



# **SCHOOL BOARD ACTION REPORT**

**DATE:** October 29, 2018  
**FROM:** Denise Juneau, Superintendent  
**LEAD STAFF:** Pegi McEvoy, Executive Director of Operations  
[pmcevoy@seattleschools.org](mailto:pmcevoy@seattleschools.org)  
Kathy Katterhagen, Director of Logistics, [kkatterhagen@seattleschools.org](mailto:kkatterhagen@seattleschools.org)

**For Introduction:** November 14, 2018  
**For Action:** December 5, 2018

## **1. TITLE**

Approval of Contract SS11822, 2018-2019 Bus Transportation Services.

## **2. PURPOSE**

This Board Action Report recommends approval of contract SS11822, in the amount not to exceed \$1,400,000 with Durham School Services for transportation services for the remaining 2018-2019 school year. This contract provides for point-to-point yellow bus transportation services for general education students to and from school utilizing fifteen Type C school buses.

## **3. RECOMMENDED MOTION**

I move that the School Board authorize the Superintendent to execute contract SS11822, for School Bus Transportation Services for 2018-2019 with Durham School Services (Durham), Inc. in the form of the contract agreement and attached to the School Board Action Report, with any minor additions, deletions, and modifications deemed necessary by the Superintendent, and to take any necessary actions to implement the contract.

## **4. BACKGROUND INFORMATION**

### **a. Background**

Seattle Public Schools provides to and from school transportation, per the School Board-approved Transportation Service Standards. Ensuring that safe, reliable and efficient transportation to schools enables all students' access to instruction. A significant CDL driver shortage exists nationwide, however the Seattle region is especially impacted due to the low unemployment rate, and local competition for CDL drivers. The District's primary contracted school bus provider, First Student has been unable completely fulfill the transportation needs of the district and the district must seek alternative transportation solutions. Durham had 15 available buses and drivers to supplement our transportation service requirements and the district issued a short-term emergency contract to secure that bus service. This contract is a follow-on to continue services through the remainder of the school year or until our primary contractor is fully staffed.

**b. Alternatives**

Not issue this additional contract. Service would only be available until mid-December 2018, per the emergency contract.

**c. Research**

N/A

**5. FISCAL IMPACT/REVENUE SOURCE**

The contract cost is not to exceed \$1,400,000. The funding to cover this contract is included in the general fund for the 2018-2019 budget. Any difference in costs for Durham to cover these routes rather than using First Student, will be covered by First Student.

The revenue source for this motion is the general fund.

Expenditure:  One-time  Annual  Multi-Year  N/A

Revenue:  One-time  Annual  Multi-Year  N/A

Expenditure:  One-time  Annual  Other Source

**6. COMMUNITY ENGAGEMENT**

With guidance from the District’s Community Engagement tool, this action was determined to merit the following tier of community engagement:

Not applicable

Tier 1: Inform

Tier 2: Consult

Tier 3: Collaborate

No community engagement took place as this is a time-sensitive follow-on contract to an emergency services contract to help fulfill yellow bus service transportation requirements for students.

**7. EQUITY ANALYSIS**

A full equity analysis was not performed as this is a time sensitive follow on contract to an emergency services contract to help fulfill yellow bus service transportation requirements for students. The only buses and service available from Durham were fifteen Type C buses for general education. Service was prioritized for South end routes and Title 1 schools where feasible.

**8. STUDENT BENEFIT**

The benefit of this contract is to provide safe and efficient transportation to and from school for students residing outside the walk zone of their attendance area schools.

**9. WHY BOARD ACTION IS NECESSARY**

- Amount of contract initial value or contract amendment exceeds \$250,000 (Policy No. 6220)
- Amount of grant exceeds \$250,000 in a single fiscal year (Policy No. 6114)
- Adopting, amending, or repealing a Board policy
- Formally accepting the completion of a public works project and closing out the contract
- Legal requirement for the School Board to take action on this matter
- Board Policy No. \_\_\_\_\_, [TITLE], provides the Board shall approve this item
- Other: \_\_\_\_\_

**10. POLICY IMPLICATION**

This motion is in alignment with Policy No. 0010, Instructional Philosophy, because student transportation is considered an integral element to ensure that all students receive an education that meets the goals enumerated in the District’s Instructional Philosophy.

This motion is in alignment with Policy No. 6220, Procurement, because it uses sound business and financial practices that support the delivery of desired services and goods. Further, the policy is being followed by seeking Board approval where the value exceeds \$250,000.

This motion is in alignment with Policy Nos. 6600-6620, Transportation, as the proposed contract provides multiple services enumerated in transportation policies promulgated by the Board.

**11. BOARD COMMITTEE RECOMMENDATION**

This motion was discussed at the Operations Committee meeting on Nov 1, 2018. The Committee reviewed the item and moved it forward to the full Board for approval.

**12. TIMELINE FOR IMPLEMENTATION**

Upon approval of this motion, the contract will go into effect starting December 5, 2018.

**13. ATTACHMENTS**

- Contract SS11822 for approval

## **CONTRACT AGREEMENT SUPPLEMENTAL STUDENT BUS TRANSPORTATION SERVICES**

This agreement, Contract No. SS11822, is effective upon mutual execution by and between Seattle School District No. 1, a Washington municipal corporation (District), and Durham School Services, L.P., a Limited Partnership (Contractor). The District and Contractor agree as follows:

### **1. SCOPE OF WORK AND SCHEDULE**

Contractor shall provide services as described in Exhibit A, Scope of Services. Contractor is authorized to proceed upon receipt of this signed Agreement. This contract shall be in effect from the effective date through the end of the 2018-2019 school year.

### **2. CONTRACT PRICE**

District agrees to pay Contractor an estimated amount not to exceed **ONE MILLION FOUR HUNDRED THOUSAND DOLLARS (\$1,400,000)**. This amount constitutes the "Maximum Authorized Compensation" for services to perform the work identified for the remaining 2018-2019 school year and is scheduled for Board Action approximately December 5, 2018.

Pricing will be based on a 5-hour daily gate to gate per route/per bus minimum, to include 20 minutes of pre and post trip time. For each route that operates over 5 hours on a given day, a \$40.00 hourly fee will be applied in quarter hour increments. The time starts and ends at our transportation facility located at 3212 S. Sprague Street, Tacoma, WA 98409. *No Mileage Charges, all fuel included.*

Daily per route/per bus 5-hour rate - \$483.00, excess hourly rate - \$40.00.

This amount shall constitute complete compensation for all costs and fees incurred, including any expenses for meals, travel, lodging, and Washington State sales tax, if applicable. Any increase above this amount will require agreement by the parties.

Compensation will be paid monthly to the extent that Contractor presents documented evidence of fees earned and expenses incurred during the period for which payment is requested, and in no case shall the total compensation exceed the Maximum Authorized Compensation. Contractor shall submit its invoices in the form and according to the schedule prescribed in the General Conditions, to the address listed in paragraph 3.

### **3. COMMUNICATION**

The District's representative for this contract is Kathy Katterhagen, Director of Logistics. All correspondence, requests, notices and other communications to the District, in relation to this Agreement, shall be in writing and shall be delivered to:

To the	Kathy Katterhagen	To	Willette Cooper
District:	Director of Logistics	Contractor:	Contract Administration
	Mail Stop 33-367		2601 Navistar Drive
	Seattle School District No. 1		Lisle, IL 60532
	P.O. Box 34165		(630 821-5795
	Seattle, WA 98124-1165		

Either party may from time to time change such addresses by giving the other party notice of such change in accordance with the provisions in Paragraph 3 above.

### **4. CONTRACTOR'S REPORTS**

Contractor shall provide reports as requested by District and as specified in Exhibit A, Scope of Services.

5. **PERSONNEL**

Contractor shall assign the personnel listed in Exhibit B, Durham Proposal, for the performance of the Work and shall not (for so long as they remain in Contractor's employ) reassign or remove any of them without the prior written consent of District.

6. **THIS AGREEMENT INCLUDES THE FOLLOWING ATTACHMENTS:**

<b>Exhibit</b>	<b>Topic</b>
A	Scope of Services
B	Durham Proposal
C	General Conditions of Personal Services Contract (Short Form)

**DURHAM SCHOOL SERVICES**

**SEATTLE SCHOOL DISTRICT NO. 1**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature

\_\_\_\_\_  
(Contractor Representative)

\_\_\_\_\_  
Stephen Nielsen

\_\_\_\_\_  
Title

\_\_\_\_\_  
Deputy Superintendent  
Title

\_\_\_\_\_  
Date Signed

\_\_\_\_\_  
Date Signed

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Employer I.D. No. or Social Security No.

Exhibit A  
Supplemental Bus Service Contract  
Scope of Services

The primary purpose of this contract is to provide as needed, supplemental to and from school bus transportation for students. Buses may also be utilized for field trips, athletics, and other school related activities.

The buses will be utilized to service the program requirements that the District determines to be in its best interest.

A. Regular To and From

1. Students are primarily picked up and dropped off as described by the routing direction provided by Seattle Public Schools (SPS) Transportation. Drivers are provided either route maps or left/right driving directions and stop listings indicating directions of travel, time of pick up and/or drop off and a listing of assigned students for each stop.
2. Type C buses are typically utilized in this program. Buses may be assigned up to two or more routes per day average approximately five hours of service and accrue an average of approximately 80 miles per day.
3. The Contractor shall implement and enforce District administrative procedures applicable to this Program. The District will specify these procedures and modify as required throughout the contact period.

B. Primary Obligation of Contractor

For the purpose of this contract and interpretation thereof, it must be recognized that the transportation of school children is a significantly specialized function. Students must be transported to and from school regularly, promptly, safely and without interruption or adverse incidents. The interests of students in such transportation shall take precedence over the interests of the Contractor or its drivers. It shall be the primary obligation of the Contractor to conduct its activities so that students will be assured of continuous and reliable service. For the protection of students, drivers and all other persons coming in contact with the students must be of stable personality and of sound moral character. Drivers and all other persons coming in contact with students must be able to communicate effectively orally and in writing. The District places upon the Contractor full responsibility for assuring such qualities in personnel. The Contractor shall not allow any person to drive a school bus whose moral character is not of the highest level, or whose conduct might in any way expose any child to any impropriety of word or conduct whatsoever, nor shall the Contractor allow any person to drive a school bus who is not in a condition of mental and emotional stability.

C. Responsibility for Hiring and Discharging

The responsibility for hiring and discharging personnel in respect to all of the foregoing shall rest with the Contractor. The Contractor shall enter into no contract or arrangement with any employee, person, group or organization, which will in any way interfere with the Contractor's ability to comply with this requirement. The District may request that appropriate action be taken with respect to any driver whose performance or characteristics cause legitimate concern; however, determination of any appropriate sanctions or actions rests with Contractor, who shall be obligated to deal responsibly and responsively to such District requests.

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D. Equipment and Facilities

1. Bus Specifications. The Contractor shall provide written lists of presently owned buses. Buses shall meet specifications for school buses as required by the Superintendent of Public Instruction for the State of Washington.
2. Condition and Maintenance. The Contractor shall maintain all school buses and other equipment used to provide student transportation service in strict accordance with State and Federal specifications and District required standards for school buses. Such equipment shall be maintained in good mechanical and operating order at all times, so as to successfully pass required bus inspections. The buses shall be kept clean and free of body damage including minor dents and paint scrapes of a cosmetic nature. Should a bus experience maintenance or mechanical issues, the contractor will use a spare bus that meets all Washington State and Federal school bus operations requirements.
3. Bus Inspections. All buses shall have current, inspections by the Washington State Patrol in accordance with prescribed State regulations before driving students.
4. Bus Category: Type C 72 passenger

All buses used in performance of this contract shall be no older than the following:

<u>State Classification</u>	<u>Regular Service Maximum Age</u>
Type C	12 years

5. Spare Buses. A spare bus is defined as a vehicle available for replacement of a regular service bus for reasons of breakdown, maintenance, emergency, etc. The Contractor shall maintain a minimum of 10 percent spare bus inventory in Type C class size.
6. District Inspections. At any time during the contract period, the District reserves the right to inspect any and all buses, the facilities for maintaining the buses and the operational procedures utilized by the Contractor.
7. Bus Storage Facilities. Contractor will be required to provide bus storage facilities as follows: The Contractor shall identify, in writing, the location of site (or sites) for bus yards at time of proposal submission.
8. License Requirements. The Contractor shall use county exempt license plates, and the proposal will be based on their cost, on all vehicles transporting students. In the event that vehicles are to be utilized in other types of service, the Contractor at its own cost will purchase the necessary licenses and permits in compliance with State, county and city laws and the county exempt plates shall be removed from the bus and forwarded to the District's Transportation Office for retention. Upon termination of the contract, all tax-exempt license plates shall be returned to the District's Transportation Office.
9. Service Modifications. The District retains the option of modifying the scope of work in this contract to meet its requirements. Such modifications may result in increased or decreased equipment demands.
10. Fuel. The contractor shall be responsible for fueling buses at their expense.



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11. Bus Radios. The Contractor shall provide two-way radios for all buses. Bus drivers will be in contact with Durham's dispatch and Durham dispatch will advise the District of any disruptions in service. The District will be notified timely when a bus is expected to run late or runs 10 minutes or more late on its route.
12. GPS. The District requires all buses to be equipped with a GPS tracking system with the capability to compare routes actual to planned.
13. Route Signs. Route number signs furnished by the District shall be prominently displayed on the exterior of all buses as specified by the District.

E. Personnel and Driver Requirements.

1. Implementation. The Contractor shall have drivers and all other personnel trained prior to performing to from routes for the District.
2. Minimum Operational Personnel Requirements. Operational personnel are defined as those individuals directly involved in the control, supervision, and investigation of daily bus operations and procedures. The extent and regional coverage of the District's transportation needs requires certain personnel availability to assure the safety and success of these functions.
3. Driver Certification.
  - a. The Contractor shall allow only trained and competent drivers who satisfy all the requirements for "School Bus Driver Certification" as required by the Superintendent of Public Instruction for the State of Washington, or by any other agency or provision of law, to operate its buses.
  - b. Additional first aid training: Many students now have "Medical Alert profiles." Each driver's notebook will contain a section to store this information and there will be a special statement next to the student name on the bus roster to advise the driver that a special alert exists for this student.

All drivers need to be trained to review their route notebooks and rosters and review the medical information. In addition there will be requirements for individual drivers to attend special briefings on an individual student needs. Additionally some drivers will be required to receive training in the use of Epinephrine Auto-Injectors. The Contractor will provide confirmation of training and certification.

4. Driver Background. Pursuant to RCW 28A.400.330, as a contractor for a school district, Contractor shall prohibit any employee of Contractor who has pled guilty to or have been convicted of any felony crime involving the physical neglect of a child under Chapter 9A.42 RCW, the physical injury or death of a child under Chapter 9A.32 or 9A.36 RCW (except motor vehicle violations under Chapter 46.61 RCW), sexual exploitation of a child under Chapter 9A.68A RCW, sexual offenses under Chapter 9A.44 RCW where a minor is the victim, promoting prostitution of a minor under Chapter 9A.88 RCW, the sale or purchase of a minor child under RCW 9A.64.030, or violation of similar laws of another jurisdiction from working in any situation where the employee will have unsupervised access to children. Failure to comply with this section shall be grounds for District to immediately terminate this Agreement.

Contractor agrees that all of Contractor's staff assigned to work at a District school or with District students under this Agreement shall obtain a criminal background check per RCW 28A.400.303 and RCW 43.43.830 prior to such staff providing services pursuant to this Agreement. Contractor further

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agrees that all staff assigned to the District will be fingerprinted prior to any work for the District. Contractor is responsible for any fingerprint processing fees. The District shall be provided with fingerprint results for all staff assigned to perform work for the District. If a positive criminal history is reported, the District shall make a final determination as to whether that particular staff member may be assigned to work under this Agreement.

5. Drug and Alcohol Testing. The Contractor will conduct drug and alcohol testing per State and Federal Regulations.
6. I.D. Badges. All drivers will be required to wear identification badges, which include their picture and name. I.D. badges will be the responsibility of the Contractor.
7. Driver Responsibilities. The driver will be responsible for the supervision of students while on the bus. Drivers must ensure that students adhere to District rules and regulations of conduct, and shall report cases of student misbehavior to the receiving school Principal or Program Manager. The Principal or Logistics Director are the final authority in determining the suspension of a student's riding entitlement. Drivers may not eject a student from a school bus. Should unmanageable student behavior occur en route, the driver shall pull off the road and try to control the situation. If necessary, the driver shall call the District Operations Control Center for assistance and authorization to proceed to the nearest school for assistance by the building administrator.

All drivers and operational staff are to be trained to follow and administer the policies and procedures outlined in the District's "Student Management on Buses" program.

8. Driver Experience. In the interest of student safety and management efficiency, the Contractor shall be required to meet the following driver experience requirements: At least 50 percent of the full-time bus drivers hired by the Contractor for work under this contract will have a minimum of three months experience as school bus drivers.  
The District may, in writing, waive or partially waive these experience requirements when the District, in its sole discretion, determines that there is some intervening reason why the requirements cannot reasonably and feasibly be met.
9. Driver Compensation and Benefits. Driver compensation and benefits shall be adequate to attract and retain sufficient numbers of qualified and suitable drivers to avoid service interruptions.
10. Regular Driver. Experience has proven that a regular driver minimizes operational and student management problems. The Contractor shall provide a regularly assigned driver to each route. Drivers may be transferred between routes whenever the best interests of the District, driver, or students may be served. The District may request that appropriate action be taken regarding driver assignments in the event of legitimate concerns for driver performance or characteristics; however, determination of appropriate action rests with the Contractor who shall be obligated to deal responsibly and responsively to such District requests. Whenever a change of driver occurs on a route, for whatever reason, the new driver will conduct a dry run of that route prior to commencement at no cost to the District.
11. Route Direction. The Contractor agrees not to deviate from the schedule and routes prepared by the District Transportation Office. Any deviation will be at the sole expense and liability of Contractor. The Contractor shall ensure that each driver will have an updated route map and/or left/right directions and a current student listing prior to making any run.
12. Driver Uniform. The Contractor shall adopt a standard uniform jacket and shall require its drivers to wear the same while on duty, beginning no later than 30 days after employed.

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13. Substitutes. Persons who may be employed as substitute drivers shall fully comply with all requirements pertaining to regular drivers. They must have a minimum of three months school bus driving experience and shall pass the geographic test provided by the District. Substitute drivers include “cover,” “on-call,” “standby” and those drivers not assigned regular routes but who drive as backup when needed.
14. Assignment of Substitute Drivers. Whenever a regular driver is off on a planned absence or for sick leave of more than two days, to the extent possible, the same substitute driver shall be used for the entire absence of the regular driver.
15. Newly Trained Drivers. Contractor will provide the District 24 hours advance notice of the first time assignment of a new driver to District work. The notice will include the control number and copy of a Dry Run Report for the assigned control number.
16. Driver Safety Training. The Contractor shall ensure all drivers have received driver safety training.
17. Compliance with Labor Laws. Contractor agrees to comply with all applicable labor laws and regulations as they pertain to organizational activities and the like. Drivers must know that they have an unencumbered right to discuss organizational activities without fear of employer retaliation. In particular, each Contractor is responsible to comply with its obligations under the National Labor Relations Act with respect to drivers’ discussion concerning their rights to organize.

F. Operations.

1. Stop Times and Locations. The District will have sole authority to direct the routes, times and locations of pickup and delivery. The District shall furnish the Contractor with a list of the school days by program for which the transportation service is to be furnished with the understanding that the number and days shall vary depending on the program. A school calendar will be provided to the Contractor. In the event of changes in the school calendar the District will provide an amended calendar as soon as practicable.
2. Bus Inspection at Completion of a Route. All buses will be equipped with the Zonar Electronic Vehicle Inspection Report (EVIR) system or equivalent approved by District and shall include pre-trip, post-trip and child-check inspections. This system shall include an integrated GPS-GSM real-time reporting capability. This system shall be an eleven-zone tag configuration subject to approval of the District. Drivers are to complete a physical walk-through of the bus after each route is completed; verification of this inspection will be via the Zonar or equivalent system. . This inspection is to determine if any students are still on board and to identify any leftover belongings. If the driver leaves a student on the bus unattended, the Contractor will transfer or otherwise remove the driver from the District's school bus service.
3. Delivery. No student will be delivered to school earlier than one-half hour or no later than ten minutes prior to the beginning of class sessions. The District prior to the opening day of school will submit school start/dismissal times to the Contractor. In the event of changes in start/dismissal times the District will provide amended schedules as soon as practicable.
4. Load Adjustments. The District will monitor all routes and loads assigned to each bus and the Contractor shall adjust routes and loads as directed by the District's Transportation Office.
5. Additional Activity Services. The Contractor shall provide additional bus service for extended day activities, noon runs, varied school start/dismissal times, and other activities as required by the District's Transportation

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Office.

6. Other Authorized Riders. The Contractor shall permit adults or other approved visitors to ride the buses when authorized by the District Transportation Office. Family members of drivers, including children (unless child is assigned to that route) are not permitted on the school buses during the time the bus is operating under this contract, this includes deadheading time. Exceptions may be requested in advance for special events, such as bring your child to work day, or other emergencies, all must be approved in advance by the Transportation Manager. Any instances will be subject to fines under liquated damages section.
7. Intervention Associates. The District may assign Intervention Associates to routes. The role of the Intervention Associate will be to work with the bus driver, students and school officials to ensure a safe and orderly bus ride.
8. Incident Reports. The Contractor will provide the District's Transportation Office with written incident reports of disciplinary and health problems that may arise during scheduled District service. The Contractor shall notify the District immediately of any vehicle accident where students are involved, or of any situation that constitutes a safety hazard to students.
9. Accident Reports. The Contractor shall forward within 24 hours of each accident wherein an injury is sustained a written report describing all details of such accident. All other accident reports will be submitted by the tenth of each month for the preceding month. Prior to the start of school, the Contractor shall provide the District's Transportation Office with a copy of its Standard Operating Procedures for responding to accidents.
10. Emergency Exit Drills. Emergency exit drills shall be held each school semester except Head Start routes will have two drills in the first semester. If unexpected problems develop, a make-up drill shall be scheduled as soon as possible. Emergency drill reports shall be submitted as directed by the District's Transportation Office.
11. Ice and Snow. The Contractor shall operate during ice and snow conditions unless the District cancels routes. Chains will be carried on all buses at all times and drivers shall be trained and qualified to install tire chains. The Contractor shall implement alternate routes as necessary that have been approved by the District.
12. Notification of Delays. The Contractor shall immediately notify the District's Operations Center of all service delays at sign out and all bus breakdowns. This will allow the District's Operations Control Center to inform parents of delays.
13. Dry Run. Dry runs will be compensated at BDR (Basic Daily Rate) and drivers' orientation at the drivers' hourly wage rate.
14. State Funding Count Requirements. The Contractor shall provide the District with accurate and timely student counts for the purpose of State Transportation Cost Reimbursement. These four days official count periods will be conducted in October, January, and April of each year unless a more frequent schedule is required by state or federal regulations.

G. Billing Procedures

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1. Claim Voucher/ Daily Bus Report. The Contractor shall submit a base billing to the District's Transportation Office no sooner than the 15<sup>th</sup> of each month for that month of operation. Contractor shall submit an excess billing to the District's Transportation Office on or before the tenth day of each month for the previous month's service. Contractor shall maintain daily Bus Report Forms for each individual route. The billing(s) shall give a breakdown of the program identifying the amount of time when hourly rates are utilized, the applicable rate, and the total amount claimed for each program group. Programs will be designated by the District prior to the start of the school year. The Contractor shall complete a Daily Bus Report (DBR), as designated by the District, or input data into software provided by the District. The DBR's will be assembled by date and in route sequence and made available to the District no later than five days after the transportation is provided.
2. Basic Daily Rate. "To and From" Basic Daily Rate (BDR) (five hours) is defined as two trips out of the lot and return per day. Invoicing shall be based on driver DBR sign on/off time to include a 20 minute pre-trip driver safety/preventative maintenance check of bus.
3. Use of Basic Daily Rate. The District reserves the right to fully utilize the five hours Basic Daily Rate. Further, the District reserves the right to assign additional time beyond the basic five hour rate for work required to provide other services.
4. New or Substitute Drivers. When a new or substitute driver is assigned a route, the time of the route will be computed on the average time of the regular driver's route time and invoiced on the billing accordingly.
5. Rounding Time. All time accrued in excess of the Basic Daily Rate For each route that operates over 5 hours on a given day, a \$40.00 hourly fee will be applied in quarter hour increments.
6. Late Operation/Work Actions. In the event a bus is late in performing a run due to contractor error, an adjustment to the charge will be made. A run operated greater than 10 minutes late, up to thirty minutes will be credited on a per minute bases at the excess hourly rate. Should a trip be missed entirely, a deduction equivalent to the estimated cost of the trip shall be subtracted from the monthly billing. The Contractor shall immediately notify the District's Transportation Office in the event of a delay. If students are missed as a result of driver fault or negligence, or because of a delay in operating service, the Contractor shall, at its expense, pick up and deliver missed students or reimburse the District for any expenses incurred by the District in providing alternative service for missed students. If there is a failure or refusal on the part of the Contractor to furnish the services specified in the proposal, after requested in writing, the District may charter that service in the open market at the Contractor's expense or take any other action provided for in this Contract.

Damages for trip delays, which are in the sole judgment of the District clearly and unquestionably caused by factors totally beyond the control of the Contractor, will be waived by the District.

7. District Cancelled Operation. If the District cancels transportation and there is insufficient time to notify the drivers, the Contractor may charge the District for actual incurred costs and they will be paid by the District.
8. Cancellation of Routes. If Contractor's performance on a particular route or routes is unsatisfactory for a total of three days in any week, or if the Contractor does not have an assigned regular driver for a route or routes on Dry Run Day, the District may cancel such route(s) or portions thereof and award them to another carrier, or operate them with District equipment. The Contractor shall be liable for any additional costs to District as a result of providing such alternative service. Unsatisfactory performance for purposes

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of this section may consist of driver fault, driver misconduct toward students, mechanical breakdowns, not filling assignments, late route performance of ten minutes or more, multiple different drivers on a given route, and/or other similarly serious factors. Cancellation shall be preceded by written notification of unsatisfactory performance by District to Contractor before or upon the third instance of unsatisfactory performance for each route, and following each instance thereafter. Contractor must immediately correct the deficiency, or may respond in writing, within five calendar days of receipt of such notices, as to why the asserted unsatisfactory performance should be excused. District shall make the final determination with its reasonable discretion.

9. Failure to Comply with Terms and Conditions. Should Contractor fail to comply materially with any of the terms or conditions of this contract, or should District determine from Contractor's total performance that Contractor is unfit, unqualified or unable to meet the student transportation needs of District as required by this contract, then this contract may be cancelled in its entirety by District at any time upon thirty days prior written notice to Contractor.
10. Exercise of District Rights. Notwithstanding the foregoing process and periods for notification to enforce a right, the District at its option may exercise any of its rights with 24-hour notice if necessary to assure that reliable student transportation is available to the District.

H. Field Trips

1. Field Trip Confirmation. All field trips paid with District funds, including evening and weekend trips, must be arranged and confirmed by the District's Transportation Office.
2. Site Release. The District reserves the right either to detain the bus and driver at the activity site or release, with the request to return at a specified time, whichever is the least cost to the District.
3. Scheduling of Field Trips. Whenever possible, field trips or activities will be scheduled in conjunction with to and from school trips.
4. Notification of cancelation of field trip bus(es). Contractor shall notify the District no less than five (5) working days in advance of the scheduled field trip.

I. Communication Equipment

1. Software. If the Contractor has their own proprietary system they use for daily bus routing operations, it must be compatible with data uploads from the District Versatrans system. Data uploads are currently done twice weekly and may increase to provide the most accurate routing. These data uploads contain all revisions made by district staff to existing routes and any new or cancelled routes.
2. Dedicated E-Mail Address. The Contractor shall provide a dedicated e-mail address for each to each facility location to receive route changes and other information.
3. Hot Lines. The Contractor will provide a hot line from each Contractor operational dispatch center to the District's Transportation Office.
4. GPS reporting and real-time route information. The Contractor will authorize their

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GPS provider to release the Contractor's GPS data directly to the District.

J. Public Relations

The Contractor shall cooperate with the District to establish and maintain good public relations with the community and the news media. The District reserves the right of consultation on news media material regarding pertinent matters affecting the transportation services or patrons of the District.

## Exhibit B

Durham School Services is pleased to submit our proposed home to school transportation pricing to Seattle Public Schools.

## Who We Are

We can trace our history back to 1917 to a three-bus company started in the San Gabriel Valley of California. A century later, we are a leading provider of transportation across North America.

Our journey by the numbers: Ten decades of growth. Combined resources of more than 27,000 team members. More than one million students transported daily. Five core values. One vision. But the common thread to our story, and central to the journey, has been **our people, our customers** and **our values**.

It defines who we are and sets us apart from our competitors as a leader in transportation.



## The Durham Difference® is:

### EXCEPTIONAL CUSTOMER SERVICE

Our managers are constantly providing exceptional customer service. Honesty, accountability and transparency are how we approach all matters. We will uncover problems and issues for resolution and constantly communicate with you during each step of the way.

### SAFETY IS ALWAYS OUR FIRST PRIORITY

The safety of each student and employee is our first commitment and Durham School Services knows there is no substitute. We constantly strive to find the safest way to operate, not the most expedient or least expensive.

The best trained drivers in the business work for Durham. Buses are built with safety in mind, but it is the drivers who make the buses safe. Durham is committed to continually developing innovative training strategies and programs designed to keep the safest drivers operating our buses. We understand the importance of what we do, and we work tirelessly to ensure safety is our first priority.

**Seattle Public Schools | Seattle, WA**



## Technology

### RADIO EQUIPMENT

Durham will equip all buses with a radio system.

### GPS TECHNOLOGY = ENHANCED COMMUNICATION

We will provide the Zonar® GPS tracking and EVIR system on each bus. The GPS technology will enhance our ability to address concerns by providing near real-time access to the facts.

## Buses

Our fleet consists of type C - 72 passenger school buses without wheelchair lifts. Note, once Seattle Public Schools makes the decision to utilize our services, we must contact the Washington State Patrol so that they will perform their annual bus inspection.

## Driver Availability

We are prepared to offer up to fifteen (15) drivers and buses immediately. Additional needs to be further discussed.

## Proposed Facility

Our Tacoma facility is located at 3212 S Sprague Street, Tacoma WA 98409.

## Customer Service Center Contact

### Information

General Manager, Shawn Powers (253) 330-7385

[spowers@durhamschoolservices.com](mailto:spowers@durhamschoolservices.com)

Dispatch Lead, Sarah Tinsley (253) 290-0145

[stinsley@durhamschoolservices.com](mailto:stinsley@durhamschoolservices.com)

Dispatch Office (253) 475-0334

## Exhibit B

Primary	Shawn Powers	(253) 330-7385
Secondary	Sarah Tinsley	(253) 290-0145
Contingency	Office	(253) 475-0334

## Pricing

Pricing will be based on a 5 hour daily gate to gate per route/per bus minimum, to include 20 minutes of pre and post trip time. For each route that operates over 5 hours on a given day, a \$40.00 hourly fee will be applied in quarter hour increments. The time starts and ends at our transportation facility located at 3212 S Sprague Street Tacoma, WA 98409. **No Mileage Charges, all fuel included.**

Daily per route/per bus 5 hour rate - \$483.00, excess hourly rate - \$40.00

## Core Values

Our five core values are focused on safety, customers, people, communities and excellence. We live these values throughout the organization. Nobody else will try harder for our customers than we do. As you will read in our proposal, our company's number one priority is **getting children to school safely, on time and ready to learn®**.

## A Team You Can Count On

Durham School Services has a wealth of experience, serving more than 400 educational partners across the United States. We are delighted to be considered to provide professional transportation services to Seattle Public schools and are confident we can provide outstanding services to your students and your schools.

Should you have any further questions regarding this proposal, please contact Mark Herington, Director, Business Development at (702) 290-9026.



*Our company's policies, programs and procedures included in this proposal are those currently in effect. We reserve the right to revise our policies, programs and procedures over time.*

**SERVICES CONTRACT  
GENERAL CONDITIONS (SHORT FORM)**

**ARTICLE 1 - CONTRACTOR'S SERVICES AND RESPONSIBILITIES**

1.1 Services. Contractor shall furnish all personnel, equipment and materials for the performance of all services under this Agreement. Such services, together with all drawings, specifications, materials, information, property, and other items provided or to be provided to District under this Agreement, are sometimes collectively referred to herein as the "Services."

1.2 Manner of Performance. Contractor's Services shall be performed with the degree of care and diligence ordinarily exercised under similar circumstances in the applicable disciplines and as expeditiously as is consistent with such standards of professional skill and care and the orderly progress of the Services. At the time of performance, Contractor shall be properly licensed, equipped, organized and financed to perform the Services.

1.3 District's Representatives. District may designate one or more individuals or firms as its representative for administration of this contract. If a representative is assigned by District, it shall not have authority to assign additional Services or to reduce the Services to be performed by the Contractor under this contract.

1.4 Correction of Non-compliances. Contractor shall, at no cost to District, promptly and satisfactorily correct any Services found to be defective or not in compliance with the requirements of this Agreement or the requirements of any governmental authority, law, regulations or ordinances.

1.5 Contractor's Personnel. All personnel employed by Contractor engaged in the Services and Services shall be fully qualified and shall be authorized under applicable federal, state, and local law to perform such Services and Services. Contractor shall, if so requested by District, remove from the performance of the Services any person District reasonably deems incompetent. Failure of District to so object shall not relieve Contractor of responsibility for such person. If any personnel are reassigned or replaced by Contractor upon District's request, Contractor shall replace them with personnel approved by District.

1.6 Contractor Employee Background. Pursuant to RCW 28A.400.330, as a contractor for a school district, Contractor shall prohibit any employee of Contractor who has pled guilty to or been convicted of any felony crime involving the physical neglect of a child under Chapter 9A.42 RCW, the physical injury or death of a child under Chapter 9A.32 or 9A.36 RCW (except motor vehicle violations under Chapter 46.61 RCW), sexual exploitation of a child under Chapter 9.68A RCW, sexual offenses under Chapter 9A.44 RCW where a minor is the victim, promoting prostitution of a minor under Chapter 9A.88 RCW, the sale or purchase of a minor child under RCW 9A.64.030, or violation of similar laws of another jurisdiction from working in any situation where the employee will have unsupervised access to children. Failure to comply with this section shall be grounds for District to immediately terminate this Agreement.

Contractor agrees that all of Contractor's staff assigned to work at a District school or with District students under this Agreement shall obtain a criminal background check per RCW 28A.400.303 and RCW 43.43.830 prior to such staff providing services pursuant to this Agreement. Contractor further agrees that all staff assigned to the District will be fingerprinted prior to any work for the District. Contractor is responsible for any fingerprint processing fees. The District shall be provided with fingerprint results for all staff assigned to perform work for the District. If a positive criminal history is reported, the District shall make a final determination as to whether that particular staff member may be assigned to work under this Agreement.

1.7 Compliance With Laws and Liability

1.7.1 General. Contractor shall comply, and be certain that its Services comply, with all applicable laws, ordinances, regulations, resolutions, licenses of record, permits of record, and other requirements applicable to the Services, in effect at the time of performance of the Services and as interpreted by cognizant authorities. Contractor shall furnish such documents as may be required to effect or evidence such compliance. All laws, ordinances, regulations, and resolutions required to be incorporated in agreements of this character are incorporated in this Agreement by this reference.

## Exhibit C

### 1.7.2 Nondiscrimination.

A. Applicable state laws concerning prevailing wages, hours, workers' compensation and other conditions of employment are called to the attention of bidders for their compliance. Bidder shall include in the bid any filing fees required to comply with applicable labor laws.

B. During the term of this Agreement, Contractor shall comply with applicable local, state and federal laws prohibiting discrimination with regard to race, creed, color, national origin, sex, sexual orientation, marital status, age or the presence of any sensory, mental or physical handicap.

C. Any contractor who is in violation of these requirements, or an applicable nondiscrimination program shall be barred forthwith from receiving awards of any purchase order from Seattle School District No. 1 or shall be subject to other legal action or contract cancellation unless satisfactory showing is made that discriminatory practices have terminated, and that reoccurrence of such acts is unlikely. This includes compliance with Section 503 and 504 of the Vocational Rehabilitation Act of 1973 and Sections 2012 and 2014 of the Vietnam Era Veterans Readjustment Act of 1974.

1.7.3 Warranty of Accessibility. If services include the provision of technology related products, Contractor warrants the following:

A. The system and services provided to the District will comply with all local, state, and federal laws, regulations and relevant regulatory guidelines. Contractor further agrees that the system and services provided to the District will comply with all laws prohibiting discrimination with regard to race, creed, color, national origin, sex, sexual orientation, marital status, age, or the presence of any sensory, mental, or physical disability. Contractor will furnish such documents and information as may be reasonably requested by the District to evidence Contractor's compliance with the terms of this agreement.

B. Contractor will use reasonable efforts to ensure that, to the extent directly affecting the intended daily use by end users of the system and services provided to the District under this agreement, such system and services will, at a minimum, conform with all applicable laws, including Section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d), as amended, all other regulations promulgated under Title II of the Americans with Disabilities Act, and the accessibility standards of the Web Content Accessibility Guidelines ("WCAG") 2.0 AA; provided, however, that Contractor will have no obligations with respect to such compliance to the extent relating to any portion of the system and services provided or developed by third parties or any user-generated content. If Contractor cannot ensure WCAG compliance for a portion of its services, Contractor will detail how it will support the District in providing equally effective alternate access for nonconforming web content and software and unusable equipment, devised, and hardware.

C. Contractor will conduct an accessibility test using an independent third party automated software system or a method otherwise mutually agreeable to the parties, to determine the compliance of the products and services provided to the District under this agreement with all accessibility laws and protocols, including the WCAG, as amended.

1.7.4 Student User Privacy. Contractor agrees to comply with the Student User Privacy in Education Rights Act ("Super Act"- a Washington State law on student privacy) if the provisions of SUPER Act apply to the school services provided by the Contractor to the District. School service means a website, mobile application, or online service that: (a) Is designed and marketed primarily for use in a K-12 school; (b) is used at the direction of teachers or other employees of a K-12 school; and (c) collects, maintains, or uses student personal information. A "school service" does not include a web site, mobile application, or online service that is designed and marketed for use by individuals or entities generally, even if also marked to a United States K-12 school.

1.7.5 Confidential Student Information. Contractor understands and agrees that any educational records received from the District are considered confidential student information protected by federal law, the Family Educational Rights and Privacy Act ("FERPA"), 20 U.S.C. Section 1232g. Contractor further agrees that student educational records received from the District will not be disclosed to any other person, agency, or entity without the prior written consent of the District unless required to make such a disclosure in connection with the performance of its obligations under this Agreement (provided that the party to whom such information is disclosed is subject to confidentiality restrictions) or under an applicable law or court order. Contractor shall not be permitted to sell such information and must seek permission from District before including such information that is identifiable to the school or district. Contractor agrees that any student information obtained through this Agreement is confidential and cannot be disclosed to a third-party

## Exhibit C

unless disclosure is expressly permitted in this section or required by law. Upon termination or expiration of this Agreement for any reason, Contractor shall either return or permanently delete and destroy all confidential student information. Contractor will confirm its destruction or return confidential student information in writing at the request of the District. For the avoidance of doubt, this section does not create any obligations for Contractor with respect to information that is not in Contractor's control. The unauthorized or unlawful disclosure of student records by Contractor is just cause for the District to immediately terminate this Agreement.

### **ARTICLE 2 - PAYMENTS TO CONTRACTOR**

The compensation shall be made no more frequently than monthly and if paid on a lump sum basis shall be in proportion to the Services performed. Each of Contractor's invoices shall set forth in a detailed and clear manner a complete description of the Services covered thereby, on a form substantially similar to that customarily used by District and shall be supported by such receipts, documents, and other information as District may reasonably request. The invoice shall include separate listings of Services for particular schools or programs, if requested by the District. District shall pay each of Contractor's invoices within thirty (30) days after District's receipt, provided that all required documentation is included and accurate.

### **ARTICLE 3 - REIMBURSABLE EXPENSES**

As shown in contract.

### **ARTICLE 4 - CONTRACTOR'S ACCOUNTING RECORDS**

The Contractor's records of performance of Services shall at all times be subject to review by and the approval of District, but the making of (or failure or delay in making) such review or approval shall not relieve Contractor of responsibility for performance of the Services in accordance with this Agreement. Records of Reimbursable Expenses shall be kept in accordance with generally accepted accounting principles.

Contractor shall promptly furnish District with such information related to the Services as may be requested by District. Until the expiration of three (3) years after final payment of the compensation payable under this Agreement, Contractor shall provide District access to (and District shall have the right to examine, audit and copy) all of Contractor's books, documents, papers and records which are related to the Services or this Agreement.

### **ARTICLE 5 - DISTRICT OWNERSHIP AND USE OF DOCUMENTS**

5.1 **District Ownership.** All drawings, specifications, materials, information, property and other items obtained or developed in connection with the Services or the cost of which is included in the Reimbursable Expenses (including, but not limited to, documents, designs, drawings, plans, specifications, calculations, maps, sketches, notes, reports, data, estimates, reproductions, renderings, models, mock-ups, completed Services and Services in progress), together with all rights associated with Districtship of such items (such as copyright, patent, trade secret and other proprietary rights), shall become the property of District when so obtained or developed or when such expense is incurred, as the case may be, whether or not delivered to District. Contractor shall deliver such items, together with all materials, information, property and other items furnished by District or the cost of which is included in the Reimbursable Expenses, to District upon request and in any event upon the completion, termination or cancellation of this Agreement. However, Contractor may at its own expense retain copies of any such items for its own records or for use in the furtherance of its professional knowledge.

5.2 **License.** District shall have a permanent, assignable, nonexclusive, royalty-free license and right to use all concepts, methods, processes, products, writings and other items (whether or not copyrightable or patentable) developed or first reduced to practice in the performance of the Services or otherwise whether by Contractor, any of its subcontractors, or any employee(s) of Contractor in connection with this Agreement. District shall hold Contractor or its subcontractors harmless for District's reuse of documents on a project other than this Project.

## Exhibit C

5.3 Nondisclosure. Contractor shall not, without the prior written consent of District, disclose to third parties any information obtained in connection with the Services unless: (a) the information is known to Contractor prior to obtaining the same directly or indirectly from District or in connection with the Services; (b) the information is in the public domain at the time of disclosure by Contractor; or (c) the information is obtained by Contractor from a third party who did not obtain the same directly or indirectly from District or in connection with the Services. If so requested by District, Contractor shall obtain from its employees, subcontractors and their respective employees nondisclosure agreements in the form and content satisfactory to District. Submission or distribution to meet official regulatory requirements or for other purposes in connection with the activity for which the Services were rendered is not to be construed as publication in derogation of District's or Contractor's rights.

### **ARTICLE 6 - RELEASE, INDEMNIFICATION AND HOLD HARMLESS**

6.1 Release and Indemnification. Contractor releases and shall indemnify, defend, and hold harmless District, its successors and assigns, and the directors, officers, employees and agents of District and their successors and assigns (collectively, the "Indemnitees") from any and all claims, losses, harm, costs, liabilities, damages and expenses (including, but not limited to, reasonable attorneys' fees) relating to the services or arising (whether before or after completion of the Services) out of any act, error or omission of any of the following: Contractor; Contractor's subcontractors or subcontractors; the directors, officers, employees or agents of Contractor or any of its subcontractors or subcontractors; or anyone acting on Contractor's behalf in connection with the Services or this Agreement. This liability includes, but is in no way limited to, all claims, losses, harm, costs, liabilities, damages and expenses (including, but not limited to, reasonable attorneys' fees) relating to incidents with or between students on board any bus; dropping off student(s) at the wrong location; bus driver misconduct; and any accident. Should any of these issues arise, Contractor is required to notify the District immediately of any accidents or issues related to any of the scenarios above. The Contractor shall not be required to so indemnify any of the Indemnitees against liability or damages to the extent caused by or resulting from the sole negligence of such Indemnitees. The indemnification obligation under this paragraph shall not be affected by any limitation on the amount or type of damages, compensation or benefits payable by or for Contractor or any subcontractor under any worker's compensation act, including Title 51, RCW, any disability benefit acts, or any other employee benefit acts. Contractor and any subcontractor hereby waive, for themselves and their successors, any right to claim such limitation as a defense, set off, or other reduction of rights to indemnification under this paragraph.

**Contractor further agrees that this waiver has been mutually negotiated by the parties.**

6.2 Workers' Compensation. Contractor expressly waives any immunity or limitations (e.g., on the type or amount of damages, compensation, benefits or liability payable by Contractor) that might otherwise be afforded under any industrial insurance, workers' compensation, disability benefit or similar law, rule, regulation or order of any governmental authority having jurisdiction (including, but not limited to, the Washington Industrial Act, Title 51 of the Revised Code of Washington). By executing this Agreement, Contractor acknowledges that the foregoing waiver has been mutually negotiated by the parties.

6.3 Patent; Copyright. Contractor releases and shall defend, indemnify and hold harmless the Indemnitees from all claims, losses, harm, costs, liabilities, damages, expenses (including, but not limited to, reasonable attorneys' fees) and royalties arising (whether before or after completion of the Services) out of or in connection with any claim, action, suit or proceeding based upon infringement of any patent, copyright, trade secret or other proprietary right or upon the wrongful use of any confidential or proprietary concept, method, process, product, writing, information or other item and arising out of or in connection with performance of the Services or the use or intended use of any of the Services. Further, if any of the Services or any use or intended use of the Services constitutes an infringement of any patent, copyright, trade secret or other proprietary right or the wrongful use of any confidential or proprietary concept, method, process, product, writing, information or other item, Contractor shall at its expense either procure for the Indemnitees the right to use the infringing item, replace the infringing item with a substantially equal but non-infringing item or modify the infringing item so that it becomes non-infringing; provided, however, that this paragraph 6.3 does not apply to any claim, action, suit or proceeding based upon infringement which is related to any materials or equipment designated solely by District for use by the District.

**ARTICLE 7 – INSURANCE AND BONDS**

7.1 General Provisions.

A. Contractor shall, at its sole cost and expense, with respect to Contractor, its subcontractors of any tier, and their employees, officers, representatives and agents, ensure that Contractor and its subcontractors maintain in effect at all times during the performance of the Work coverage or insurance in accordance with the applicable laws relating to workers' compensation and employer's liability insurance (including, but not limited to, the Washington Industrial Insurance Act), regardless of whether such coverage or insurance is mandatory or merely elective under the law. Prior to commencing the Work, Contractor shall furnish to Owner assurance and evidence acceptable to Owner of coverage or insurance with respect to all persons performing the Work in accordance with the applicable laws relating to workers' compensation and employer's liability insurance (including, but not limited to, Certificate(s) of Compliance as issued by the Washington State Department of Labor and Industries).

B. Without limiting the generality of paragraph (a) above, Contractor shall purchase and maintain insurance as set forth below for all its employees, officers, representatives and agents engaged in Work on this Project under this Contract. In case any such Work is subcontracted, Contractor shall require the subcontractor to provide the same insurance coverage for all of the latter's employees, officers, representatives and agents engaged in such Work. In case any class of employees engaged in hazardous work under this Contract and the site of the Project is not protected under the above Washington State Industrial Insurance Act, or "stop-gap" insurance, Contractor shall provide and shall cause each subcontractor to provide compensation insurance and employer's liability insurance with a private insurance company.

C. Prior to the commencement of performance of the Work, Contractor shall, at its sole cost and expense, secure such liability insurance as will protect Contractor, its employees, officers, representatives and agents, Owner and Owner's Representative, from and against any and all claims and liabilities arising out of bodily or personal injury (including death) or property damage that may result from Contractor's operations or performance of Contractor's obligations under this Contract, whether such performance is by Contractor or any of its Support. All such insurance shall be placed with such insurers and under such forms of policies as may be acceptable to Owner.

7.2 Contractor's Liability Insurance. Contractor shall, at its own expense, secure and maintain Commercial General Liability Insurance including Products and Completed Operations; Broad Form Property Damage; Stop Gap; Contractual Liability (and Collapse, Explosion and Underground). Without limiting the generality of the foregoing, such insurance shall protect Owner, Owner's Representatives, Construction Manager, Architect/Engineer and Contractor from the following claims which may arise out of, result from or relate to Contractor's operation or performance under the Contract:

A. claims under workers' or workmen's compensation, disability benefit and other similar employee benefit act;

B. claims for damages because of bodily injury, occupational sickness or disease, or death of its employees;

C. claims for damages because of bodily injury, sickness or disease, or death of any person other than its employees;

D. claims for damages, insured by usual personal and advertising injury liability coverage which are sustained (1) by any person as a result of an offense directly or indirectly related to the employment of such person by Contractor, or (2) by any other person;

E. claims for damages, other than to work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom (including, but not limited to, the usual Broad Form Property Damage Liability coverage); and

F. claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle.

All required liability policies shall be written on an "occurrence" and not "claims-made" form. The insurance required by 7.2 shall include contractual liability insurance applicable to Contractor's indemnification obligations under this Agreement.

All required liability policies shall be specifically endorsed as primary insurance, and not contributory to any other insurance or self-insurance available to Owner.



## Exhibit C

7.3 Limits of Liability. The liability insurance required herein shall be written for not less than that stated in these Contract Documents; or one million dollars (\$1,000,000), whichever is greater. Except for workers' compensation, limits shall be project specific and dedicated to work performed under this Contract, unless otherwise agreed to by Owner. The amounts of insurance shall not be less than:

workers' compensation	statutory
employer's liability (stop gap)	\$5,000,000 each accident \$5,000,000 disease-policy limit \$5,000,000 each employee
commercial general liability	\$1,000,000/\$2,000,000 (per occurrence/aggregate)
bodily injury and property damage	\$5,000,000/\$10,000,000
personal and advertising injury	\$5,000,000/\$10,000,000
products and completed operations	\$5,000,000/\$5,000,000
fire legal liability	\$100,000
automobile liability (owned, non-owned, leased or hired)	\$10,000,000 per occurrence
umbrella/excess coverage	\$10,000,000 per occurrence
professional liability	\$1,000,000 each occurrence

## Exhibit C

7.4 Coverage Period. Contractor or its Subcontractors shall maintain the foregoing insurance and coverages in full force and effect at all times; (a) until all of Contractor's obligations under this Contract have been fully performed, all of the Work has been fully accepted by Owner and all operations of Contractor and its employees, officers, representatives, agents and subcontractors (including, but not limited to, removal of equipment and other property) on or about the site of the Work have been concluded; and (b) in the case of completed operations and products liability insurance, until the expiration of one (1) year after all of Contractor's obligations under this Contract have been fully performed.

7.5 Certificates of Insurance. Prior to the execution of the Contract (or within such further time as Owner may allow in writing), Contractor shall deliver to Owner Certificates of Insurance in a form acceptable to Owner as evidence that policies providing insurance with such provisions, coverages and limits are in full force and effect. Such Certificates shall state specifically the name of this Project and its address, and shall evidence the Owner and Owner's Representatives, if any, as insureds or additional insureds. These certificates shall contain a provision that coverages afforded by the policies will not be canceled until at least 45 days prior written notice has been given to Owner and additional insureds. Contractor shall also furnish Owner with such additional assurance and evidence of such insurance (such as copies of all insurance policies, certified by an authorized representative of the insurer) as Owner may from time to time request. The certificate shall also evidence that the policies are issued as primary insurance and noncontributory to any insurance or self-insurance applicable to Owner.

7.6 Renewal, Termination, Cancellation, Expiration, and Alteration. In the event of any renewal, termination, cancellation, expiration or alteration in any policy of insurance required under this Contract, Contractor shall deliver to Owner a Certificate of Insurance with respect to any such renewal, termination, cancellation, expiration or alteration, as the case may be prior to inception of any such coverage.

7.7 Additional Insureds; Right of Subrogation. Contractor shall ensure that any policies of insurance that Contractor or any of its subcontractors are required to carry, provide or have provided as insurance against loss of or damage to property or bodily harm that may occur in connection with the Work or this Contract shall name Owner and Owner's Representatives as additional insureds and include a waiver of the insurer's right of subrogation against Owner, the Construction Manager, the Architect/Engineer and Owner's Representative. To the extent permitted by its insurance policies, Contractor hereby waives its rights of subrogation against Owner, the Construction Manager, the Architect/Engineer and Owner's Representative.

7.8 No Limitation. The requirements of this Contract as to insurance and acceptability to Owner of insurers and insurance to be maintained by Contractor and its Support are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by Contractor under this Contract.

7.9 Owner's Right to Maintain Insurance. If Contractor or any of its subcontractors fails to maintain the insurance coverage as required by this Part 2, Owner may obtain such insurance coverage as is not being maintained, in form and amount substantially the same as set forth above, and Owner may charge to or otherwise recover from Contractor (e.g., by offset against any amounts due or which may become due Contractor under this Contract), the cost of such insurance.

### **ARTICLE 8 – CHANGES**

8.1 Notice. District may at any time, by written notice thereof to Contractor, make changes in the Services to be performed under this Agreement (including, but not limited to, additions to or deletions from any Services, suspension of performance, and changes in the schedule and location of performance). Contractor shall, within ten (10) days after receipt of notice of any change which Contractor believes to be

## Exhibit C

outside the scope of Services, give District written notice of such belief, otherwise the change shall be deemed to be within the scope of Services.

8.2 Adjustment. If any change under paragraph 8.1 causes an increase or decrease in the cost of or the time required for performance of the Services, an equitable adjustment in the compensation and/or schedule under this Agreement shall be made to reflect such increase or decrease and this Agreement shall be modified in writing accordingly. Such equitable adjustment shall constitute full compensation to Contractor for such change.

### **ARTICLE 9 - TERMINATION OF THIS AGREEMENT**

#### 9.1 Termination of Agreement by District for Cause.

9.1.1 If Contractor shall fail to fulfill in a timely and proper manner its obligations under this Agreement, or if Contractor shall violate any of the provisions of this Agreement, or if Contractor becomes insolvent or the subject of any proceeding under bankruptcy, insolvency or receivership law or makes an assignment for the benefit of creditors, District shall thereupon have the right to terminate this Agreement by giving written notice of such termination and specifying the effective date thereof as a certain date at least seven (7) days after the notice, during which period Contractor shall have the right to cure the default.

9.1.2 Whether or not this Agreement is so terminated, Contractor shall be liable to District for any damage or loss resulting from such failure or violation by Contractor described in subparagraph 9.1.1, including, but not limited to, costs in addition to those agreed to herein for prosecuting Services to completion and delay damages paid or incurred by District. The rights and remedies of District provided by this paragraph are cumulative with and in addition to any other rights and remedies provided by law or this Agreement.

9.1.3 District shall be liable to Contractor for Contractor's just and equitable compensation for any satisfactory services completed, but in no event shall this compensation exceed the percentage of total services satisfactorily completed at the time of termination times the total compensation payable under this Agreement. District may withhold payments to Contractor equal to any claim made in writing by District for the purpose of set-off until such time as the exact amount of damages due District from Contractor is determined. In no event shall District be liable for any consequential or incidental damages, including, but not limited to, loss of profit on other projects or of reputation incurred by Contractor as a result of such termination. If District purports to terminate all or a part of this Agreement for cause, and it is determined that insufficient cause existed, such termination shall be deemed to have been a termination for convenience of District pursuant to paragraph 10.2, and the rights of the parties shall be determined accordingly.

9.2 Termination for ConvenienceTermination for Convenience. District or Contractor may, at its option, terminate all or a portion of the services not then performed under this Agreement at any time in writing within fifteen (15) calendar days. In that event, all finished or unfinished documents and other materials as described above shall, at the option of District, become its property upon compensation therefor in accordance with this Agreement, and District shall indemnify and hold harmless Contractor and its agents and employees from any claims arising from District's subsequent use of such documents and other materials, except to the extent Contractor is solely or concurrently negligent. If the Agreement is terminated by District as provided herein, Contractor's compensation for the Services shall be (i) that portion of the compensation for services performed prior to termination, and (ii) proper compensation for Reimbursable Expenses. District shall not be liable for any consequential or incidental damages, including, but not limited to, loss of profits on other projects or of reputation incurred by Contractor as a result of such termination.

### **ARTICLE 10 – MISCELLANEOUS**

10.1 Time. Time is of the essence with regard to performance of this Agreement.

10.2 Subcontracting. Except for any services to be performed by subcontractors specified in the scope of services, Contractor shall not (by contract, operation of law or otherwise) delegate or subcontract performance of any Services to any other person or entity without the prior written consent of District.

10.3 Independent Contractor. Contractor shall at all times be an independent contractor and not an agent or representative of District with regard to performance of the Services as authorized by this Agreement. Contractor shall not represent that it is, or hold itself out as, an agent or representative of District.

## Exhibit C

10.4 Non-waiver. The failure of either party to insist upon or enforce strict performance by the other party of any of the provisions of this Agreement or to exercise any rights under this Agreement shall not be construed as a waiver or relinquishment to any extent of its rights to assert or rely upon any such provisions or rights in that or any other instance.

10.5 Assignment. Neither District nor Contractor shall assign, sublet or transfer any interest in this Agreement without the written consent of the other.

10.6 Entire Agreement. This Agreement represents the entire and integrated agreement between District and Contractor and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both District and Contractor.

10.7 Applicable Law; Venue. This Agreement shall be interpreted, construed, and enforced in all respects in accordance with the laws of the State of Washington. Venue in any litigation shall be in King County, Washington.

10.8 Debarment. Contractor, by accepting this contract, warrants that it is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions (defined as not being eligible to receive federal funds) by any local, state or federal department or agency. Contractor agrees to be bound by the terms of School Board Policy No. 6973, which provides additional requirements applicable to debarment of contracts from receiving future contracts with SPS.

10.9 Cooperation with District Auditor and State Auditor. Contractor agrees to provide reasonable cooperation with any inquiry by either the district or State Auditor relating to the performance of this contract. The District has the right to audit records of the Contractor relating to payment or performance under this contract, for one year after completion of this contract. Failure to cooperate may be cause for debarment from award of future contracts.