

**AGREEMENT FOR TRANSPORTATION OF  
SPECIAL EDUCATION STUDENTS  
REFERRED BY THE SCHOOL DISTRICT OF RESIDENCE**

1. **PARTIES:** The **Mt Diablo Unified School District** ("DISTRICT") and the **Contra Costa County Office of Education** ("COUNTY OFFICE") hereby agree to the following:
2. **TERM:** The effective date of this Agreement is September 1, 2010 and ending August 31, 2011 and shall be renewed under like terms from year to year thereafter unless sooner terminated as provided herein.
3. **TERMINATION:** This Agreement may be terminated by either party upon thirty (30) days advance written notice thereof to the other party and may be canceled immediately by written mutual consent.
4. **COUNTY OFFICE OBLIGATIONS:** The COUNTY OFFICE will provide and administer home-to-school transportation service for those special education public school students referred by DISTRICT under the terms of the contract with the transportation company providing subject services. The COUNTY OFFICE will administer home-to-school transportation service for those special education non-public school students referred by DISTRICT under the terms of the contract with the transportation company providing subject services. In accordance with paragraph 6 "PAYMENT" below, COUNTY OFFICE will bill DISTRICT monthly for service provided.
5. **DISTRICT OBLIGATIONS:** The DISTRICT shall provide to the COUNTY OFFICE Associate Superintendent Business and Administrative Services the name, title and telephone number of the person(s) authorized to refer students pursuant to this Agreement. Within thirty days of receipt of each monthly bill for services, DISTRICT shall pay COUNTY OFFICE the amount due in accordance with this Agreement. The DISTRICT will provide to the COUNTY OFFICE notification of students no longer requiring home-to-school transportation by Durham School Services.  
  
Checks and money orders shall be payable to Contra Costa County Office of Education and shall be mailed to Contra Costa County Office of Education, Accounting Services Department, 77 Santa Barbara Road, Pleasant Hill, CA 94523.
6. **PAYMENT:** For services for public school students, the monthly charge will be the DISTRICT'S proportionate share of the actual cost of providing transportation services for that month. For services for non-public school students, the monthly charge will be that of the non-public school's respective monthly bill for transportation services provided to the DISTRICT.

7. **INDEMNIFICATION:**

- a. The DISTRICT shall defend, save harmless and indemnify the COUNTY OFFICE and its officers, agents and employees from all liabilities and claims for damages for death, sickness or injury to persons or property, including without limitation, all consequential damages, from any cause whatsoever arising from or connected with the operations or the services of the DISTRICT hereunder, resulting from the conduct, negligent or otherwise, of the DISTRICT or its employees.
- b. The COUNTY OFFICE shall defend, save harmless and indemnify the DISTRICT and its officers, agents and employees from all liabilities and claims for damages for death, sickness or injury to persons or property, including without limitation, all consequential damages, from any cause whatsoever arising from or connected with the operations or the services of the COUNTY OFFICE resulting from the conduct, negligent or otherwise, of the COUNTY OFFICE or its employees.

8. **NOTICES:** Any and all notices to the DISTRICT required by the terms of this Agreement shall be given in writing addressed to Mt Diablo Unified School District, Superintendent, 1936 Carlotta Drive, Concord, CA 94519.

Any and all notices to the COUNTY OFFICE required by the terms of this Agreement shall be given in writing addressed to the Associate Superintendent Business and Administrative Services, 77 Santa Barbara Road, Pleasant Hill, CA 94523.

All notices provided for by this Agreement may be delivered by deposit in the U.S. Mail, postage prepaid. The effective date of notice shall be the date of deposit in the mail or other delivery.

9. **AMENDMENTS:** This Agreement may be modified or amended by a written document executed by the parties hereto.
10. **ENTIRE AGREEMENT:** This Agreement contains all the terms and conditions agreed upon by the parties. Except as expressly provided herein, no other understanding, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto.
11. **CHOICE OF LAW AND PERSONAL JURISDICTION:** This Agreement is made in Contra Costa County and shall be governed and construed in accordance with the laws of the State of California. Any action relating to this Agreement shall be instituted and prosecuted in the courts of Contra Costa County, State of California.

12. SIGNATURES: These signatures attest the parties' agreement hereto:

CONTRA COSTA COUNTY OFFICE OF EDUCATION

Bill Clark Date 7/15/10  
Bill Clark, Associate Superintendent

MT DIABLO UNIFIED SCHOOL DISTRICT

Mary-Ann Tucker Date 7/8/10  
Signature Mary-Ann Tucker, Administrator, Special Education

Mildred D. Browne EdD 7/12/2010  
Title Mildred Browne, Ed.D., Assistant Superintendent  
Pupil Services and Special Education

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CONTRACT  
FOR SPECIAL EDUCATION  
PUPIL TRANSPORTATION

- I. **PARTIES AND DATE:** Effective on September 1, 2009, the Contra Costa County Superintendent of Schools, State of California, hereinafter referred to as the "Superintendent or his Designee" and, Durham School Services, L.P. a Delaware limited partnership, hereinafter referred to as the "Contractor" do mutually agree and promise as follows:
- II. **PURPOSE:** Contract for Special Education pupil transportation services in accordance with California Education Code Sections 1270, 39801, and 39802.
- III. **GENERAL SCOPE OF WORK:** The services to be provided by the Contractor shall consist of furnishing the required number of school buses, school bus drivers, bus aides, administrative and support staff, facilities, special equipment and supplies for transportation of special education pupils to and from school sites within the counties of Contra Costa, Solano and Alameda at such time and places as specified by the Superintendent or his Designee. The work to be done shall also include transportation for field trips, work experience programs and other school sponsored activities as specified in the IEP. The transportation service as specified herein shall include special education programs and classes operated by the Superintendent or his Designee and may also include transportation to such programs and classes operated by school districts and non-public schools within the county of Contra Costa.
- IV. **TERM:** The term of this contract shall be from September 1, 2009, through August 31, 2012.
- V. **RENEWAL PROVISIONS:** This contract may be renewed by mutual agreement between the Superintendent or his Designee and the Contractor, at the end of the current contract term not to exceed a total of 5 years for the entire contract period. The contract as renewed shall include all the terms and conditions of this contract, as well as any provisions increasing rates based on increased costs. Contractor understands and agrees that there is no representation, implication, or understanding that the services provided by the Contractor under this contract will be purchased by Superintendent or his Designee under a new contract following expiration or termination of this contract, and waives all rights or claims to notice or hearing respecting any failure to continue purchase of all or any such services from Contractors.
- VI. **UNSCHEDULED CLOSING OF SCHOOLS:** The Superintendent or his Designee shall not be obligated to pay for any services hereunder on those days when the schools and classes of the Superintendent or his Designee, and/or any Contra Costa County School Districts that receive service under this agreement, are closed on an unscheduled or emergency basis to ensure the health and safety of pupils, or for any other lawful reason, provided that the Superintendent or his Designee has notified Contractor as soon as practical.
- VII. **TERMINATION BY SUPERINTENDENT OR DESIGNEE:** If the Contractor refuses or fails to perform services as required to provide to the Superintendent or his Designee with efficient, safe and economical transportation services, 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 the Superintendent or his Designee, or is otherwise guilty of a substantial violation of this Agreement, then the Superintendent or his Designee 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 notice of the condition or violation shall cease and satisfactory arrangements for the correction thereof be

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

**VIII. ABANDONMENT BY CONTRACTOR:** In the event that Contractor ceases performing service under this contract or otherwise abandons the contract prior to completing all of the services described in this contract Contractor shall, without delay, deliver to Superintendent or his Designee all materials and records prepared or obtained in the performance of this contract, except those materials deemed confidential and proprietary, and shall be paid for the reasonable value of the services performed up to the time of cessation or abandonment, less a deduction for any damages or additional expenses which Superintendent or his Designee incurs as a result of such cessation or abandonment.

**IX. BREACH:** In the event that Contractor fails to perform, for any reason, any of the services described in this contract or otherwise breaches this contract, Superintendent or his Designee shall have the right to pursue all remedies provided by law or equity. Any disputes relating to the performance of this contract shall not be subject to non-judicial arbitration. Superintendent or his Designee's failure to exercise his right of termination for any failure to perform shall not constitute a waiver of his rights under this section with regard to Contractor's subsequent failure to perform, for any reason, any of the services described in this contract or otherwise breaches this contract.

**X. REDUCTION IN STATE FUNDING:** The Superintendent or his Designee also may terminate this contract if State funding received by his office for student transportation falls below 90% of the previous year's funding for any fiscal year during the term of this contract. The Superintendent or his Designee shall give Contractor thirty (30) days written notice before exercising his right of termination under this paragraph.

**XI. AMENDMENTS:** This contract and any of its terms may be amended or modified at any time by mutual consent of the parties. Any such amendment shall be in writing.

**XII. DISPUTES:** Disagreements between the Superintendent or his Designee and Contractor concerning the meaning, requirements, or performance of this contract shall be subject to final determination in writing by the Superintendent or his Designee.

**XIII. NO WAIVER BY SUPERINTENDENT OF HIS DESIGNEE:** Subject to the preceding paragraph, "Disputes", inspections or approvals, or statements by any officer, agent or employee of the Superintendent indicating the Contractor's performance or any part thereof complies with the requirements of this contract, or acceptance of the whole or any part of said performance, or payments therefore, or any combination of these acts, shall not relieve the Contractor's obligation to fulfill this contract as prescribed; nor shall the Superintendent or his Designee be thereby stopped from bringing any action for damages or enforcement arising from any failure to comply with any of the terms and conditions of this contract.

**XIV. THE SUPERINTENDENT OR HIS DESIGNEE DUTIES:** The Superintendent or his Designee is responsible for and shall provide the following:

1. Submit the following three forms in June of each school year:
  - a. TRANSPORTATION REQUEST
  - b. BIOGRAPHICAL INFORMATION
  - c. ELIGIBILITY CRITERIA
2. Pupil address/school lists to include name, home address, birth date, and school address.
3. Assist in the training of drivers in the supervision and control of handicapped children in cooperation with such training by the Contractor. Contractor to provide training.
4. Pay for the transportation services as follows if the Contractor complies with all terms, covenants, and conditions herein: Contractor shall submit to Superintendent or his Designee



itemized invoices in triplicate each month for services performed. Payment shall be made by the 30th of the month for invoices received by the end of the preceding month.

**XV. ROUTING AND SCHEDULING:** The Superintendent or his Designee shall provide the Contractor with a Transportation Request Form for each student at least five (5) working days prior to the first day the pupils are to be transported. The Transportation Request Form shall include: the name of each pupil; birth date; day telephone number; pickup and delivery address; the school/program to which the pupil is assigned; the arrival and departure time; an indication of whether or not the pupil requires special handling and/or equipment as specified in the IEP; and emergency information.

The Superintendent or his Designee shall have the right to audit (for performance, mileage and routing) any or all routes and may require changes in routing and scheduling if, in his opinion, such changes would result in increased bus and seat utilization or better service to pupils or schools.

In addition, the written approval of the Superintendent or his Designee is required for the addition of any buses to the contract or to any bus modification, which will result in any increase in overall charges to the county.

The Superintendent or his Designee may, at his sole discretion, elect to provide all, or part, of the routing and scheduling services required under this contract.

#### Regular School Calendar Year

The regular school calendar year covers the months of August through June, inclusive, consisting of approximately 180 days. Based on the pupil location, type of pupil, and school of attendance, the routing and scheduling of buses shall be the responsibility of the CONTRACTOR. At least thirty (30) working days before the start of school, school districts will provide the County Office of Education Transportation Technician with a minimum of eighty percent (80%) of the names, addresses, phones, school and class schedules, and special service requirements of the students to be transported. By no later than twenty (20) working days prior to the start of school, the school districts will provide the County Office of Education Transportation Technician with one hundred percent (100%) of the all the start-up information and changes. Thereafter, individual changes are to be provided to the County Office of Education Transportation Technician in writing. Changes received between twenty (20) days prior to the start of school and twenty (20) working days following the start of school shall be implemented within the first twenty (20) working days of school. Changes received after the first twenty (20) working days shall be implemented within five (5) working days. For any major class or bell time changes impacting multiple students, at least ten (10) working days shall be allowed before implementation.

#### Extended Year Calendar

The extended school year covers part of all of the months of June, July or August. During this period scheduling will be based on pupil location, type of pupil, and school of attendance. The routing and scheduling of buses shall be the responsibility of the CONTRACTOR. At least thirty (30) working days before the start of school, school districts will provide the County Office of Education Transportation Technician with a minimum of eighty percent (80%) of the names, addresses, phones, school and class schedules, and special service requirements of the students to be transported. By no later than twenty (20) working days prior to the start of school, the school districts will provide the County Office of Education Transportation Technician with one hundred percent (100%) of the all the start-up information and changes. Thereafter, individual changes are to be provided to the County Office of Education Transportation Technician in writing. Changes received between twenty (20) days prior to the start of school and twenty (20) working days following the start of school shall be implemented within the first twenty (20) working days of school. Changes received after the first twenty (20) working days shall be implemented within five (5) working days. For any major class or bell time changes impacting multiple students, at least ten (10) working days shall be allowed before implementation.

The Superintendent or his Designee shall have the right to audit (for performance, mileage and routing) any or all routes and may require changes in routing and scheduling if, in his opinion, such changes would result in increased bus and seat utilization or better service to pupils or schools.

In addition, the written approval of the Superintendent or his Designee is required for the addition of any buses to the contract or to any bus modification, which will result in any increase in overall charges to the county.

The Superintendent or his Designee may, at his sole discretion, elect to provide all, or part, of the routing and scheduling services required under this contract.

**XVI. CONTRACTOR DUTIES — THE CONTRACTOR AGREES TO:**

1. **Transportation Jurisdiction:** Transport Handicapped pupils residing within the jurisdiction of the Superintendent or his Designee from the pickup address to drop off address and return to designated delivery address to drop off address and return to designated delivery address, said addresses to be designated by the Superintendent or his Designee. Such transportation shall be provided to designated addresses on all days the schools are in session.
2. **Seat Belts/Car Seats/Harness:** Furnish all buses with a seat belt for each passenger, and driver. Furnish all equipment necessary for said transportation of passengers (i.e., car seats, restraints and harnesses). It shall be the driver's responsibility to see that such seat belts, car seats, or restraints are properly adjusted and fastened as soon as the pupil occupies his seat and for the duration of the trip (including wheelchair pupils). Provide for the welfare and safety of the pupils transported at all times.
3. **Travel Time on Bus:** Deliver the pupils to their respective schools not more than thirty (30) minutes before classes convene and have bus arrive at each school for the return trip five (5) minutes but not more than ten (10) minutes after classes are dismissed. The travel time a child is on the bus shall not exceed one hour one way unless the child lives in excess of fifteen (15) miles from the school and except for abnormal weather, traffic or other unusual conditions as stated in the Force Majeure Section.
4. **Compliance with Law:** Comply with all federal, state and local laws and regulations statutes, ordinances, and rules applicable with respect to its performance under this contract, including but not limited to, licensing, employment and purchasing practices, and wages, hours and conditions of employment, including non-discrimination.
5. **Authorized Passengers:** Not transport any person, except a pupil enrolled in school within the jurisdiction of the Superintendent, or an employee of the Superintendent/Contractor, without first obtaining permission of the Superintendent or his Designee.
6. **Information for State Reports:** Supply the Superintendent or his Designee with information to enable the Superintendent or his Designee to apply to the State Department of Education for reimbursement for pupil transportation. For this purpose the relevant provisions of the Education Code and the rules and regulations adopted from time to time by the State Department of Education shall be a part of this agreement and are incorporated by reference herein as if the same were fully set forth herein. The Contractor further agrees to submit to the

Superintendent or his Designee:

- a. A monthly written report not later than the 15 of the following month showing the total number of miles each bus traveled and the number of pupils transported on each bus for specified days on forms supplied by the Superintendent or his Designee.
- b. An annual written report no later than July 30 showing the average number of pupils transported and the distance the pupils live from school.

7. **Accident Reports:** All accidents or incidents involving the Contractor's equipment, personnel, or pupils being transported while operating for the Superintendent or his Designee shall be reported in writing to the Superintendent or his Designee within five (5) working days. A preliminary oral report shall be made to the Superintendent or his Designee within thirty (30) minutes following the accident and shall include whether any fatalities or injuries occurred and a generalization of property damage. The parents and school of attendance of any student affected shall be notified by the Contractor as soon as possible and the whereabouts of the student disclosed. Follow-up accident written reports shall be made periodically until all the pertinent facts have been reported to the county Superintendent or his Designee. A legible copy of both the California Highway Patrol (or local police department) and the Contractor's accident investigator's final report shall be submitted to the Superintendent or his Designee within ten (10) working days following the accident or incident or when such report is completed, whichever occurs first

8. **Complaints:** Keep complete and accurate records of all written and oral complaints received regarding the services of the Contractor from all sources including, but not limited to, Superintendent or his Designee's employees or agents, parents of handicapped pupils, State or Federal Agencies and School Districts. Contractor further agrees to provide to the Superintendent or his Designee a written monthly report listing said complaints and actions taken by the Contractor, if any, to resolve each complaint. The contents of these records and reports shall comply with written guidelines and instructions issued by the Superintendent or his Designee.

9. **School Bus Certification:** The Contractor shall only use certified school buses which meet all applicable regulations and laws relating to Pupil transportation including, but not limited to, all applicable requirements of the California Vehicle Code, Titles 5 and 13 of the California Code of Regulations, and all applicable rules, regulations and orders of the California Highway Patrol and the California Education Code. The Contractor shall use buses that were manufactured on or after January 1, 1995. All buses shall be equipped with air conditioning, and individual seat belts or harnesses. All buses transporting pupils in wheelchairs shall be equipped with hydraulic lifts. Lifts purchased in or after 1995 shall have a manual override to provide for operation in the event of failure in the electrical system.

10. **Special School Bus Requirements:** If during the period of this agreement, any equipment used by Contractor in the performance of this contract is required to be installed or modified due to a change in the law or applicable rules and/or regulations, such modification or installation shall be made by the Contractor without notification from the Superintendent or his Designee. The cost of such modification and/or installation shall be borne by the Contractor.

11. **Standby Vehicles:** Contractor shall maintain at least 10% standby vehicles for each size school bus utilized to perform service for the Superintendent or his Designee (a minimum of one (1) bus per size). Standby vehicles will be used to provide backup support in cases where normally assigned vehicles are inoperable. All such standby vehicles shall meet the requirements set for regular vehicles.



12. **Standby Personnel**: Contractor shall maintain a list of standby personnel totaling at least 10% of the regular drivers. Contractor shall assign such standby personnel to perform the work if regularly assigned personnel are absent from work.
13. **Discipline On The School Bus**: The California Code of Regulations, Title 5, Section 14103 (a) provides that:
- "Pupils transported in a school bus or in a school pupil activity bus shall be under the authority of, and responsible directly to, the driver of the bus, and the driver shall be held responsible for the orderly conduct of the pupils while they are on the bus or being escorted across a street, highway or road. Continued disorderly conduct or persistent refusal to submit to the authority of the driver shall be sufficient reason for a pupil to be denied transportation."
- Each school bus driver is responsible for rider discipline on the school bus as specified by law. The Contractor shall provide within three working days a written or oral report to the Superintendent or his Designee of incidents of rider misconduct on the bus and corrective action taken, if any.
14. **Certificate Of Compliance**: Contractor shall furnish to the Superintendent or his Designee a certificate of compliance issued by the motor carrier division of the California Highway Patrol for every bus to be used under this contract. The certificate of compliance shall be furnished prior to beginning operation under this contract and at any time during the term of the contract upon the request of the Superintendent or his Designee.
15. **Vehicle Inspection**: Allow the Superintendent or his Designee to inspect all buses used in furnishing the services herein at any time during the term of the contract. A copy of each vehicle and each terminal inspection report made by the California Highway Patrol shall be sent to the county Superintendent within ten (10) working days. Vehicles which are deemed by the Superintendent or his Designee to be unfit for providing the required service shall be replaced by the Contractor with another vehicle of the same size, type and capacity and in proper condition. Any required special education equipment shall be installed on all such replacement vehicles at the Contractor's expense, and recertified by CHP Motor Carrier.
16. **Bus Evacuation Instruction**: Each school year, the governing board shall provide, and require each pupil who is transported from home to school in a school bus to receive, appropriate instruction in safe riding practices and emergency bus evacuation drills.
17. **Vehicle Mechanical Condition**: All school buses utilized by the Contractor under this contract shall be in excellent mechanical and safe operating condition during the entire term of this agreement.
18. **Vehicle Appearance**: All school buses utilized by the Contractor shall be clean and sanitary and shall have an excellent exterior and interior appearance during the entire term of this agreement. The Contractor shall make available to the Superintendent or his Designee for review all vehicle inspection reports made by the California Highway Patrol or by the Contractor.
19. **Radio Equipment**: Each vehicle shall be equipped with a two-way business band radio for communication to a base station dispatch terminal before being used for this contract. A citizens band radio is not allowed. Radios must be maintained in good working condition at all times during the term of the agreement.
20. **School Bus Driver Requirements**:

a. **License:** All drivers employed by the Contractor to provide service to the Superintendent of his Designee must have valid California School Bus Driver Certificates at all times.

b. **Contractor shall** maintain a list of each school bus driver's name, CALIFORNIA DRIVER'S LICENSE number and Department of Motor Vehicles summary record monthly (DMV pull notice).

c. **Health Requirements:** Each school bus driver employed by the Contractor to provide service to the Superintendent or his Designee shall be in good health. Each driver shall have a skin test or a chest x-ray indicating the driver is free from Tuberculosis prior to driving a school bus in service of the Superintendent or his Designee. Random testing of drugs and alcohol, chest x-rays or skin tests shall be required every four (4) years.

Contractor shall establish and maintain a record keeping system to assure that each driver meets this requirement. This system shall be available for review by the Superintendent or his Designee.

d. **Moral Character:** Contractor recognizes that, for the protection of pupils, drivers and other Contractor employees who have contact with the pupils and their families must be of stable personality and high moral character. Contractor shall assure that all Contractor personnel meet these qualifications. Contractor will not allow any person to drive a school bus whose conduct might in any way expose a child to any impropriety of work or conduct, nor shall Contractor allow any person to drive a school bus who Contractor knows or has reason to know is not in a condition of mental and emotional stability.

e. **Special Requirements:** Drivers who are required to lift pupils in and out of vehicles shall have special training provided by the Contractor in lifting techniques and treatment of the handicapped children who must be lifted. Such personnel shall be physically capable of performing the required lifting.

f. **Time Schedules:** All drivers shall be required to have an up-to-date route sheet, area map and a timepiece with them while on duty so that they can maintain established time schedules.

g. **Changes in Assignments:** Drivers shall be permanently assigned to the same bus route whenever possible.

h. **Evaluation:** Drivers shall be evaluated by the Contractor at least once each semester for the purpose of observing their driving practices with respect to: safety; mechanical operation; conformance with laws, policies and regulations; adherence to established routes and schedules; handling of pupils; and other factors inherent in the transportation of special education pupils. Copies of the evaluations shall be maintained by the Contractor during the term of the driver's employment by the Contractor, plus one (1) year thereafter and shall be sent to the Superintendent or his Designee upon request. All drivers assigned to perform services under the agreement shall maintain a minimum evaluation rating of satisfactory in all evaluation categories. In the event of a school bus accident, the school bus driver shall be reevaluated and retrained.

21. **Pre-Employment Screening:** Contractor shall develop and implement a pre-employment screening program for all candidates for employment who do not have prior experience driving a school bus and or handling handicapped pupils. The screening program shall be designed to assist

the Contractor in determining the candidate's suitability for assignment to handicapped transportation services.

22. **School Bus Aides**: The Contractor shall employ and assign School Bus aides for pupils who require aides, as specified in the I.E.P., because of the nature and or severity of their handicapping condition upon request of the County Superintendent or his Designee. Said School Bus aides shall meet the same qualifications as school bus drivers, except for the requirement for a Class II driver's license. Payment for assigned aides shall be calculated as shown on schedule a "home-to-school transportation."

23. **Driver/Aide Assignments**: The Superintendent or his Designee shall have the right of approval for any driver/bus aide assigned to any route or service under this contract and may, at his sole discretion, require the removal or reassignment of any driver/aide from service under this contract.

24. **Contractor's Facilities — Vehicle Parking**:

a. Contractor shall establish and maintain a secure facility adequate in size for night parking of vehicles assigned to Superintendent or his Designee service. Contractor may utilize park-outs of any vehicles assigned to the County Superintendent or his Designee's Transportation Service, if park-outs do not decrease the efficiency or quality of the service.

b. **Maintenance**: Contractor shall establish and maintain, throughout the duration of this contract a maintenance facility equipped and staffed as required to perform preventative maintenance and repairs to vehicles used under this contract.

c. **Location**: Maintenance and administrative facilities shall be maintained in Contra Costa County.

d. **Administrative and Support Staff**: Contractor shall provide secure facilities for administrative and support staff assigned to transportation service provided for the Superintendent or his Designee. These facilities shall be at or near the parking/maintenance facility in order that Contractor's personnel are aware of the operational aspects of the work at all times. The facilities shall be staffed as required to administer and support the program, including the availability of personnel to receive and place telephone calls and monitor the radio equipment during the hours that pupils are being transported each school day. A private line, dedicated to Superintendent or his Designee related business, shall be installed at this facility at no cost to the Superintendent or his Designee.

25. **Insurance and Bonds**: During the entire term of this contract and any extension or modification thereof, the Contractor shall keep in effect insurance policies meeting the following insurance requirements:

a. **Liability Insurance**: Contractor shall, at no cost to Superintendent and his Designee, obtain and maintain during the term hereof: (a) Comprehensive General Liability Insurance, including a blanket contractual (or contractual liability) coverage, broad form property damage coverage; and (b) Business Automobile Insurance, including coverage for owned or non-owned vehicles, with a minimum combined single limit coverage for \$10,000,000 for all damages due to bodily injury, sickness or disease, or death to any person, and damage to property, including the loss of use thereof, arising out of each accident or occurrence, and naming

County Office of Education (Superintendent and County Board of Education) and each and every School District for which Contractor provides services, their officers, agents and employees as additional insured.

b. **Workers' Compensation:** The Contractor shall provide workers' compensation insurance coverage for its employees.

c. **Certificate of Insurance:** The Contractor shall provide the Superintendent or his Designee with (a) Certificate(s) of Insurance from a company admitted to transact business in California evidencing liability and workers' compensation insurance as required herein no later than the effective date of this contract. If the Contractor should renew the insurance policy(ies) or acquire either a new insurance policy(ies) or amend the coverage afforded through an endorsement to the policy at any time during the term of this contract, then Contractor shall provide (a) current certificate(s) of insurance.

d. **Additional Insurance Provisions:** The insurance policies provided by the Contractor shall include a provision for designee before cancellation or material change of the above-specified coverage. Said policies shall constitute primary insurance as to the Superintendent, County Board of Education, and their officers, agents and employees, so that insurance program(s) shall not be required to contribute to any loss covered under the Contractor's insurance policy or policies, but only in respect to liability arising out of performance under this Agreement.

e. The Contractor within (10) days of bid acceptance will obtain and furnish to the Superintendent or his Designee a performance bond (see form on page 80) in the amount of 100% of total bid amount guaranteeing faithful performance of this agreement by the Contractor. Such bond shall be with a commercial surety and subject to the approval of the Superintendent or his Designee.

**XVII. LIQUIDATED DAMAGES:** If the Contractor fails to provide transportation to students as specified herein, he shall be liable to the Superintendent or his Designee for all loss and damage there from; and because from the nature of the services to be provided hereunder it is and will be impracticable and extremely difficult to ascertain and fix the Superintendent or his Designee's actual damage from any such failure of performance, it is agreed that Contractor will pay as liquidated damages to the Superintendent or his Designee \$100.00 per child per day not transported, which is the result of the parties reasonable endeavor to estimate fair average compensation for this loss; and if the same be not paid, the Superintendent and his Designee may, in addition to its other remedies, deduct the same from any money due or to become due Contractor under this contract.

Trips scheduled by the Contractor which are fifteen (15) minutes early or late to the destination shall be subject to the assessment of the fifty (\$50.00) liquidated damages. The provisions of this paragraph do not apply, as defined in section XII, when delays are caused by conditions beyond the control of the Contractor, as described in the Force Majeure section.

**XVIII. INDEMNIFICATION:** Contractor shall defend, indemnify, save and hold harmless County Office of Education (Superintendent and County Board of Education) and each and every School District for which Contractor provides services, their officers, agents and employees from any and all claims, costs and liability for any damages, injury or death arising directly or indirectly from, or connected with, the services provided here and due to, or claimed or alleged to be due to, negligence or willful misconduct of Contractor, its officers, employees, agents, or any person under its direction or control, save and except claims or litigations arising through the sole negligence or sole willful misconduct of the County Office of Education, and will make good to and reimburse the indemnities for any expenditures, including reasonable attorney's fees, the indemnities may make by reason of such matters and, if requested by any of the indemnities, will



defend any such suits at the sole cost and expense of Contractor. Contractor's obligations under this section shall exist regardless of concurrent negligence or willful misconduct on the part of Contra Costa County Office of Education or any other person; provided, however, that Contractor's obligation to indemnify shall be limited to the proportion of negligence or willful misconduct attributable to Contractor or any person under Contractor's direction or control .

**XIX. SUBCONTRACTING AND ASSIGNMENT:** This contract binds the heirs, successors, assigns and representatives of Contractor. The Contractor shall not enter into the subcontracts for any work contemplated under this contract and shall not assign this contract or monies due or to become due, without the prior written consent of the Superintendent or his Designee, subject to any required state or federal approval.

**XX. INDEPENDENT CONTRACTOR STATUS:** This contract is by and between two independent Contractors and is not intended to and shall not be construed to create the relationship between the parties of agents, servant, employee, partnership, joint venture or association.

**XXI. 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, fuel embargo by the Government, or any other occurrence which is beyond the control of the Contractor, when satisfactory evidence thereof is presented to the Superintendent or his Designee.

**XXII. DISCRIMINATORY SERVICES:** Contractor agrees that all goods and services under this contract shall be available to all qualified persons regardless of age, sex, race, religion, color, national origin, or ethnic background, and that none shall be used, in whole or in part, for religious worship or instruction. Contractor further agrees to recruit, hire, and promote for all job classifications without regard to race, religion, national origin, sex, or age unless based upon bona fide occupational qualifications.

**XXIII. ROUTING AND SCHEDULING:**

1. **Contractor shall route students.** Up-to-date route sheets shall be on file in the Contractor's dispatch office and sent within three (3) working days of the routing to the Superintendent's transportation office. Pupils are to be transported directly to their schools of attendance from their places of residence (or boarding point, if it is different). Pupils are to be delivered to school not more than thirty (30) minutes prior to class starting time, nor are they to be kept waiting more than ten (10) minutes after dismissal time. The Contractor shall notify by telephone and written confirmation parent(s) or guardian(s) of each pupil of the time and place of pickup and return at the start of the school year or in advance of any change in pickup or delivery times.

2. **Changes in Established Routes:**

- a. The Superintendent or his Designee must authorize changes to established routes.
- b. Suspension or deletion of service for a pupil shall be implemented the next working day following receipt of the route change from the Superintendent or his Designee.
- c. Contractor shall add a pupil to a bus route within five (5) working days following receipt of a route change from the Superintendent or his Designee.
- d. Contractor shall implement new routes as resulting from relocation of a class and/or classes and major changes in pupil population within ten (10) working days on receiving notification by the Superintendent or his Designee.



e. The Contractor shall maintain daily records showing clearly the route numbers, bus numbers, drivers, number and names of pupils transported to each school.

3. **Field Trips and Other School Sponsored Activities:** Contractor agrees to provide special education transportation service for field trips and such other school-sponsored activities as may be authorized by the Superintendent or his Designee. For field trips, the Superintendent or his Designee will contact Contractor at least ten (10) calendar days prior to the scheduled activity.

4. **Cancellation of Scheduled Field Trips:** The Superintendent or his Designee shall have the option to cancel any scheduled field trip upon the Superintendent or his Designee's notification to the Contractor at least two (2) hours prior to the time of the first scheduled pupil pick up. The Superintendent or his Designee agrees to pay a penalty of \$100.00 for field trip cancellations in which two (2) hour notice has not been given.

**XXIV. ACCOUNTING SUMMARY REPORT:** The Contractor shall provide the County Superintendent or his Designee with a weekly accounting summary. This report summarizes routes by distance and time, by size and type of vehicle, by school, by day, and also displays additional bus assignments requested by the County Superintendent or his Designee.

**XXV. ADMINISTRATION AND SUPERVISION OF TRANSPORTATION SERVICE:** Contractor shall maintain staff as required for effective management and supervision of the transportation service provided to the Superintendent or his Designee. Personnel such as dispatchers and management personnel shall not drive school buses except in case of emergency. In addition to such other personnel as may be required to administer the contract for pupil transportation, the Contractor shall employ and assign a responsible project manager to act as Contractor's Designee in all matters relating to the contract and the work to be done.

**XXVI. DRY RUNS:** At least one (1) Dry Run will be conducted by Contractor for all routes prior to the beginning of a new school year and/or extended session. The cost of the Dry Run shall be borne by the Superintendent or his Designee based upon Contractor's Daily Base Rate. In the event more than one (1) Dry Run is required, the cost of such additional Dry Runs will be borne by Contractor. Contractor will conduct Driver orientation sessions for all drivers who will be assigned to perform services for the Superintendent or his Designee. The driver orientation shall include, but not be limited to, pupil management; handicapped sensitivity; dealing with parents of handicapped pupils; relationships with the school and the general public; discipline on the school bus; and other pertinent information.

**XXVII. PAYMENT:** The Superintendent or his Designee shall pay Contractor for services provided hereunder, monthly in arrears, upon receipt of a properly documented invoice. Payments shall be made in accordance with Exhibit A and Exhibit B. Included in each Exhibit is Group A if Mt. Diablo Unified School District is part of the County Program or Group B excluding Mt. Diablo Unified School District from the County Program.

In no event shall billing be for more than sixty (60) days after the dates of service.

If a pupil assigned for transportation is not transported for three (3) consecutive days, the pupil information will be given to the County. Billing shall continue to apply until CONTRACTOR is informed by the County to drop pupil from attendance. Therefore, three (3) days of billing will occur due to administrative cost.

Whereas the home-to-school billing is on a per capita basis, certain special trips will be billed at the Therapy Rates when a "third leg" is required, which will be in addition to the home-to-school charge. A third leg is defined as a trip not going to or from the pupil's home or daycare provider.

#### Special Trips

1. Transportation to ROP/work Experience programs when a third leg is required.

2. Transportation from sports or after-school activities if picked up after 5:00 p.m.
3. Unscheduled trips (go-backs, students who get sick at school, vision testing, etc.)
4. Transportation of undeliverable students to a location designated by the district after two (2) attempts have been made to deliver the student to their regular drop-off address.
5. For students that cannot be routed for efficiency due to limited ride time, direct ride to school or must ride alone, the CONTRACTOR and the County will negotiate a per bus per day charge not to exceed the Dry Run Daily Base Rate.

The Superintendent or his Designee shall reimburse the Contractor for school bus aides. Such reimbursement shall be based upon the days the school bus aide was actually on the bus, as indicated by the scheduled route.

**XXVIII. RIGHT TO WITHHOLD:** Superintendent or his Designee has the right to withhold a pro rata portion of the payment to the Contractor when, in the opinion of the Superintendent or his Designee, expressed in writing to the Contractor (a) the Contractor's performance, in whole or in part, either has not been carried out or is insufficiently documented, (b) the Contractor has neglected, failed or refused to furnish information or to cooperate with any inspection, review or audit of its program work or records, or (c) Contractor has failed to sufficiently itemize or document its demand(s) for payment.

**XXIX. ADJUSTMENT OF RATES:** Compensation for all services provided under the terms of this contract will be adjusted in Year Two (2) by the 2010-2011 Service Year Pricing Sheets. Year Three (3) of the contract will be effective on September 1 by the same percent of increase/decrease in the San Francisco Bay Area Urban Wage Earners and Clerical Workers Consumers Price Index for the period of July 1 to June 30 not to exceed three and one-half percent (3.5 %) nor less than a minimum of two percent (2%) for the remainder of the three (3) year contract.

**XXX. NOTICES:** All notices or other communication required by this contract to be given to or served on either party of this contract shall be in writing and considered duly served and delivered when personally delivered or deposited in the United States Mail, first class postage prepaid, and addressed to the Superintendent or his Designee at 77 Santa Barbara Road, Pleasant Hill, California 94523 and to Contractor, Attention: Contract Administrator, 1431 Opus Place, Suite 200, Downers Grove, Illinois 60515. Either party may change its address for purposes of this section by giving written notice of such change to the other party in the manner provided in the section.

**XXXI. CONFIDENTIALITY:** Contractor agrees to comply and to require its officers, partners, associate, agents and employees to comply with all applicable state or federal statutes or regulations respecting confidentiality, including, but not limited to, the identity of persons served under this contract, their records, or services provided them, and assures that:


1. All applications and records concerning any individual made or kept by Contractor or any public officer or agency in connection with the administration of or relating to services provided under this contract will be confidential, and will not be open to examination for any purpose not directly connected with the administration of such service.
2. No person will publish or disclose or permit or cause to be published or disclosed, any list of persons receiving services, except as may be required in the administration of such service. Contractor agrees to inform all employees, agents and partners of the above provisions, and that any person knowingly and intentionally disclosing such information other than as authorized by law may be guilty of a misdemeanor.

Superintendent reserves the right to inspect Contractor's operational records, facilities, vehicles or

other equipment at any time during regular business hours.

XXXII. **SIGNATURES:** These signatures attest the parties' agreement hereto:

**CONTRA COSTA COUNTY  
SUPERINTENDENT OF SCHOOLS**

By:   
Name: Bill Clark  
Title: Associate Superintendent  
Date: 7/13/09

WITNESS:

\_\_\_\_\_

**DURHAM SCHOOL SERVICES, L.P.**

By: Durham Holding II, L.L.C.,  
its general partner

By:   
Name: Robert Beal  
Title: Controller  
Date: 7/9/09

WITNESS:



# EXHIBIT A

## 2009-2010 Service Year

Group A – 275 Total Students

1. Home to School Transportation (per IEP) for Regular School Year and Extended School Year Program:  
  
Rate per pupil per day, ambulatory: \$48.95  
Rate per pupil per day wheelchair: \$70.54
2. Therapy trips, during or outside of regular school hours:  
  
Rate per pupil per day, ambulatory: \$48.95  
Rate per pupil per day wheelchair: \$70.54
3. Field trip rate, trip as specified by special request, on equipment in normal use for the above service:  
  
**Ambulatory:**  
  
Cost per hour of service: \$59.51  
Cost per mile of service: \$1.36  
  
**Wheelchair:**  
  
Cost per hour of service: \$64.20  
Cost per mile of service: \$1.36
4. **Bus Monitors/Aides/Assistants**  
  
Rate per day \$127.56
5. **Dry Run Daily Base Rate: \$383.50**

# 2009-2010 Service Year

## Group B – 130 Total Students

1. Home to School Transportation (per IEP) for Regular School Year and Extended School Year Program:  
Rate per pupil per day, ambulatory: \$51.63  
Rate per pupil per day wheelchair: \$74.39
2. Therapy trips, during or outside of regular school hours:  
Rate per pupil per day, ambulatory: \$51.63  
Rate per pupil per day wheelchair: \$74.39
3. Field trip rate, trip as specified by special request, on equipment in normal use for the above service:  
**Ambulatory:**  
Cost per hour of service: \$62.76  
Cost per mile of service: \$1.43  
**Wheelchair:**  
Cost per hour of service: \$67.70  
Cost per mile of service: \$1.43
4. **Bus Monitors/Aides/Assistants**  
Rate per day \$127.56
5. **Dry Run Daily Base Rate** \$383.50



# EXHIBIT B

## 2010-2011 Service Year

Group A – 275 Total Students

1. Home to School Transportation (per IEP) for Regular School Year and Extended School Year Program:  
  
Rate per pupil per day, ambulatory: \$49.93  
Rate per pupil per day wheelchair: \$71.95
2. Therapy trips, during or outside of regular school hours:  
  
Rate per pupil per day, ambulatory: \$49.93  
Rate per pupil per day wheelchair: \$71.95
3. Field trip rate, trip as specified by special request, on equipment in normal use for the above service:  
  
**Ambulatory:**  
  
Cost per hour of service: \$60.70  
Cost per mile of service: \$1.39  
  
**Wheelchair:**  
  
Cost per hour of service: \$65.48  
Cost per mile of service: \$1.39
4. **Bus Monitors/Aides/Assistants**  
  
Rate per day \$127.56
5. **Dry Run Daily Base Rate \$383.50**

# 2010-2011 Service Year

## Group B – 130 Total Students

1. Home to School Transportation (per IEP) for Regular School Year and Extended School Year Program:  
Rate per pupil per day, ambulatory: \$52.66  
Rate per pupil per day wheelchair: \$75.88
2. Therapy trips, during or outside of regular school hours:  
Rate per pupil per day, ambulatory: \$52.66  
Rate per pupil per day wheelchair: \$75.88
3. Field trip rate, trip as specified by special request, on equipment in normal use for the above service:  
**Ambulatory:**  
Cost per hour of service: \$64.02  
Cost per mile of service: \$1.46  
**Wheelchair:**  
Cost per hour of service: \$69.06  
Cost per mile of service: \$1.46
4. **Bus Monitors/Aides/Assistants**  
Rate per day \$127.56
5. **Dry Run Daily Base Rate \$383.50**