

**CONTRACT FOR TRANSPORTATION SERVICES
BETWEEN HAGERMAN JOINT SCHOOL DISTRICT NO. 233 AND _____**

This Contract for Transportation Services (the “Contract”) is entered into on July 1, 2022, (the “Effective Date”) between the Hagerman Joint School District No. 233, Gooding and Twin Falls Counties, Idaho, (the “District”), and _____ of _____ *[address], [city], [county]*, Idaho (the “Contractor”).

RECITALS

- A. Under Idaho Code section 33-1510(2), the District advertised and bid the transportation services provided under this Contract, and the Contractor was the lowest responsible bidder meeting the specifications.
- B. The District and Contractor desire to provide for the transportation of students in the District to and from school as set forth in this Contract.

AGREEMENT

NOW THEREFORE, in consideration of the recitals set forth above, which are incorporated into this Contract by this reference, and the mutual promises set forth in this Contract, the parties agree as follows:

- 1. Incorporation by Reference and Priority of Documents.
 - a. The following documents are attached to and incorporated by reference into this Contract as if set forth in full: 1. the advertisement for bids; 2. the bid by the Contractor; 3. the performance bond, if any; and 4. the notice of award.
 - b. Unless a different priority of documents is set forth in the advertisement for bids, a lower numbered document in this section shall supersede a higher numbered document to the extent necessary to resolve any conflict or inconsistency.
- 2. Definitions. Terms, whether capitalized or not, in this Contract shall have the meanings set forth below when used in the Contract unless the context requires otherwise:
 - a. “Base Compensation” shall mean:
 - i. The sum of all payments made to the Contractor pursuant to section 11 of this Contract for all elapsed Instructional Days in the current annual academic calendar; or
 - ii. If no payments have been made to the Contractor in the current annual academic calendar, the sum of all payments that were made to the contractor providing transportation services for Instructional Days in the prior annual academic calendar; or

- iii. If no payments have been made to the Contractor in the current annual academic calendar and no payments for transportation services were made to any contractor in the prior annual academic calendar, the sum of all payments the parties estimate will be made to the Contractor pursuant to section 11 of this Contract for all Instructional Days in the current annual academic calendar.
- b. “Closure” shall mean when more than fifty percent (50%) of all students enrolled at an educational facility served by Contractor are not physically attending class at the educational facility due to causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include: acts of God or the public enemy, acts of the federal, state or local government in its sovereign capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, unusually severe weather or mechanical failure of heating, cooling or other environmental systems. Closure includes a “soft closure,” which shall mean when students are not physically attending school or class, but instead are attending school remotely, using internet access, video links, or printed materials.
- c. “Daily Rate” shall mean the Base Compensation divided by:
 - i. The number of elapsed Instructional Days in the current annual academic calendar for which the District has paid the Contractor; or
 - ii. If no payments have been made to the Contractor in the current annual academic calendar, the number of Instructional Days in the prior annual academic calendar; or
 - iii. If no payments have been made to the Contractor in the current annual academic calendar and no payments for transportation services were made to any contractor in the prior annual academic calendar, the number of Instructional Days in the current annual academic calendar.
- d. “Instructional Day” shall mean a day identified on the District’s established annual academic calendar as a day when students are present at a facility or a day designated by the District as a replacement or “make up” day for a day missed due to a Closure. An Instructional Day shall not include any Saturday, Sunday, or day identified on the District’s academic calendar as a day when students are not present at a facility such as a holiday or teacher training day.
- e. “Consecutive Instructional Days” shall mean adjoining calendar days identified on the District’s academic calendar as a day when students are present at a facility. Consecutive Instructional Days include calendar days interrupted by one or more of the following: a Saturday; a Sunday; and calendar days identified as a holiday, break or teacher training day on the District’s academic calendar.

3. Term and Renewal. This Contract shall commence on the Effective Date and expire on July 1, 2022, for a total period of five (5) years, unless sooner terminated in accordance with the provisions of this Contract. The parties may renew this Contract one (1) time for a period not to exceed five (5) years upon a determination by the Board of Trustees of the District, after renegotiation with the Contractor, that the terms of the renewal are satisfactory to the District.
4. Scope of Work. The Contractor shall perform the services and furnish the equipment and personnel as provided in the specifications (the “Transportation Services”), and shall do all things necessary or proper for the performance and completion of the work required by this Contract, in the manner and at the times provided in the bid and specifications.
5. Delegation of Authority. The District hereby delegates to the Contractor the necessary authority to supervise and control students on the buses operated by the Contractor while the students are aboard the buses or the buses are en route under such rules as are adopted by the District. However, this authorization shall not include the right to administer corporal punishment, nor the right to eject any offender under circumstances that may or are likely to result in injury or danger to the offender. The Contractor shall transport only those students designated by the District.
6. School Closure. The District shall inform the Contractor as soon as reasonably possible of a Closure. Upon notice of a Closure, the Contractor shall be paid under the Alternative Payment Schedule set forth under section 12 of this Contract.
7. Schedule Details. Prior to the start of each school year, the District shall furnish to the Contractor a description of each route, a time schedule, and a list of designated stops to be observed on each route. The District may, at its discretion, make changes in the routes, time schedules, or designated stops and eliminate or consolidate any route to meet changed conditions. However, the District shall make no change to any route, time schedule, or designated stop or elimination or consolidation of any route, except to meet unexpected or emergency conditions, until after the Contractor has been given an opportunity to confer with the District or its authorized representatives with respect to the change, elimination, or consolidation at least ~~[xx]~~ (xx) days in advance of the change, elimination, or consolidation. The District shall make adjustments in the sums to be paid to the Contractor for any increase or decrease in mileage resulting from a change, elimination, or consolidation of routes or additional services for school-sponsored activities, as provided in the specifications. The District may, from time to time, establish policies to be observed by the Contractor in connection with provision of the Transportation Services, including starting times, bus stops, discipline on the buses, and any situations that may from time to time arise in the performance of the Contract.
8. Responsibility for Students. The Contractor shall be fully responsible for the care and supervision of students while they are being transported. The transportation of a student shall be deemed to have begun when the student prepares to board the school bus, and shall be deemed to have ended when a student has completed alighting from the bus at a reasonably safe place in which to alight in view of the circumstances then prevailing.

9. Compliance with Laws and Regulations. The Contractor and Contractor's drivers shall comply with the laws of the state of Idaho and all applicable rules, policies, or requirements of the Idaho Transportation Department, Idaho Public Utilities Commission, Idaho Department of Education, Idaho Board of Education, the District, and any other state or local unit of government. Furthermore, the Contractor's drivers must submit to a criminal history background check under Idaho Code section 33-130. The Contractor shall not assign a driver to provide transportation under this Contract whose criminal history background check shows the driver has been convicted of a felony crime enumerated in Idaho Code section 33-1208 or a misdemeanor or felony driving offense enumerated in Idaho Code sections 49-1301, -1302, -1401, or -1404 or title 18, chapter 80, Idaho Code.
10. Termination for Fiscal Necessity. The District is a government entity and it is understood and agreed that the District's payments under this Contract shall be paid from local tax revenue, state of Idaho legislative appropriations, funds granted by the federal government, or any combination of these sources. The District's Board of Trustees retains full discretion to allocate tax revenue in the public budget setting process during each budget period covered by this Contract. The Idaho Legislature is under no legal obligation to make appropriations to fulfill this Contract. Additionally, the federal government is not legally obligated to provide funds to fulfill this Contract. This Contract shall in no way or manner be construed so as to bind or obligate the District or the state of Idaho beyond the term of any particular approved District budget, appropriation of funds by the Idaho Legislature, or beyond any federal funds granted to the District, as may exist from time to time. The District reserves the right to terminate this Contract in whole or in part (or any order placed under it) if, in its sole judgment, the District's Board of Trustees neglects, fails, or refuses to approve a budget sufficient for the District to continue payments, the Legislature of the state of Idaho fails, neglects, or refuses to appropriate sufficient funds as may be required for the District to continue such payments, or requires any return or "give-back" of funds required for the District to continue payments, or if the Executive Branch mandates any cuts or holdbacks in spending, or if funds are not budgeted or otherwise available (e.g. through repeal of enabling legislation), or if the District discontinues or makes a material alteration of the program under which funds were provided, or if federal grant funds are discontinued. The District shall not be required to transfer funds between accounts in the event that funds are reduced or unavailable. All affected future rights and liabilities of the parties shall thereupon cease within ten (10) calendar days after notice to Contractor. Further, in the event that funds are no longer available to support this Contract, as described herein, the District shall not be liable for any penalty, expense, loss of profits, or liability, or for general, special, incidental, consequential, or other damages resulting therefrom. At Contractor's request, the District shall promptly provide supplemental documentation as to such termination for fiscal necessity. Nothing in this section shall be construed as ability by the District to terminate for its convenience.
11. Payment Schedule. *[A payment clause such as the following must be included, but the exact terms may be determined by the parties. This clause should establish payment to the Contractor based on routes and route mileage. Price escalator clauses may be included but must be proportional to an objectively determined index, such as the Consumer Price Index. Fuel escalator clauses may also be used at the discretion of the parties. However, the combination of a general price escalator term and a fuel escalator clause must be drafted carefully to*

protect against double compensation of the Contractor.] On or before the [xx] day of each month of the District’s annual academic calendar covered by this Contract, the Contractor shall submit to the District an invoice that shall include a detailed account showing the mileage covered in each category of transportation furnished during the preceding month. On or before the [xx] day of the month in which the invoice is submitted, the District shall pay the Contractor the contract price for those services that it shall find to have been rendered, computed on the following schedule:

Category of Service	Estimated Miles per Month	Rate per Mile

12. Alternative Payment Schedule.

- a. On or before the [xx] day of each month after which a Closure on an Instructional Day occurs, the Contractor shall submit to the District an invoice, which shall identify the request for payment under this Alternative Payment Schedule and include the date(s) of the Closure. On or before the [xx] day of the month in which the invoice is submitted, the District shall pay the Contractor as follows:
 - i. If a Closure on five (5) or fewer Consecutive Instructional Days occurs, the District shall pay the Contractor [xx] percent (xx %) of the Daily Rate per route per Instructional Day the Contractor does not provide transportation due to a Closure.
 - ii. If a Closure on more than five (5) Consecutive Instructional Days and fewer than twenty (20) consecutive Instructional Days occurs, the District shall pay the Contractor [xx] percent (xx %) of the Daily Rate per route per Instructional Day the Contractor does not provide transportation due to a Closure.
 - iii. If a Closure on twenty (20) or more Consecutive Instructional Days occurs, the District shall pay the Contractor [xx] percent (xx %) of the Daily Rate per route per Instructional Day the Contractor does not provide transportation due to a Closure.
- b. For the purposes of this Alternative Payment Schedule, the calculation of Consecutive Instructional Days shall begin anew or reset upon the occurrence of a day when fifty percent (50%) of all students enrolled at an educational facility served by the Contractor are physically attending class at the educational facility.

13. Record Keeping. The District may audit, in such a manner and at all reasonable times as it deems appropriate, all activities of the Contractor arising in the course of its undertakings under this Contract. The Contractor shall maintain books, records, documents, and other evidence of accounting procedures and practices that sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Contract as required by the District.

The District shall have access to any of the Contractor's books, documents, or records that are directly related to this Contract. Access to records includes the right to review, audit, inspect, and make excerpts and transcriptions. The Contractor shall maintain all books, records, and other documents relevant to this Contract for three (3) years after final payment and any person duly authorized by the District shall have full access to and right to examine any of said materials during this period. If an audit, litigation, or other action involving records is initiated before the three (3) year period has expired, the records must be retained until all issues arising out of such actions are resolved, or until a three (3) year period has passed, whichever is later.

14. Inspection. The may inspect any and all buses and their operation by riding as passengers or by other reasonable means.
15. Time of the Essence. Since the Contract concerns a necessary public service, the provisions of the Contract relating to the daily schedule and policies that may be established by the District regarding timing are of the essence to the Contract. Accordingly, the Contractor shall prosecute the work diligently to assure adherence to the schedules.
16. Assignment of Contract. The Contractor agrees not to assign this Contract, or any interest in the Contract, without the prior written approval of the District.
17. Failure of Operation. In the event that the Contractor fails to operate any route because of the failure of equipment or personnel, the District may deduct the amount of payment for the route from the following month's payment at the rate of ~~[xx]~~ cents (~~xx~~ ¢) per mile.
18. Termination for Cause.
 - a. The District shall have the right to declare the Contractor in default if:
 - i. The Contractor becomes insolvent;
 - ii. The Contractor makes an assignment for the benefit of creditors;
 - iii. A voluntary or involuntary petition in bankruptcy is filed by or against the Contractor;
 - iv. The Contractor fails to perform any schedule when notified to do so by the District;
 - v. The Contractor abandons the work;
 - vi. The Contractor refuses to proceed with the work when and as directed by the District;
 - vii. The Contractor, without just cause, reduces the Contractor's working force to a number that, if maintained, would be insufficient, in the opinion of the District, to carry out the work in accordance with this Contract;

- viii. The Contractor shall sublet, assign, transfer, convey, or otherwise dispose of this Contract other than as specified in this Contract;
 - ix. A receiver or receivers are appointed to take charge of the property or affairs of the Contractor;
 - x. The District is of the opinion that the Contractor has willfully or in bad faith violated any of the provisions of this Contract;
 - xi. The Contractor or Contractor's agents or employees violate any applicable laws;
 - xii. Any vehicles provided by the Contractor are operated in a manner that imperils the safety of the passengers; or
 - xiii. Any vehicles provided by the Contractor are not kept clean or in first-class mechanical condition.
- b. Before the District shall exercise its right to declare the Contractor in default, it shall give the Contractor an opportunity to be heard, on ~~[xx]~~ (xx) days' notice. At such hearing, the Contractor may at the Contractor's expense, have a stenographer present; provided, however, that a copy of the stenographic notes, if any, shall be furnished to the District.
 - c. The right to declare the Contractor in default for any of the grounds specified or referred to in this section shall be exercised by sending the Contractor a notice signed by the chairman or secretary of the District's Board of Trustees, setting forth the ground(s) on which each default is declared.
 - d. If the District, after giving the Contractor notice and an opportunity to be heard, exercises its right to declare the Contractor in default, the District may terminate the Contractor's services.
 - e. After the termination of Contractor's services for a default under this Contract, the District may employ another contractor or contractors to complete the terms of this Contract, and hold the Contractor responsible for any extra or added expense, loans, or damages suffered by the District. The rights of the District after termination shall be in addition to any and all other legal or equitable remedies permissible under law.
19. Report of Accident. Any accident involving student transportation shall be reported to the District as soon as possible and not later than ~~[xx]~~ (xx) hours from the time of the accident. A detailed written report must be submitted to the District as soon thereafter as possible, but not later than ~~[xx]~~ (xx) days after the date of the accident.

- 20. Indemnification. Contractor shall indemnify the District from any loss that it may sustain from any cause arising out of the performance or lack of performance of this Contract by the Contractor.
- 21. Severability. If any part of this Contract is declared invalid or becomes inoperative for any reason, such invalidity or failure shall not affect the validity and enforceability of any other provision.
- 22. Governing Law. This Contract shall be construed in accordance with and governed by the laws of the state of Idaho.
- 23. Notices. Any notice given in connection with this Contract shall be given in writing and shall be delivered either by hand or certified mail, return receipt requested, to the other party at the address stated below. Either party may change its address by giving notice of the change in accordance with this section.

To the District:
 Hagerman Joint School District No. 233
 324 North 2nd Avenue
 Hagerman, ID 83332

To the Contractor:
 [xx]

IN WITNESS WHEREOF, the parties have caused this Contract to be executed by their respective representatives duly authorized so to do on the date and year written below.

Hagerman Joint School District No. 233:

[contractor]:

By _____

By _____

Its _____

Its _____

Date: _____

Date: _____

OPTIONAL SECTIONS

Additional Buses. If additional buses become necessary over and above those provided as a basic service, but only during the first *[xx]* (*xx*) year(s) of this Contract, the Contractor shall furnish such additional buses and receive yearly additional remuneration of *[xx]* dollars (\$ *xx*) for the first *[xx]* (*xx*) miles. The Contractor shall be compensated for additional mileage pursuant to the provisions for determination of additional route mileage contained in the Contractor's bid.

Arbitration.

- a. All claims, disputes, and other matters in question between the parties to this Contract, arising out of, or relating to this Contract or the breach thereof, shall be decided by arbitration in accordance with Idaho's Uniform Arbitration Act, Idaho Code sections 7-901 through 7-922. Each party waives their right to be heard in a court of law, with or without a jury. If an arbitration is necessary, the parties agree to use a single arbitrator, agreed upon by the parties. To select an arbitrator, the parties shall jointly choose an arbitrator who will decide the dispute that is the subject of the arbitration. If the parties are unable to jointly decide on an arbitrator, the parties shall each submit a list of the names of three (3) arbitrators to the other party. The parties will then exercise two strikes on the opposing party's list. The remaining name on each party's list shall then be submitted to the state district court of *[county]* County, Idaho, whereby the court will resolve the dispute and determine the arbitrator who will decide the litigation, pursuant to Idaho Code section 7-903.
- b. The arbitration shall take place in the county where the District's administrative offices are located. The arbitrator is authorized to resolve any and all claims and counterclaims arising out of, or relating to this Contract or the alleged breach thereof, the arbitrator is also authorized to determine the manner in which the arbitration is to be conducted, the scheduling of the arbitration and any deadlines or time frames needed for said arbitration. The arbitrator may utilize the Idaho Rules of Evidence and Idaho Rules of Civil Procedure as written or as a guide during the arbitration. The arbitration shall only include the parties to this Contract, unless the parties agree otherwise, in writing. The arbitrator may also determine whether attorney's fees and costs shall be awarded to either party. The decision of the arbitrator is binding upon the parties to this Contract. The decision and award of the arbitrator is binding upon the parties to this Contract and shall be final. In no event, shall the demand for arbitration be made after the date when such dispute would be barred by the applicable statute of limitations.

Bonds. On or before the *[xx]* day of each year during the term of this Contract, *[with the exception of the school year commencing on [date], for which school year the performance bond has been delivered prior to the execution of this Contract and is made a part of it]*, the Contractor shall furnish and maintain in full force and effect during the succeeding school year a performance bond as security for the faithful performance of this Contract during the school year. The performance bond shall be in an amount equal to the sum of all payments the parties estimate will be made to the Contractor pursuant to section 11 of this Contract for all Instructional Days in the current annual academic calendar.