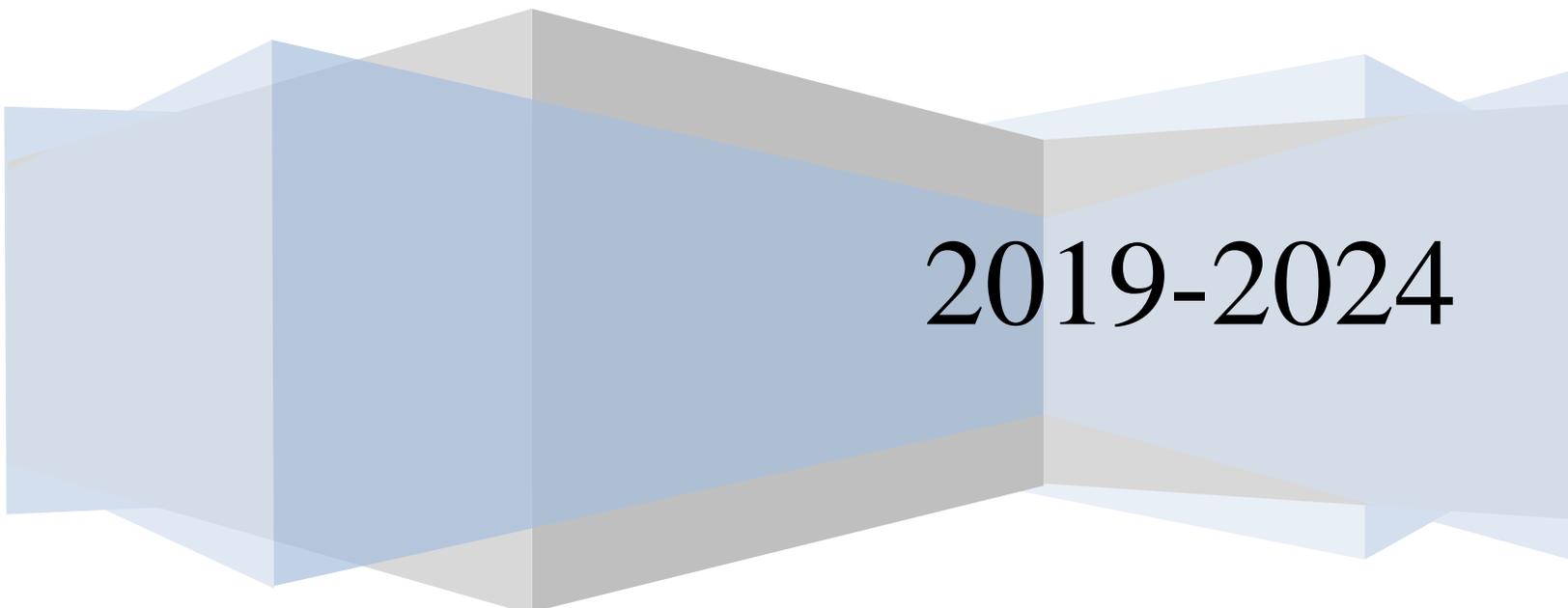


Student Transportation Contracted Service

**McCall-Donnelly School District
(Model Contract)**



2019-2024

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AGREEMENT

This agreement is entered into on ***, 2019 between the McCall-Donnelly Jt. School District No. 421, Board of Trustees of Valley County, Idaho, referred to as the Board, and (_____), referred to as Contractor.

RECITALS

The Board is interested in entering into a contract for the purpose of providing adequate transportation services for the school children of the McCall-Donnelly School District in conformity with local policies and legal requirement for a period of five (5) years.

Contractor has bid for the services sought by the Board, and Contractor's bid has been found by the Board to be acceptable.

In consideration of the foregoing and for other valuable consideration, the Board and Contractor hereby mutually agree as follows:

SECTION ONE

SCOPE OF CONTRACT

The following shall be deemed to be part of this contract:

- a. The advertisement for bids, including the Request for Proposals for Contracted Services dated December 13, 2018;
- b. The bid by Contractor;
- c. The performance bond;
- d. The notice of award;
- e. The agreements contained in this contract and recited;
- f. The current McCall-Donnelly School District Transportation Facility Use Agreement
- g. All provisions required by law to be inserted in this contract, whether actually inserted or not.

All of the above taken as a whole shall constitute the contract document. Should a conflict arise between any or all of the documents listed above, the Request for Proposal and Bid provided by the Contractor shall prevail to the benefit of the District.

SECTION TWO

DEFINITIONS

The following words and expressions or pronouns used in substitute therefore, shall, wherever they appear in this contract, be construed as follows, unless a different meaning is clear from the context:

- a. Arbitration shall mean the reference of any dispute concerning this agreement to a referee: the finding and award by the referee shall be binding on the parties.
- b. Board shall mean the Board of Trustees of McCall-Donnelly Joint School District No. 421, its duly authorized representative.
- c. Contract or contract documents shall mean each of the various parts of the contract referred to in Section One, both as a whole and severally.
- d. Contractor shall mean (_____), whether operating as a corporation firm or individual, or any combination of same, and Contractor's success of personal representatives, executors, administrators, and assigns, and any person, firm, or corporation who or which shall at any time be substituted in Contractor's place.
- e. Law or laws shall mean the Constitution of Idaho, the statutes of Idaho, and any ordinance, rule, or regulation having the force of law that is applicable to this contract.
- f. Notice to the Contractor shall mean written notice deposited in the United States mail addressed to (Contractor at: _____), or to such other address as may appear in an instrument executed by Contractor for that purpose and delivered to the Board as a change of address. Notice to the Board of Trustees means written notice delivered to the chairman of the Board or his/her authorized agent of the McCall-Donnelly Jt. School District. Nothing contained in this agreement shall, however, be deemed to preclude or render inoperative the service of any notice, direction, or other communication on Contractor personally, or if Contractor is a corporation, on any officer or director of Contractor.

SECTION THREE

TERM

This contract shall be effective from July 1, 2019, and shall continue for a total period of up to five (5) years, and shall end on June 30, 2024, unless sooner terminated in accordance with the provisions of this contract.

As per Idaho Code 33-1510, the District may renew a contract with the current Contractor if the Board of Trustees, after renegotiation with the Contractor, determines that the terms are satisfactory to the District. The Board of Trustees may renew the contract for a term not to exceed five (5) years.

SECTION FOUR

GENERAL UNDERSTANDING AND PERFORMANCE OF WORK

Contractor shall perform the services and furnish the equipment and personnel as provided in the specifications, and shall do all things necessary or proper for the performance and completion of the work required by this contract, in the manner and at the times provided in the bid and specifications.

SECTION FIVE

DELEGATION OF AUTHORITY

The Board hereby delegates to Contractor the necessary authority to supervise and control students on the buses operated by Contractor while they are en route under such rules as are adopted by the Board. However, this authorization shall not include the right to administer corporal punishment, nor the right to eject any offender under circumstances that may or are likely to result in injury or danger to the offender.

SECTION SIX

DESIGNATION OF STUDENTS

Contractor shall transport only those students designated by the Board.

SECTION SEVEN

SCHOOL CLOSING

The Board agrees to inform Contractor as soon as reasonably possible when schools are to be closed because of weather or by reason of any other conditions that might arise.

SECTION EIGHT

SCHEDULE DETAILS

A description of each route shall be furnished to Contractor prior to the start of each school year, together with a time schedule and the designated stops to be observed on each route. Changes in the routes, time schedules, or designated stops may be made, and any of the routes may be eliminated or consolidated at the discretion of the Board or its duly authorized agent to meet changed conditions. However, no change, elimination, or consolidation, except to meet unexpected or emergency situations, will be made until after Contractor has been given an opportunity to confer with the Board or its authorized representatives with respect to the change, elimination, or consolidation at least **15** days in advance of the change, elimination, or consolidation. Adjustments in the sums to be paid to Contractor will be made for any increase or decrease in mileage resulting from a change, elimination, or consolidation of routes or additional services for high school or elementary school in the nature of school-sponsored activities, as provided in the specifications. The Board may, from time to time, establish regulations to be observed by Contractor in connection with all details incidental to the operation of the routes, including starting times, bus stops, discipline on the buses, and any situations that may from time to time arise in the performance of the contract.

SECTION NINE

RESPONSIBILITY FOR STUDENTS

Contractor shall be fully responsible for the care and supervision of students during their period of transportation. The transportation of a student shall be deemed to have begun when the student prepares to Board the school bus, and shall be deemed to have ended when a student has completed alighting from the bus at a reasonably safe place in which to alight in view of the circumstances then prevailing.

SECTION TEN

COMPLIANCE WITH LAWS AND REGULATIONS

Contractor and Contractor's drivers are required to comply with the laws of Idaho, and all regulations or requirements of the State Motor Vehicle Department, Public Utilities Commission, and the State and local Boards of Education or any of them. Furthermore, all school bus drivers employed by the Contractor must submit to a criminal history background check pursuant to Idaho Code section 33-130.

It is understood and agreed that the District is a government entity and this Agreement shall in no way or manner be construed so as to bind or obligate the District or the State of Idaho beyond the term of any particular appropriation of funds by the Idaho Legislature or the Congress of the United States as may from time to time exist. In the event the Idaho Legislature or the Congress fails, neglects or refuses to appropriate such funds as may be designated by and enable the District to continue the payment herein, this Agreement shall automatically be terminated and all future rights and liabilities of the parties hereto shall thereupon cease.

SECTION ELEVEN

PAYMENT

The per day payment rate for each route each day is identified in the "Cost of Services for Pupil Transportation" document. The Contractor will be paid for special needs buses, field trips, and activity transportation in accordance with this same bid document. During the first month of each school year (August), the Contractor shall estimate the cost of services for the ensuing school year for home to school, special needs, and preschool busing and shall bill the District such amount in ten (10) equal monthly billings beginning in August for payment in September.

Extra curricular activity and field trip costs are billed monthly as incurred. Beginning with the August invoice for September payment, invoices must be submitted to the District no later than the last working day of each month for the current month's service. After verification of the statement and any adjustment necessary to Contractor or District, payment will be made the day following the first regular monthly Board meeting for the District.

The Contractor shall not be compensated for any school bus route that is not serviced on any school day on account of Contractor's failure to service. In the case of the District's canceling a particular day's bus operation without the proper notification, the amount of payment for the route(s) may be deducted from the following month's payment at 50% of the rate per route.

SECTION TWELVE

INSPECTION

The Board reserves the right for its members or duly authorized agents to inspect any and all buses and their operation by riding as passengers or by other reasonable means.

SECTION THIRTEEN

COST OF SERVICE ADJUSTEMENTS

Cost of service adjustments for subsequent contract extension years will be based on the Urban Consumer Price Index (CPI-U) calculated from April to April. The relative importance of fuel will be removed from the CPI-U index.

A. Consumer Price Index (C.P.I.) Adjustment:

- (1) The annual C.P.I. adjustment shall be based on the Consumer Price Index as defined by the Federal Government. The C.P.I. to be used will be the "Consumer Price Index for All Urban Consumers: U.S. City Average for All Items (1982-84 = 100)" published monthly in the Monthly Labor Review of the Bureau of Labor Statistics of the United States Department of Labor "CPI-U"). In the event the CPI-U is discontinued, the alternate C.P.I. which will be used will be the "Consumer Price Index for All Urban Wage Earners and Clerical Workers: U.S. City Average for All Items (1982-84 = 100)" published monthly in the Monthly Labor Review of the Bureau of Labor Statistics of the United States Department of Labor ("CPI-W"). Further still, in the event both the CPI-U and the CPI-W are discontinued, comparable statistics on the purchasing power of the consumer dollar published by the Bureau of Labor Statistics of the United States Department of Labor will be used for the computation of sums billed to the District by Contractor under the contract.
- (2) The base contract shall be for a term of five (5) years, beginning July 1, 2019. The prices bid by contractor will be used for the operations during the first year of the contract, July 1, 2019 through June 30, 2024. Contractor compensation for the second, third, fourth, and fifth years of the contract, beginning on August 1st of each successive year shall be based on the percentage of increase (or decrease) in the C.P.I.-U. The "Benchmark Month" for determining the change in the C.P.I.-U shall be June 2019. See the following "Sample Calculation." The C.P.I.-U factor adjustment for rates will occur only once on August 1st or the next

succeeding business day, during each calendar year of the contract period. This procedure and calculation will be followed to determine the rate charges for the remaining years of the contract.

Sample Calculations (Example Only):

CPI-U June 2019 (benchmark)	169.2	
CPI-U June 2020	170.3	
CPI-U June 2021	173.1	
CPI-U June 2020	170.3	
CPI-U June 2019 (benchmark) LESS:	169.2	
Difference	1.1	
Benchmark DIVIDE:	169.2	
Percentage of Change	<u>0.650%</u>	Rate Increase
CPI-U June 2021	173.1	
CPI-U June 2019 (benchmark) LESS:	169.2	
Difference	3.9	
Benchmark DIVIDE:	169.2	
Percentage of Change	<u>2.305%</u>	Rate Increase

(3) In calculating the C.P.1.-U each year, an adjustment to the C.P.1.-U will be made to remove the diesel fuel portion from the C.P.1.-U index before applying the C.P.1.-U to the rates. The calculation will be made according to the recommended methodology by the State of Idaho Department of Education using information from the U.S. Department of Labor, Bureau of Labor Statistics. Market price variation for diesel fuel price fluctuations shall be provided for in subsection "B" below.

B. Fuel Price Fluctuation Adjustment :

- (1) To protect both the District and Contractor against future changes in fuel prices over which neither District nor Contractor have control, the District will figure a base price for fuel as of Tuesday December 11, 2018, at 8:00 A.M. This price does include applicable State and/or Federal taxes. The base price shall be determined by using the Oil Price Information Service (OPIS) average price for Boise, Idaho and confirmed with a local

supplier.

- a. On Tuesday, December 11, 2018. at 8:00A.M.the average price of diesel fuel per gallon including applicable state and federal taxes as determined by the OPIS and confirmed with United Oil was \$3.34.
- (2) Starting July 1, 2019, the Contractor's rates will be adjusted up or down for any difference in the base fuel price above or below the base fuel price. For every incremental fuel price change of at least five cents (\$0.05) above or below the base fuel price, there will be a fuel price adjustment added or subtracted from the route rates in the amount of \$.40 per-route-per day. Rate adjustments up or down will not be calculated more frequently than once per month.
- C. Contractor will be entitled to the C.P.I. adjustment and the fuel price fluctuation adjustment. The use of one adjustments does not preclude the use of the other adjustment.

SECTION FOURTEEN

TIME OF THE ESSENCE

Since the contract concerns a necessary public service, the provisions of the contract relating to the daily schedule and regulations that may be promulgated by the Board are of the essence of the contract. Accordingly, Contractor shall prosecute the work diligently to assure adherence to the schedules.

SECTION FIFTEEN

ASSIGNMENT OF CONTRACT

Contractor agrees not to assign this contract, or any interest in the contract, without the prior approval in writing of the Board.

SECTION SIXTEEN

FAILURE OF OPERATION

In the event that Contractor fails to operate any route because of the failure of equipment or personnel, the amount of payment for the route may be deducted from the following month's payment at the current rate of compensation per route.

SECTION SEVENTEEN

RIGHT TO DECLARE DEFAULT

In addition to any other rights the Board may have, the Board shall have the right to declare Contractor in default if:

- a. Contractor becomes insolvent;
- b. Contractor makes an assignment for the benefit of creditors;
- c. A voluntary or involuntary petition in bankruptcy is filed by or against Contractor;
- d. Contractor fails to perform any schedule when notified to do so by the Board;
- e. Contractor shall abandon the work;
- f. Contractor shall refuse to proceed with the work when and as directed by the Board;
- g. Contractor shall without just cause reduce Contractor's working force to a number that, if maintained, would be insufficient, in the opinion of the Board, to carry out the work in accordance with this agreement;
- h. Contractor shall sublet, assign, transfer, convey, or otherwise dispose of this agreement other than as specified in this agreement;
- i. A receiver or receivers are appointed to take charge of the property or affairs of Contractor;
- j. The Board shall be of the opinion that Contractor has willfully or in bad faith violated any of the provisions of this agreement;
- k. Any applicable laws have been violated by Contractor or Contractor's agents, servant, or employees;

- l. Any vehicles provided by Contractor are operated in a manner that imperils the safety of the passengers; or if
- m. Any vehicles provided by Contractor are not kept clean or in first class mechanical condition.

Before the Board shall exercise its right to declare Contractor in default, it shall give Contractor an opportunity to be heard, on six (6) day's notice, at which hearing Contractor may at Contractor's expense, have a stenographer present, provided, however, that a copy of the stenographic notes, if any, shall be furnished to the Board.

SECTION EIGHTEEN

EXERCISE OF RIGHT TO DECLARE CONTRACTOR IN DEFAULT

The right to declare Contractor in default for any of the grounds specified or referred to in Section Sixteen shall be exercised by sending Contractor a notice signed by the Chairman or Secretary of the Board, setting forth the ground or grounds on which each default is declared.

SECTION NINETEEN

BOARD'S RIGHTS AFTER TERMINATION

After the termination of Contractor's services for a default under this contract, the Board may employ another Contractor or Contractors to complete the terms of this agreement, and hold Contractor responsible for any extra or added expense, loans, or damages suffered by the Board.

SECTION TWENTY

OTHER REMEDIES

The provisions outlined in this agreement as to the rights of the Board after termination shall be in addition to any and all other legal or equitable remedies permissible under law.

SECTION TWENTY-ONE

INDEMNIFICATION

Contractor will be required to indemnify the McCall-Donnelly School District from any loss that it may sustain from any cause arising out of the performance or lack of performance of this agreement by Contractor.

SECTION TWENTY-TWO

REPORT OF ACCIDENT

Any accident involving student transportation shall be reported to the District as soon as possible and not later than twenty four (24) hours from the time of the accident. A detailed written report must be submitted to the Board as soon thereafter as possible and not later than three (3) days after the date of the accident.

SECTION TWENTY-THREE

TITLES OF PARAGRAPHS

The various titles to the paragraphs in this agreement are used solely for convenience and they shall not be used for the purpose of interpreting or construing any word, clause, paragraph, or subparagraph of this agreement.

SECTION TWENTY-FOUR

UNLAWFUL PROVISIONS DEEMED STRICKEN

All unlawful provisions of this agreement shall be deemed stricken from the agreement, and shall be of no effect. On the application of either party, the unlawful part shall be considered stricken without affecting the binding force of the remainder of the agreement.

SECTION TWENTY-FIVE

ALL LEGAL PROVISIONS INCLUDED

It is the intention of the parties to this agreement that all legal provisions of law required to be inserted in the agreement shall be and are inserted in it. However, if by mistake or otherwise, some such provision is not inserted in the agreement, or is not inserted in proper form, then on the application of either party, the agreement shall be amended so as to strictly comply with the law without prejudice to the rights of either party under the agreement. This Agreement shall be governed and interpreted by the laws of the State of Idaho.

SECTION TWENTY-SIX

Sample Payment Schedule

Price escalator clauses may be included but must be proportional to an objectively determined index, such as the Consumer Price Index (less the relative cost of fuel).

SECTION TWENTY-SEVEN

ARBITRATION

All disputes arising in connection with this agreement that are not settled by agreement between the parties shall be referred to a mutually agreed upon arbiter. The finding and award by the referee shall be binding on the parties. Judgment on the award rendered may be entered in any court having jurisdiction, or application may be made to such court for judicial acceptance of the award or order of enforcement, as the case may be. In the event that either party refuses to submit the dispute to the referee, the parties shall be entitled to seek their remedy at law or in equity, as each party may elect.

SECTION TWENTY-EIGHT

RECORDS

The District shall have the right to audit, in such a manner and at all reasonable times as it deems appropriate, all activities of the Contractor arising in the course of its undertakings under this contract.

Fiscal Records:

1) The Contractor agrees to maintain books, records, documents, and other evidence of accounting procedures and practices, which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of this Contract as required by the District.

2) The District or any of their duly authorized representatives shall have access to any of the Contractor's books, documents, or records which are directly pertinent to this specific Contract. Access to records includes the right to review, audit, inspect, and make excerpts and transcriptions.

Period of Maintenance:

1) The Contractor agrees to maintain all books, records, and other documents relevant to this Contract for three (3) years after final payment and any person duly authorized by the District shall have full access to and right to examine any of said materials during this period.

2) It is agreed that if an audit, litigation or other action involving records is initiated before the three (3) year period has expired, the records must be retained until all issues arising out of such actions are resolved, or until a three (3) year period has passed, whichever is later.

SECTION TWENTY-NINE

ADDITIONAL BUSES

If additional buses become necessary over and above those provided as basic service, but only during the first five (5) years of this contract, Contractor shall furnish them and shall receive yearly additional remuneration in the accordance with the provision for determination of additional route mileage contained in the bid of the Contractor.

The District reserves the right to use alternative modes of transportation for extra-curricular and/or field trips including alternative/additional contractors or public transportation.

SECTION THIRTY

CONTRACT EXTENSION

As per Idaho Code 33-1510, the District may renew a contract with the current Contractor if the Board of Trustees, after renegotiation with the Contractor, determines that the terms are satisfactory to the District. The Board of Trustees may renew the contract for a term not to exceed five (5) years.

In witness whereof, the Board of Trustees of McCall-Donnelly Joint School District No. 421, Valley County, Idaho, acting by Laurie Erikson it's Chairperson, duly authorized, and Contractor have set their signatures and seals at McCall School District Office the day and year first above written.

Laurie Erikson
Chairperson, Board of Trustees
McCall-Donnelly School District #421

Date

Date