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Introduction Date	6-27-12
Enactment Number	12-1703
Enactment Date	6/27/12



OAKLAND UNIFIED
SCHOOL DISTRICT

Community Schools, Thriving Students

Memo

To Board of Education
From Sharon Casanares, Director, Programs for Exceptional Children
Board Meeting Date June 27, 2012
Subject Approval by the Governing Board of Amendment No. 1 to the contract between the District and Petermann Northwest, LLC

Action Requested Approval by the Governing Board of Amendment No.1 to the contract between the District and Petermann Northwest, LLC to provide school bus transportation services to students in special education who require transportation to the District Reading Clinic as specified in their individual Education Programs (IEPs). Amendment No. 1 adds a new service and billing category for Reading Clinic transportation services. Amendment No. 1 also adds a new compensation rate of \$60.00 per day per student in Schedule B of the contract specifically for Reading Clinic transportation services effective February 1, 2012 through June 30, 2014. This rate shall be adjusted annually per the existing terms of the contract.

Background The current Schedule B of the contract provides a rate per mile of transportation service to individual students starting and ending at the Petermann bus yard. Amendment No. 1 changes the fee structure to a flat rate of \$60.00 per day to transport a student to and from the District Reading Clinic. This change

Discussion The District is required to provide transportation when an IEP team determines that transportation as a related special education service is needed in order for a student to access his/her Free Appropriate Public Education (FAPE). A District Reading Clinic is a special education service offered at a central location in the District. Clinic hours occur during the school day necessitating transportation from home to clinic and then to school, or from school to clinic and back to school.

Recommendation Approval by the Governing Board of Amendment No. 1 to the contract between the District and Petermann Northwest, LLC to provide school bus transportation services to students in special education who require transportation to the District Reading Clinic as specified in their individual Education Programs (IEPs).

Fiscal Impact Funding Resource: Special Education - 7240

Attachments

- Amendment No. 1

AMENDMENT NO. 1

THIS AMENDMENT, is made and entered into this 27 day of February 2012, by and between Petermann Northwest LLC ("Company") and the Oakland Unified School District ("District").

WITNESSETH:

WHEREAS, the Company and District entered into that certain AGREEMENT with a term from July 1, 2009 through June 30, 2014, with options to extend thereafter for successive one year terms.

And WHEREAS, Company and District desire to amend the AGREEMENT to add a new service and billing category for Reading Clinic transportation services, and to add a rate of compensation in Schedule B of the AGREEMENT specifically for Reading Clinic services:


NOW, THEREFORE, for and in consideration of the mutual promises and covenants contained herein, Company and District hereby agree as follows:

1. Company and District agree that Schedule B of the AGREEMENT is hereby amended to establish a new Reading Clinic rate of \$60.00 per day per student effective February 1, 2012.
2. Company and District further agree that the rates of compensation noted in Schedule B of the AGREEMENT, including the Reading Clinic rate identified above, shall be adjusted annually per the existing terms of the AGREEMENT.
3. All other terms and conditions of the AGREEMENT, as amended by this Amendment No. 1 shall remain unchanged.

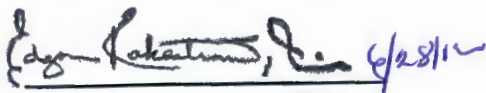
IN WITNESS WHEREOF, District and Company have hereunto set their hands this 27 day of February, 2012.

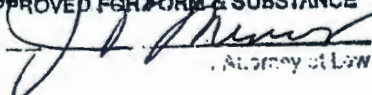
Oakland Unified School District

Petermann Northwest LLC


Board President


Area Manager


~~Superintendent~~
Edgar Rakestraw, Jr., Secretary
Board of Education

OAKLAND UNIFIED SCHOOL DISTRICT
Office of General Counsel
APPROVED FOR FORM & SUBSTANCE
By: 
Attorney at Law

File ID Number: 12-1746
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By: er

AGREEMENT FOR SPECIAL EDUCATION STUDENT TRANSPORTATION SERVICES

Oakland Unified School District, 1025 Second Avenue, Oakland, Ca 94606 hereinafter referred to as "Oakland Unified", and Petermann Northwest LLC, hereinafter referred to as "CONTRACTOR", mutually agree to this Agreement for Special Education Student Transportation Services, herein after referred to as the "Agreement", as stated below:

1. Scope of Agreement. CONTRACTOR shall, during the term of this Agreement, operate and maintain daily route school buses and provide personnel for the transportation of pupils using vehicles provided by CONTRACTOR. Such transportation may be either within or outside of the Oakland Unified boundaries and on any day or days during the term of this Agreement. CONTRACTOR shall provide (a) the daily service for Oakland Unified, and (b) such other transportation as may be specified by Oakland Unified. Should Oakland Unified need for vehicles, after initiation of service, exceed the number of vehicles in service at the start of school by more than ten percent (10%), the CONTRACTOR may, at its option, require notice up to sixty (60) calendar days prior to the beginning of such increased service. Should Oakland Unified's need for vehicles, after the initiation of service, drop below the number of vehicles in service at the start of school by more than ten percent (10%), the CONTRACTOR may, at its option, require thirty (30) calendar days prior notice by the DISTRICT before reduction in the number of vehicles.

A. The term "daily service", as used herein, is defined as all home-to-school and school-to-home, or school-to-after school care, transportation of any students; and any therapy trips which occur during or after school, as described in the student's Individualized Education Plan.

B. The term "other transportation", as used herein, is defined as any transportation of students and Oakland Unified personnel other than daily service, including but not limited to transportation to and from extracurricular events. Notwithstanding section 1 (b) of the Agreement, CONTRACTOR shall make a good faith effort to provide Oakland Unified with the number of vehicles it may request at any time.

2. Term. The term of this Agreement shall be for a period of five (5) years beginning July 1, 2009 and ending June 30, 2014. The Agreement shall be renewable for successive one (1) year terms, at the option of Oakland Unified, taking into consideration CONTRACTOR'S performance under the Agreement and cost negotiations, and subject to applicable statutes and regulations.

3. Permits and Licenses. CONTRACTOR, its employees, and its agents shall secure and maintain valid permits and licenses and certifications as required by federal, state, and local laws and regulations, for the execution of this Agreement.

4. Insurance. CONTRACTOR shall, at its expense, procure and keep in force during the entire term of this Agreement, General Liability and Automobile Liability Insurance to protect CONTRACTOR, its drivers and other personnel. CONTRACTOR shall provide General Liability limits of not less than \$1,000,000 each occurrence and aggregate bodily injury and property damage and \$1,000,000 Personal Injury each occurrence and aggregate; Automobile Liability limits of not less than \$1,000,000.00 combined single limit for bodily injury and damage to property for all owned, hired and non-owned autos, and umbrella coverage of not less than \$5,000,000.00 in addition to the limits listed above. CONTRACTOR shall also maintain uninsured/underinsured motorist coverage and medical payments coverage to the extent required by law. CONTRACTOR agrees to provide to Oakland Unified a certificate of insurance evidencing such coverage and designating Oakland Unified as an additional insured as its interest may appear for both the General and Auto Liability programs, and reference to the hold harmless and indemnification provisions in this contract, such certificate to be provided on July 1st of each contract year, or on renewal of such policies. All insurance policies shall provide that no coverage shall be canceled except by thirty (30) days written notice to CONTRACTOR and Oakland Unified. CONTRACTOR shall provide Oakland Unified with a certificate of insurance as evidence of having statutory workers' compensation coverage at levels and in forms required by the laws in which CONTRACTOR shall operate for this Agreement.

5. Hold Harmless Agreement. CONTRACTOR shall hold harmless and indemnify Oakland Unified, The Board of Education, officers, agents, and employees from every claim or demand which may be made by reason of any injury to person or damage to property sustained by any person, firm or corporation, caused by any negligent act or omission, willful misconduct, or default of the CONTRACTOR or of any person, firm, or corporation, directly or indirectly employed by CONTRACTOR upon or in connection with its performance under the Agreement. CONTRACTOR at its own expense and risk shall defend any legal proceeding that may be brought against Oakland Unified The Board of Education, officers, agents, and employees on any such claim or demand, and satisfy any judgment that may be rendered against Oakland Unified, The Board of Education, officers, agents, and employees. In the event that any such proceeding is brought against Oakland Unified, The Board of Education, officers, agents, and employees on any such claim or demand, CONTRACTOR shall have the right to select and employ counsel to defend such persons and entities and shall have the right to settle any claims when CONTRACTOR, in its sole discretion, deems such a settlement advisable. Oakland Unified, The Board of Education, officers, agents, and employees shall cooperate in all reasonable manners in the defense of such claims.

6. Safety Program. CONTRACTOR shall provide formal safety instruction on a regular basis for all operating personnel assigned to this Agreement. Attendance is required for safety meetings.

7. Independent Contractor. While engaged in carrying out and complying with the terms and conditions of this Agreement, CONTRACTOR is an

independent contractor, and not an officer, agent, or employee of Oakland Unified School District.

8. Assignments. CONTRACTOR will not assign or transfer any of its rights, burdens, duties, or obligations under this Agreement to its parent company, affiliates, subsidiaries, related legal entities by operation of law or otherwise without the prior written consent of Oakland Unified.

9. Subcontracting. CONTRACTOR will not subcontract any of its rights, burdens, duties, or obligations under this Agreement without the written consent of Oakland Unified.

10. Force Majeure. CONTRACTOR shall be excused from performance hereunder during the time and to the extent that it is prevented from performing in the customary manner by an act of God, fire, flood, war, riot, civil disturbance, terrorism, epidemic, quarantine, strike, lockout, labor dispute, oil or fuel shortage, freight embargo, rationing or unavailability of materials or products, loss of transportation facilities, commandeering of equipment, materials, products, plants, or facilities by the Government, or any other occurrence which is beyond the control of the CONTRACTOR, when satisfactory evidence thereof is presented to Oakland Unified.

11. Cross-Hiring of Employees. During the term of this Agreement, Oakland Unified shall not knowingly hire any management or supervisory employee of the CONTRACTOR or former management or supervisory employee of the CONTRACTOR without prior written approval of the CONTRACTOR. CONTRACTOR shall not knowingly hire any employee or former employee of Oakland Unified without prior approval of Oakland Unified.

12. Routing and Scheduling. Prior to the start of any service under this Agreement, Oakland Unified and CONTRACTOR shall cooperatively establish routes and schedules conforming to the needs of Oakland Unified. If, at any time during the term of the Agreement, it is determined that service may be improved by the revisions to routing, scheduling, or vehicle assignment, Oakland Unified and CONTRACTOR shall plan and institute such changes jointly. All routes, schedules, and bus stops shall initially be established by CONTRACTOR on such basis as may be determined by it to be most efficient, but shall be approved by Oakland Unified.

CONTRACTOR shall notify Oakland Unified whenever changes are necessary in routes or time schedules; and CONTRACTOR shall make a reasonable effort to adjust its operations to incorporate such changes within five (5) business days after notice is given to Oakland Unified. Oakland Unified shall notify CONTRACTOR whenever changes are necessary in routes or time schedules and CONTRACTOR shall make a reasonable effort to adjust its operations to incorporate such changes within five (5) business days after notice is received from Oakland Unified. Oakland Unified and CONTRACTOR shall consult as to stops or portions of routes that CONTRACTOR considers to be a safety concern due to traffic patterns or configurations. In the event CONTRACTOR believes any stop or route

presents an unacceptable safety risk to CONTRACTOR'S property or students, CONTRACTOR may reject the stop or route portion requested by Oakland Unified and provide Oakland Unified with alternative designations by written notice.

The District reserves the right to change school hours, bus routes and schedules at any time; provided however, that the Contractor will be given at least two (2) days prior written notice after the first few weeks following the start of school.

The Contractor, in submitting its bid, acknowledges and recognizes that the District may be required to make the changes indicated above and agrees to effectuate these changes as quickly and expeditiously as possible, and within the time constraints indicated.

The Contractor shall have installed and maintained at each bus yard used to service this Contract a direct telephone tie line to the District Transportation Office.

The Contractor is required to supply, and maintain a computerized student data base that contains all pertinent information for each student served. This system is to be accessed remotely by the District Transportation Office staff. District staff will enter all information relevant for scheduling each student for home to school routing. Contractor will download this information twice daily and use it to route and schedule students. Upon completion of the routing process, District staff will have "Read Only" access to routing information and bus times, in order to inform parents, school sites, and administrators of the most current information. This system is critical to the provision of timely, safe and reliable transportation for our students. In the event of system failure, repairs must be made immediately and a reliable backup method placed into effect.

The Contractor shall notify the District Transportation Department in advance of any delay from normal schedule for any reason.

All accidents shall be reported to the Transportation Department immediately. Internal communication problems shall in no way relieve the Contractor of its obligation to provide sufficient information and advance notification to the District as specified in sections 3.3.1 and 3.3.2 of the PASSENGER TRANSPORTATION SAFETY HANDBOOK published by the California Highway Patrol.

In the event of a lost or missing student the Contractor shall provide all assistance requested by the District to locate the student.

13. Other Transportation. CONTRACTOR and Oakland Unified will work cooperatively to arrange "other transportation", as necessary, in the most cost-effective manner for Oakland Unified. If the Fee rate as indicated in Section 28 is inappropriate due to operational considerations such as excessive time, mileage or equipment required, CONTRACTOR and Oakland Unified shall mutually agree upon the appropriate rate schedule(s) which shall apply in such instances.

14. Contractor's Personnel. All personnel assigned to perform under this Agreement shall be subject to continuous approval by Oakland Unified and by the

CONTRACTOR. Drivers currently employed by Oakland Unified is incumbent contractor immediately prior to the start of the operations provided for in this Agreement shall be given preference in filling similar positions with CONTRACTOR, provided that their past performance has been consistent with the CONTRACTOR'S standards and they pass all screening tests administered by the CONTRACTOR.

CONTRACTOR shall employ management personnel who shall be responsible for the efficient operation of the transportation services furnished hereunder and who shall be CONTRACTOR'S liaison to Oakland Unified. CONTRACTOR will designate a crisis management contact person for emergency contact with Oakland Unified. By July 1st of each calendar year, CONTRACTOR shall inform Oakland Unified of the name(s), contact telephone number(s) and address(es) of such management personnel.

Oakland Unified shall designate personnel who shall be responsible for coordination of the student transportation requirements furnished under this Agreement and who shall be that School District's liaison to CONTRACTOR. Oakland Unified will designate a crisis management contact person for emergency contact with CONTRACTOR. By July 1st of each calendar year Oakland Unified shall inform CONTRACTOR of the name(s), contact telephone number(s) and address(es) of such management personnel.

15. Operations Personnel/Driver Qualifications. CONTRACTOR shall employ a sufficient number of qualified drivers and support personnel to assure Oakland Unified of continuous, reliable, safe, and on time service. CONTRACTOR shall also employ substitute drivers to assure Oakland Unified of continuous and on-time service.

CONTRACTOR shall take reasonable steps to prevent its employees from exposing any pupil to impropriety of word or conduct. CONTRACTOR shall not permit its drivers to smoke on the vehicle. CONTRACTOR shall require that drivers comply with all safety laws and regulations, including but not limited to the prohibition against driving while under the influence of drugs or alcohol. Such prohibition shall extend to the use of prescription and non-prescription drugs that impair the safe operation of the vehicle.

CONTRACTOR shall be responsible for hiring and discharging personnel employed by CONTRACTOR; provided, however, that Oakland Unified shall have the right to require CONTRACTOR to remove from service any employee who, in Oakland Unified's sole discretion, is deemed unsuitable for the performance of transportation services for Oakland Unified. Oakland Unified may make such request in writing and state the reasons therefore. Reasons may include failure of any driver to operate a vehicle in a safe manner, in accordance with the laws of the state of California and the ordinances of any city in which such vehicle operates, or a finding by Oakland Unified that the personal habits and/or conduct of an employee are detrimental to the best interests of Oakland Unified or to the welfare and best interests of the students being transported.

A. Drivers

All drivers hired must have individual traffic and criminal records researched by CONTRACTOR to assure compliance with the state Department of Transportation

Regulation of California. Assigned driver qualifications will meet or exceed those specified to the CONTRACTOR by Oakland Unified. Each driver must possess a valid California driver's license and each certified school bus drivers must hold a valid and current DMV "California Special Driver Certificate".

CONTRACTOR shall provide qualified drivers, trained and licensed in accordance with the laws of the state of California and federal government, and the rules and regulations of CONTRACTOR to operate school buses. Upon the request of Oakland Unified, CONTRACTOR will provide an outline of requirements and qualifications of drivers.

CONTRACTOR shall hold each driver responsible for.

(a) Supervising the loading and unloading of his or her vehicle at every pick up and delivery point; ensuring securement of all students in their seats, as required by law, and ensuring that car seats meet all federal and state requirements.

(b) Keeping informed of all rules and regulations affecting the operation of school vehicles and standards of conduct;

(c) Complying with all federal, state and local traffic laws while operating vehicles under this Agreement;

(d) Carrying an accurate timepiece while on duty so that the driver can maintain established schedule times;

(e) Notifying CONTRACTOR'S dispatcher by radio in the event of any traffic accident or medical emergency that involves a vehicle used in the performance of this Agreement. CONTRACTOR'S dispatcher shall promptly advise the appropriate authorities and Oakland Unified designee of the accident or emergency. CONTRACTOR'S employees shall not be required to perform any medical functions for passengers.

(f) In lieu of CONTRACTOR recording daily attendance, a 3% discount will be applied to the school district's monthly bill to allow for student absences. However, the CONTRACTOR and Oakland Unified agree to work cooperatively to develop a daily record keeping system of students' pick-up and drop-off.

B. Training Requirements

CONTRACTOR shall provide thorough instruction to drivers in compliance with state and federal safety and operations guidelines and regulations. Oakland Unified shall have the right to review course content. At a minimum, new hires will receive twenty (20) hours of classroom instruction and fifteen (15) hours of behind-the-wheel instruction prior to transporting students. Course content will include, but not be limited to, instruction on the following topics: commercial drivers license requirements and test preparation, drug-free workplace requirements, pre-trip and post-trip equipment and safety inspections, defensive driving, loading and unloading procedures (including wheelchairs), railroad

crossing safety procedures, backing maneuvers, emergency procedures, special equipment instruction (including car seat training), evacuation procedures, seasonal weather conditions and student discipline.

If needed, Oakland Unified shall train drivers in the supervision and control of school children in cooperation with such training by the CONTRACTOR, including specialized training necessary to transport special education children.

Recognizing that drivers are responsible for the orderly conduct of pupils while they are on buses and recognizing that handicapped pupils have special needs and that they identify with and rely upon the authority of drivers with whom they are familiar, drivers shall be permanently assigned to the same bus routes and shall have no more than two (2) reassignments during the school year unless a reassignment is determined by the Coordinator of Transportation to be in the best interest of the District. All drivers and relief/standby drivers shall participate in a District-approved, Contractor-provided course of instruction which will be conducted over a two (2) day period of time specializing in Special Education transportation. This in-service training is to be in addition to the normal driver instructions as provided for by the California Highway Patrol. Topics covered during this in-service training shall include, but not limited to, pupil management, disability awareness, sensitivity to students with disabilities, car seat security, safety training in the operation of the lift gate and appropriate methods in securing wheelchairs within the bus. Prior to changing route assignments, a driver will receive the appropriate in-service training for the new assignment.

No driver will be allowed to operate a lift gate bus without first receiving full instruction (or refresher in-service training) in the operation of the lift and appropriate methods in securing wheelchairs within the bus. Every driver will be evaluated at least once each year by the driver trainer or other supervisory personnel who will ride with the driver. A copy of the evaluation report will be made available to the District upon request

C. Additional CONTRACTOR Duties

No later than one (1) week before the beginning of the school year, CONTRACTOR shall notify each family of the pick-up and drop-off times and designated locations, allowing no more than a ten (10) minute window for pick-up and drop-off. During morning pick-ups, drivers will wait for no more than three (3) minutes for a student to be brought to the vehicle. No later than one (1) day prior to a new transport, or a change in schedule, CONTRACTOR shall notify family(ies) of pick-up and drop-off times and designated locations, and shall explain transportation procedures. **Changes in pick-up or drop-off locations can only be made through District Transportation Department.**

CONTRACTOR shall telephone a student's parent or guardian if to pick-up or drop-off a student will be more than ten (10) minutes later than scheduled pick-up or drop-off times. Oakland Unified will provide CONTRACTOR with students' parents or guardians phone numbers. CONTRACTOR agrees that it will use phone numbers only for this purpose and acknowledges that it is prohibited by law from sharing this information. CONTRACTOR further understands and agrees that pursuant to this Agreement it

provides a service for Oakland Unified that Oakland Unified would otherwise provide for itself; CONTRACTOR has "legitimate educational interests" in any student information which it uses, maintains or to which it has access; and that CONTRACTOR is under the direct control of the with respect to the use and maintenance of information from educational records.

For transportation within Oakland Unified's boundaries. CONTRACTOR shall provide sufficient vehicles and drivers to assure Oakland Unified that no student will spend more than sixty (60) minutes on a vehicle during any one way trip. Exceptions to this time limit include: (a) delays caused by conditions beyond the control of the CONTRACTOR, as determined by Oakland Unified; and (b) medical and/or behavioral needs of the student that necessitate less travel time, as documented in the student's IEP. Trips that will regularly exceed this time limit need to be approved by Oakland Unified.

At no time shall a driver disembark a special education student at an address other than that specified (unless authorized by the Oakland Unified School District Transportation Department), additionally a child will not be dropped off at any location without a receiving adult in attendance unless a Release From Responsibility Form has been executed by the student's parent or guardian. The School Districts' Transportation Department will notify the Contractor when a completed Release From Responsibility Form has been executed. In the event a claim, suit or other legal proceeding is filed alleging liability based on leaving a student without a receiving adult in attendance and no Release From Responsibility Form has been signed by the parent/guardian and the contractor has been properly advised, the Contractor shall be solely responsible for defense of any such action and for the payment of any judgment that may be rendered.

CONTRACTOR shall develop a fail safe system to ensure that students are safely off the vehicle and delivered to their designated location.

16. Record Keeping and Accident Reports. CONTRACTOR shall be required to provide any and all operational records deemed necessary by Oakland Unified. All reportable accidents (as defined by law including but not limited to Title 13 of the California Code of Regulations section 1219a) involving the CONTRACTOR'S equipment or personnel while operating for Oakland Unified shall be reported in writing to Oakland Unified. Pupil injuries not involving acceleration, deceleration, or movement of the vehicle may be reported on forms provided by Oakland Unified, at its option.

17. Payments for Services. On or about the fifth business day of each month, the CONTRACTOR shall submit invoices in the form and number required by Oakland Unified for all services under this Agreement. Payment for such services will be made within a reasonable time thereafter, not to exceed forty-five (45) calendar days.

18. Adjustment of Rates. The rates established in all schedules for this Agreement shall be subject to adjustment once each year. On July 1st in each Agreement year, the rates will be adjusted upward by the percentage increase in

the San Francisco/Oakland/San Jose area Consumer Price Index, All Urban Consumers ("CPI"), for the twelve (12) month period of the CPI year ending April 30th of that year. In no event will the adjusted rates be less than the rates for the immediately preceding year.

Notwithstanding anything else in this Agreement to the contrary, in the event any unusual circumstances, such as but not limited to changes in federal, state, local, or other governmental body's statutes, laws, rules, or regulations are enacted/promulgated, the impact of which will materially impact the methods and/or costs of CONTRACTOR in connection with providing the services hereunder to increase at a rate in excess of the percentage change in the San Francisco/Oakland/San Jose area Consumer Price Index, All Urban Consumers (e.g., the enactment of mandatory national health insurance for employees), then, in that event, upon written notice to Oakland Unified, the CONTRACTOR may request a renegotiation of this Agreement. Such renegotiations shall include, but not be limited to, the payment schedule, duration of the Agreement, level of service, etc. Any modifications to this Agreement resulting from such renegotiations shall become effective at the agreed upon date or the beginning of the next succeeding school year, whichever is first. In the event the CONTRACTOR and Oakland Unified are unable to reach a satisfactory agreement during said negotiations, the CONTRACTOR shall have the right to cancel this Agreement by written notice to Oakland Unified on or before the beginning of the next school year whereupon this Agreement shall be null and void. If, at any time during the term of this Agreement, it is determined that a significant reduction/increase in service is to be instituted due to changes in school start/end times (bell schedules), mandated reduction/increase in routes, or any other changes which significantly reduce or increase the existing service level(s), the CONTRACTOR and Oakland Unified will agree to negotiate an adjustment to the rate schedules. The term "significant reduction/increase" as used herein is defined as any change of ten percent (10%) or more in the number of routes being operated.

19. Equipment Requirements. All vehicles supplied under this Agreement shall meet or exceed the standards established by the laws and regulations of the State of California. CONTRACTOR shall maintain the school vehicles used to provide transportation services under this Agreement in accordance with law and accepted industry maintenance standards.

Regular preventive maintenance shall be practiced on all vehicles. In addition, vehicles shall be cleaned inside and out as necessary, and repairs to visible body damage, inside or out, shall be made within thirty (30) days from the date such damage occurs.

Under the terms of this Agreement, CONTRACTOR shall use only certified school buses, as required by federal and state laws and standards, with an average age no older than eight (8) years, and at no time shall the age of any bus exceed the maximum of ten (10) years on July 1 of each school year. All vehicles shall be equipped with two-way radios and fire extinguishers as described in Education Code Section 39838. All vehicles shall also be equipped with first aid and bloodborne pathogen kits. Vehicles transporting Special Education pupils shall be equipped with individual seat belts or harnesses and infant seats as required by law. Vehicles transporting pupils in wheelchairs shall be

equipped with hydraulic lifts and wheelchair securement devices that comply with federal and state requirements. Specialized equipment can only be utilized if designated in the IEP, or by mutual agreement of all parties involved.

Spare vehicles, of appropriate sizes, and meeting all the above requirements, shall be located by the CONTRACTOR at points close enough to Oakland Unified so they may be substituted for regularly assigned vehicles, if needed, without delay.

20. BANKRUPTCY In the event that either party shall cease conducting business in the normal course, become insolvent, make a general assignment for the benefit of creditors, suffer or permit the appointment of a receiver for its business or assets or shall avail itself of, or become subject to, any proceeding under the Federal Bankruptcy act or any other statute of any state relating to insolvency or the protection of rights of creditors, then at the option of the other party this Agreement shall terminate and be of no further force and effect, and any property or rights of such other party. Tangible or intangible, shall forthwith be returned to it. The contractor shall notify the District within ten (10) days of filing any bankruptcy petition under the Federal Bankruptcy Act

21. SUPERINTENDENT'S RIGHT TO CONTRACT WITH OTHERS The services defined in this Contract and required during the period in which this Contract is in full force and effect shall be ordered and purchased from the CONTRACTOR, However, the CONTRACTOR acknowledges and agrees that the SUPERINTENDENT enjoys the right to acquire from other sources while this Contract is in effect such services as may be required for special programs or other emergencies as the SUPERINTENDENT from time to time determines. The SUPERINTENDENT also enjoys the right to enter into separate agreements with the parents of special education students for the transportation of their own children.

22. STRIKE BY SUPERINTENDENT'S EMPLOYEES In the event of a strike or work stoppage by any stoppage by any employee(s) of the SUPERINTENDENT, the CONTRACTOR shall continue to fully perform all duties as set forth in this Contract.

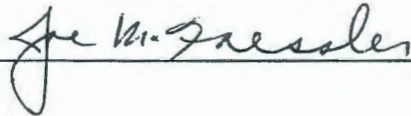
23 Termination of Agreement. If the CONTRACTOR refuses or fails to perform services as required to provide Oakland Unified with efficient, safe and economical transportation services, as specified in this Agreement, or any separable part thereof, including furnishing adequate equipment and properly trained personnel, or if it should be adjudged as bankrupt, or if it should make general assignment for the benefit of creditors, or if a receiver should be appointed on account of its insolvency or it should repeatedly or persistently refuse or fail to provide equipment and personnel in quantities required to provide transportation services as herein specified, or the CONTRACTOR persistently disregards laws, ordinances, or instructions of Oakland Unified, or is otherwise guilty of a substantial violation of this Agreement, then Oakland Unified may, without prejudice to any other right or remedy, serve written notification upon it of intention to terminate and, unless within forty-five (45) days after service of such written notice of the condition or violation shall cease and make satisfactory arrangements for the correction thereof, this

Agreement shall, upon the expiration of the forty-five (45) days, cease and terminate.

24. Notices: Notices to either party to this Agreement shall be in writing and shall be considered duly served and delivered if such notice is delivered by hand; mailed via the United States mail, certified, return receipt requested or mailed via overnight mail service. All such notices shall be addressed to:

CONTRACTOR:

Name of Firm: Petermann Northwest

Signature of Authorized Agent: 

Title: VP Business Development

Date: 2-20-2009

25. Discipline. The CONTRACTOR will submit a written report of serious or persistent misconduct on the part of students to the designated person employed by the School District within Oakland Unified serving said students within 24 hours of occurrence. The School District shall then impose reasonable disciplinary measures upon the students in accordance with its discipline management program. The CONTRACTOR may refuse to transport any student who, based upon past conduct, presents a potential danger to other persons Oakland Unified shall notify DRIVER of students who have current IEP behavior plans and Oakland Unified shall provide DRIVER with training if needed. OAKLAND UNIFIED will provide CONTRACTOR with IEP Behavior Plan information as necessary for implementation during transportation. CONTRACTOR agrees that it will use IEP Behavior Plan information only for this purpose and acknowledges that it is prohibited by law from sharing this information. CONTRACTOR further understands and agrees that pursuant to this Agreement it provides a service for Oakland Unified that Oakland Unified would otherwise provide for itself; CONTRACTOR has 'legitimate educational interests' in any student information which it uses, maintains or to which it has access; and that CONTRACTOR is under the direct control of Oakland Unified with respect to the use

and maintenance of information from educational records.

26. Compliance with the Law. Notwithstanding any contrary provision in this Agreement, CONTRACTOR shall comply with federal, state and local laws, rules and regulations in providing transportation services described herein.

27. Dispute Resolution. The parties agree to meet and confer in good faith on all matters and disputes under this Agreement. If a dispute is not resolved under the foregoing, and one party informs the other in writing that it reasonably believes that the differences between the parties are not likely to be reconciled through further negotiation, then the parties agree to submit such dispute to non-binding arbitration under the Commercial Rules of the American Arbitration Association. Such arbitration will be held as promptly as possible in Alameda County, California and will be conducted before a panel of three (3) members. Oakland Unified and the CONTRACTOR shall each select one arbitrator, and the third arbitrator shall be selected by agreement of the other two arbitrators so chosen. All costs and expenses associated with the arbitration shall be borne entirely by the non-prevailing party.

28. Fees. IN CONSIDERATION of the performance on the part of the CONTRACTOR of the terms of this Agreement, Oakland Unified agrees to pay the CONTRACTOR the following sums for pupil transportation services rendered.

A. Regular home-to-school transportation for regular school calendar year and extended year program

Rate per pupil per day, ambulatory: \$20.90

Rate per pupil per day, wheelchair: \$39.50

B. Therapy trips - during or after regular school hours

Rate per mile of service, ambulatory: \$4.00

Rate per mile of service, wheelchair: \$4.00

C. Field trip rate, trip as specified by special request, on equipment in normal use for above service:

(a) Ambulatory

Cost per hour of service: \$63.00

Cost per mile of service: N/A

(b) Wheelchair

Cost per hour of service: \$66.00

Cost per mile of service: N/A

Trip rates are based on using existing equipment. Per pupil rates are based on student totals provided in the RFP (specifically, 1,495 ambulatory students and 75 wheelchair students transported daily). If transported student totals are less than these amounts (see following chart), Company will charge the following for regular home-to-school transportation for regular school calendar year and extended year program:

Ambulatory Students Transported (Monthly average per day) and Per Pupil Rates

Less than 1,495 but greater than 1,420	Same rates above
Less than 1,420 but greater than 1,375	\$18.37
Less than 1,375 but greater than 1,325	\$19.39
Less than 1,325 but greater than 1,270	\$20.53
Less than 1,270	Company will rebate to the District 100% of the Company's savings of reduced transportation costs when the number of ambulatory pupils drops below 1,270.

Wheelchair Students Transported (Monthly average per day)

Less than 75 but greater than 70	Same rates above
Less than 70 but greater than 65	\$41.58

Less than 65 but greater than 60	\$43.89
Less than 60 but greater than 55	\$46.47
Less than 55	Company will rebate to the District 100% of the Company's savings of reduced transportation costs when the number of wheelchair pupils drops below 55.

Per pupil rates (except those from 1,420 to 1,495 for ambulatory and those from 70 to 75 for wheelchair) are based on daily routes of four (4) hours. Contractor will be compensated \$35.50 per hour per route (in quarter-hour increments) for routes that extend beyond four (4) hours per day.

29. Liquidated Damages. To recover losses Oakland Unified would suffer, which would be extremely difficult or impossible to determine, Oakland Unified may assess liquidated damages. These damages accrue in addition to Oakland Unified expectation that it will not pay for any service that has not been provided.

Each CONTRACTOR-operated vehicle that is dispatched without the proper equipment (e.g., seat belts, harness) and/or functioning 2 way radio will be subject to the assessment of \$50.00 liquidated damages per day until corrected. For each pupil the CONTRACTOR fails to transport as delineated in the established routes and schedules. By reason of CONTRACTOR negligence or error, a charge of five hundred dollars (\$500.00) per pupil per day shall be assessed against the CONTRACTOR. Pursuant to section 30(c) of the Agreement below, CONTRACTOR will be assessed \$1,000.00 per day for uncorrected unsatisfactory service. The provisions of this paragraph do not apply when delays are caused by conditions beyond the control of the CONTRACTOR, as determined by Oakland Unified. Additionally, the CONTRACTOR will reimburse Oakland Unified for additional Oakland Unified personnel costs necessitated by CONTRACTOR'S failure to follow this agreement (e.g., late bus, change to schedule without proper notification, lack of driver).

30. Satisfactory Service. Oakland Unified shall provide the CONTRACTOR with written notice of unsatisfactory service on any route and/or schedule. The CONTRACTOR shall investigate and reply to Oakland Unified with a verbal report within two (2) business days and with a written report within five (5) business days regarding the cause of the situation and steps the CONTRACTOR will take to remedy the situation. If the CONTRACTOR thereafter fails to provide satisfactory transportation services as

specified herein, Oakland Unified shall:

- A. Notify the CONTRACTOR in writing within five (5) business days of failure to perform;
- B. The CONTRACTOR shall be given four (4) business days to remedy the problem;
- C. If, after four (4) business days, the CONTRACTOR has not corrected the problem or provided a reasonable explanation, a liquated damage of \$1000.00 per day will be assessed, effective the seventh (7) business date of incident(s) giving rise to the liquidated damages assessment; and
- D. These provisions do not apply when delays are caused by conditions beyond the control of the CONTRACTOR. It is understood and agreed that traffic conditions are a valid reason for non-performance by the CONTRACTOR.

31. Entire Agreement/Modification. This Agreement supersedes all previous contracts and constitutes the entire understanding of the parties hereto. No changes, amendments or alterations shall be effective unless in writing and signed by both parties.

32. Severability. If any term, covenant, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

33. Governing Law. This Agreement has been executed in the State of California and the validity, enforceability and interpretation of any of the clauses of this Agreement shall be determined and governed by the laws of the State of California. Further, the county in which Oakland Unified administration office is located shall be the venue for any action or proceeding that may be brought or arise out of, in connection with or by reason of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date written below.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by their duly authorized officers as of the day and year first above written.

PETERMANN NORTHWEST LLC

By: Joe M. Farsley
Its: Vice President

3-2-2009
Date

OAKLAND UNIFIED SCHOOL DISTRICT

~~Alice Spearman, President, Board of Education~~

~~Date~~

Vincent Matthews
Vincent Matthews
State Administrator

4/19/09

~~Edgar Rakestraw, Jr., Secretary, Board of Education~~

~~Date~~

APPROVED AS TO FORM:

Danielle Houck
Danielle Houck, OUSD Deputy General Counsel

3.3.09
Date
