or involuntary petition of bankruptcy is filed by, or against, the Contractor;
3. A Receiver is appointed to take charge of the property of affairs of the Contractor;
4. Contractor shall abandon the work, or fail to timely cure a default under Article XXI.

B. The Contractor may declare the District in default if:

1. The District withholds payments for services to the Contractor other than as provided in this Contract;
2. The District, under Article VI, decreases the number of buses or appropriations in such a manner as to prohibit the Contractor from operating.

Article XXV - District's Rights Upon Default

Upon default, the District may negotiate a new contract for transportation with one or more alternative bus company(ies), and Contractor shall indemnify and be responsible to the District for costs incurred in obtaining a mutually agreed upon substitute Contractor for and during the term of this Contract.

Article XXVI - Amendment of Contract

This Contract may be amended by mutual consent of the parties hereto, but no amendment of this Contract shall be valid unless made in writing and signed by the parties.

The parties to this contract agree that over the term of the contract there may be circumstances that exist that require certain terms and conditions to be modified, added, or eliminated. The parties mutually agree that should such events occur either party has the right to promptly notify the other party requesting discussions relative to changing the contract. The aggrieved party must demonstrate a clear and present, materially adverse financial consequence in order to request reopening this contract.

Article XXVII - Waiver

The failure of either party to take action with respect to any breach of any term, covenant, or condition herein, by the other party shall not be deemed a waiver of such term, covenant, or condition, or any other term, covenant, or condition herein contained.

Article XXVIII - Entire Understanding

This Contract constitutes the entire understanding between the parties with respect to the subject matter hereof and shall not be modified except by written instrument signed by the parties hereto.

Article XXIX - Governing Law

This Contract is made pursuant to the laws of the State of New Hampshire and shall in all respects be governed by and construed in accordance with the laws of the State of New Hampshire without regard to its conflict of law's provisions.

All actions brought by either party under this Contract shall be instituted and maintained in courts having jurisdiction within the State of New Hampshire.

Article XXX - Severability

In the event that any of the provisions of this Contract are or become invalid or illegal in any respect, the validity or legality of the remaining provisions contained herein shall not be in any way affected.

Article XXXI - Joint Venture

The Contractor is an independent contractor under this Contract. Nothing contained herein shall be deemed to create an employment relationship or a joint venture or partnership between the parties hereto.

[Signature page follows]

IN WITNESS WHEREOF, the parties have hereunto set their signatures as of the date(s) set forth below.

WITNESS:

Contractor:

By: **David L. White, President**

Date: _____, 2019

WITNESS:

MANCHESTER BOARD OF SCHOOL
COMMITTEE

By: _____

Date: _____, 2019