

AGREEMENT FOR THE TRANSPORTATION OF PUPILS

This **AGREEMENT FOR THE TRANSPORTATION OF PUPILS**, hereinafter referred to as the "AGREEMENT", is made and entered into this ___ day of July, 2017, by and between **CROWLEY INDEPENDENT SCHOOL DISTRICT** with a principal office located at 512 Peach Street, Crowley, TX 76036, hereinafter referred to as "DISTRICT", and **DURHAM SCHOOL SERVICES, L.P.**, a Delaware limited partnership, with its principal office located at 4300 Weaver Parkway, Warrenville, Illinois 60555, hereinafter referred to as "CONTRACTOR."

1. Scope of Services. CONTRACTOR shall provide pupil transportation services to DISTRICT which includes, but are not limited to, transporting students; providing equipment, storage and maintenance thereof; providing employees to perform such services; and administrative, supervisory and operational services required thereby ("Work") based on the assumptions and at the rates set forth on Schedule A.
2. Change in Scope of Services. The following provisions shall apply in the event of the applicable reduction in service:
 - a. This Agreement contemplates a minimum of 171 operating days per school year. If the actual number of operating days falls below 171 during any school year, then the parties agree to renegotiate in good faith the rates provided in the attached Schedule A if such renegotiation is requested by Contractor. If the parties cannot reach an agreement, Contractor may, at its option, continue to operate the Agreement at the original rates or terminate the Agreement upon thirty (30) days' written notice. If the actual number of operating days falls below the contemplated minimum days and the District does not provide notice in advance of the end of the applicable school year making a renegotiation of rates impracticable, Contractor will invoice District and District agrees to pay a sum equal to fifty percent (50%) of the daily charges for each day work is cancelled.
 - b. If the average daily number of routes is reduced by five percent (5%) or more, then both parties agree to renegotiate in good faith the rates at the end of each school year provided in Schedule A if such renegotiation is requested by Contractor. If the parties cannot reach an agreement, Contractor may, at its option, continue to operate the Agreement at the original rates or terminate the Agreement upon thirty (30) days' written notice.
3. Payment for Services. On or about the first business day of each month CONTRACTOR shall submit invoices in the form and number required by DISTRICT for all services performed under this AGREEMENT. Payment for such services will be made in check, money order, or ACH or wire transfers within a reasonable time thereafter, not to exceed ten (10) calendar days. Payment by credit card is accepted but requires an increase in the invoiced amount of two and one-half percent (2.5%) to cover processing fees. In the event sums due and payable are not received within thirty (30) calendar days, a late charge of 1.5% per month of the outstanding balance will be assessed upon the account. In the event such sums are not received within sixty (60) days, service may be discontinued until such time as CONTRACTOR has received all sums due.
4. Adjustment of Rates.
 - a. The rates set forth in Schedule A shall be adjusted annually by 3.0%.
 - b. Notwithstanding any contrary statements in this Agreement or in any documents incorporated herein by reference, in the event any federal, state, local or other government body's statutes, laws, rules, or regulations impact CONTRACTOR's methods and/or costs in connection with the provision

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of services hereunder (e.g., changes in healthcare or other benefits requirements, changes in equipment requirements, changes in services requirements, changes in unemployment insurance benefit requirements, etc.) during the term of the Agreement, CONTRACTOR, upon written notice to DISTRICT, may request a renegotiation of this Agreement which shall be conducted in good faith. Such renegotiations may include, without limitation, changes in rates, term, payment schedules, levels of service, and the types or number of vehicles to be used. Any modification to this Agreement resulting from such renegotiations shall become effective on a mutually agreed upon date. If the parties cannot come to an agreement, either party may terminate the AGREEMENT upon thirty (30) days' notice.

5. Term. The term of this AGREEMENT shall be for a period of five (5) years beginning July 1, 2017 and ending June 30, 2022. This AGREEMENT shall be renewable at the option and mutual written agreement of both parties, taking into consideration CONTRACTOR'S performance under this AGREEMENT and cost negotiations, and subject to applicable statutes and regulations.
6. Entire Agreement. This AGREEMENT contains all the terms and conditions agreed upon by the Parties and no other agreement, oral or otherwise, including DISTRICT's Request for Proposal, regarding the subject matter of this Contract, or any part thereof, shall have any validity or bind the Parties. The complete AGREEMENT consists of this AGREEMENT and the Proposal of CONTRACTOR, which is incorporated herein by reference. In the event of any conflict between the terms of this AGREEMENT and the Proposal, the terms of this AGREEMENT shall govern.
7. Permits and Licenses. CONTRACTOR, its employees, and its agents shall secure and maintain valid permits, licenses, and certifications as required by law for the execution of this AGREEMENT.
8. Insurance. CONTRACTOR shall maintain insurance as set forth below during this AGREEMENT period and shall furnish a certificate of insurance for General and Auto Liability coverage and for Workers' Compensation coverage. CONTRACTOR shall furnish new Certificates of Insurance for liability coverage and for Workers' Compensation coverage within thirty (30) days following the placement of new or renewed coverage. Certificates shall provide that a thirty (30) day prior notice of cancellation will be given to DISTRICT.

General and Auto Liability insurance shall be maintained to protect CONTRACTOR from any claims from damages for personal injury or death, and from damage to property, which may arise from operations of CONTRACTOR under this AGREEMENT. General and Auto Liability insurance shall each have a single limit of Ten Million Dollars (\$10,000,000). Workers' Compensation insurance shall be maintained as required by law and to protect CONTRACTOR from claims, which may arise from its operation under this AGREEMENT. The DISTRICT shall be added as additional insured on CONTRACTORS general and auto liability policies.

9. Hold Harmless Agreement. To the extent permissible by law, CONTRACTOR shall hold harmless and indemnify DISTRICT, its Governing Board, 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, to the extent that such injury or damage was caused by any negligent act or omission or willful misconduct of CONTRACTOR or of any person, firm, or corporation, directly or indirectly employed by CONTRACTOR upon or in connection with its performance under this AGREEMENT.

To the extent permissible by law, DISTRICT shall hold harmless and indemnify CONTRACTOR, its 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, to the extent that such injury or damage was caused by any negligent act or omission or willful misconduct of DISTRICT or of any person, firm, or corporation, directly or indirectly employed by DISTRICT upon or in connection with its performance under this AGREEMENT.

10. Safety Program. CONTRACTOR shall provide formal safety instruction on a regular basis for all operating personnel assigned to this AGREEMENT.
11. Independent Contractor. While engaged in carrying out and complying with the terms and conditions of this AGREEMENT, CONTRACTOR is an independent contractor, and neither CONTRACTOR, its employees or its Agents shall be considered to be an Officer, Agent, or Employee of DISTRICT.
12. Assignments. CONTRACTOR may assign or transfer any of its rights, burdens, duties, or obligations under this AGREEMENT to its parent company, affiliates, subsidiaries, or related legal entities. CONTRACTOR will advise DISTRICT of such assignment or transfer.
13. Subcontracting. CONTRACTOR will not subcontract any of its rights, burdens, duties, or obligations under this AGREEMENT without the written consent of DISTRICT, except on a short term, interim basis in the event of an emergency. Consent shall not be unreasonably withheld.
14. Routing and Scheduling. Prior to the start of any service under this AGREEMENT, DISTRICT and CONTRACTOR shall cooperatively establish routes and schedules conforming to the needs of DISTRICT. If, at any time during the term of this AGREEMENT, it is determined by mutual consent that service may be improved by revisions to routing, scheduling, or bus assignment, DISTRICT and CONTRACTOR shall plan and institute such changes jointly. CONTRACTOR shall have sufficient notice to review such changes and evaluate the safety considerations. All routes, schedules, and bus stops shall be established by CONTRACTOR on such basis as may be determined by it to be most efficient, but shall be approved by DISTRICT and shall not be revised without mutual consent and authorization.
15. Contractor's Personnel. CONTRACTOR shall employ and assign for services under this AGREEMENT a sufficient number of regular and substitute drivers based on projected basic and supplementary transportation, taking into account the current driver absence rates. CONTRACTOR shall be solely responsible for hiring and discharging its employees. DISTRICT shall have the right to request removal of any of CONTRACTOR's employees from providing services under this AGREEMENT provided that such request is made in writing with the reasons set forth and provided that such request does not violate any laws against discrimination.
16. Record Keeping and Accident Reports. CONTRACTOR will be required to provide access to any and all operational records related to the provision of services under this AGREEMENT and kept in the ordinary course of business to DISTRICT within 30 days of DISTRICT's written request for such records. DISTRICT shall maintain the confidentiality of CONTRACTOR's records. All operational records, including, but not limited to audio, digital and video recordings are, and shall be, the exclusive property of CONTRACTOR.

All equipment involved in an accident shall be reported as defined by law. Accidents involving CONTRACTOR'S equipment or personnel while operating for DISTRICT shall also be reported to DISTRICT. If requested by DISTRICT, pupil injuries not involving acceleration, deceleration, or movement of the bus may also be reported to DISTRICT on forms provided by DISTRICT.

17. Equipment Requirements. All buses supplied under this AGREEMENT shall be approved school buses, as defined by applicable statutory or administrative codes within the state in which DISTRICT operates.
 - a. Regular preventive maintenance shall be practiced on all buses.
 - b. Spare buses, either DISTRICT or CONTRACTOR supplied, of appropriate sizes, and meeting all the above requirements, shall be located by CONTRACTOR at points close enough to DISTRICT so they may be substituted for regularly assigned buses, if needed, without delay.

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- c. All buses will be equipped with air conditioning, radios, and four camera head CCTV system. The average route bus age will not exceed eight (8) years.
 - d. If CONTRACTOR shall be utilizing vehicles provided by DISTRICT, then CONTRACTOR, prior to undertaking its responsibilities under the AGREEMENT, shall have the right to inspect all vehicles and equipment covered in the AGREEMENT and shall verify that all vehicles and equipment are in safe operation and good running order. In the event that initial inspection reveals that any of the vehicles or equipment are not in good running order, or that adequate maintenance records have not been kept, CONTRACTOR shall restore those vehicles and equipment to safe operation and good working order and will charge DISTRICT at the Non-School Bus Vehicle Maintenance Rate listed in Schedule A plus the cost of parts per the Non-School Bus Vehicle Maintenance in Schedule A. CONTRACTOR shall provide DISTRICT with a written estimate of repairs required to restore vehicles and equipment to safe working order based on the initial inspection. CONTRACTOR shall have the benefit of all existing manufacturer warranties and DISTRICT warrants that it has maintained the vehicles and equipment in a manner consistent with the manufacturer warranties. It is specifically understood between the parties that DISTRICT shall retain sole responsibility for all claims related to maintenance and repairs on DISTRICT owned vehicles and equipment prior to CONTRACTOR taking control of the vehicles and equipment regardless of whether any defect or deviation was discovered by CONTRACTOR during the initial inspection.
18. Use and Maintenance of Facility. CONTRACTOR agrees to pay \$1.00 per year to lease DISTRICT Transportation Center located at 2205 N. Crowley-Cleburne Road, Crowley, TX, 76036, hereinafter referred to as "Facility".
- a. CONTRACTOR will be responsible for the day-to-day maintenance and repairs of the Facility due to routine wear and tear including cleaning and non- environmental waste disposal, snow/ice removal, oil disposal, and waste metal disposal. CONTRACTOR will pay its share of the following utilities: electricity, water and heat and shall install long distance telephone service and computer data lines as needed (CONTRACTOR responsible for line charges), and cover the cost of personal property taxes and insurance for CONTRACTOR'S equipment. DISTRICT will provide existing furniture and office equipment. DISTRICT will continue to maintain existing local telephone lines for use by CONTRACTOR. DISTRICT will be responsible for structural repairs, except to the extent due to the negligence of CONTRACTOR.
 - b. CONTRACTOR will be responsible for maintenance of any shop and office equipment that DISTRICT provides CONTRACTOR usage of and shall be responsible for all damage caused by the negligence of CONTRACTOR or its employees, excluding normal wear and tear. DISTRICT will be responsible for the replacement of any shop or office equipment to the extent the replacement is not due to the negligence of CONTRACTOR. CONTRACTOR will be responsible for cleaning shop area and waste disposal area.
 - c. If CONTRACTOR is successful in securing additional business from nearby Districts or other Customers, then CONTRACTOR may enter into an agreement with DISTRICT to pay fair market value for the proportionate amount of usage of the Facility required to serve such Districts or Customers. CONTRACTOR must obtain permission from DISTRICT prior to using Facility. Reasonable agreement will not be withheld.
 - d. DISTRICT retains the right to request CONTRACTOR to maintain DISTRICT-owned and operated maintenance vehicles at a price that is to be mutually agreed upon.
19. Environmental Indemnification.

- a. DISTRICT hereby represents and warrants that:
 - i. The Property and Facility have been used, operated and maintained at all times in compliance with all applicable federal, state and local environmental quality laws, regulations, rules, policies and rulings; and,
 - ii. Any and all liquid storage tank(s) (underground and/or above ground) are in good maintenance and repair and are not now leaking; and,
 - iii. All applicable federal, state and local registration requirements respecting existing liquid storage tank(s) (underground and/or above ground) and discharge into the soil, ground water, surface water, storm drain system, sewer drain system, etc., have been strictly complied with at all times; and,
 - iv. There has been no discharge of oil, gasoline, diesel fuel, solvents, other hydrocarbons or any other hazardous materials into or contamination by such materials or otherwise of the soil, ground water, surface water, storm drain system, sewer drain system, etc., or any other pollution from any use, operation and/or maintenance of the Property and Facility at any time prior to the date hereof.
 - v. DISTRICT shall comply with all applicable federal, state and local environmental quality laws, regulations, rules, policies, and rulings related to use, maintenance and operation of the Property and Facility at all times prior to, during and after this AGREEMENT.

- b. CONTRACTOR shall comply with all applicable federal, state and local environmental quality laws, regulations, rules, policies, and rulings related to its use, maintenance and operation of the Property and Facility at all times during this AGREEMENT. DISTRICT shall comply with the testing, inspection, maintenance, repair and replacement of the fuel storage tanks and related equipment, in addition to the performing the following at the expense of DISTRICT:
 - i. As soon as practicable after the date hereof but prior to CONTRACTOR taking possession of the Facility, DISTRICT shall provide CONTRACTOR with a written report regarding existing liquid storage tanks(s), including tank size, type, and construction, piping type and construction, and the year of installation and current or future modifications that must be made in order to comply with any federal, state, local or insurance requirements.
 - ii. DISTRICT shall conduct precision tank testing of all liquid storage tanks, performed by a certified tank testing firm acceptable to CONTRACTOR, which firm shall provide to DISTRICT and CONTRACTOR a written report indicating the condition of the tank(s).
 - iii. DISTRICT shall make any needed repairs, modification, tank replacement and environmental clean-up required as a result of the tank test report and in order to comply with all applicable federal, state and local requirements.
 - iv. In the event a tank develops a leak during the term of this AGREEMENT after DISTRICT complies with the testing, inspection, and initial repair or replacement provisions herein, DISTRICT shall make any needed repairs, modification, tank replacement and environmental clean-up required as a result of any future tank test reports(s) and in order to comply with all current and future federal, state and local requirements.
 - v. In the event a tank is required to be taken out of service due to a leak or in order to comply with environmental quality requirements during the term of this

- AGREEMENT, and CONTRACTOR is then required to fuel vehicles at a off the Property, DISTRICT shall reimburse CONTRACTOR for the price differential between on-site fueling and other costs associated with such fueling including extra personnel and mileage expenses, for the duration of such period.
- vii. DISTRICT will take all action required of it as the owner of the liquid storage tanks to maintain all permits, registrations, insurance and licenses, including but not limited to being responsible for proof of financial responsibility/assurances and any and all tank testing required under applicable laws.
 - c. DISTRICT shall have full responsibility for the proper removal and disposal of any and all hazardous material generated by the DISTRICT either during or prior to the term of this AGREEMENT.
 - d. CONTRACTOR shall have no liability for any matters relating to hazardous or toxic conditions of the Property and Facility, environmental cleanup and disposal, or of violations of environmental quality laws (except for liability arising out of or related to the willful or negligent acts of CONTRACTOR).
 - e. To the extent permissible by law, DISTRICT hereby agrees to indemnify and hold CONTRACTOR harmless from and against any loss, cost, or expense, including reasonable attorneys' fees, damages, claims or liability arising out of or related to the use, maintenance and operation of the Property and Facility related to environmental quality matters affecting the Property and Facility including without limitation, contamination of soil, surface water or ground water, personal injury or property damage and compliance with all applicable federal, state and local requirements affecting environmental quality (except for liability arising out of or related to the willful or negligent acts of CONTRACTOR).
 - f. To the extent permissible by law, CONTRACTOR hereby agrees to indemnify and hold DISTRICT harmless from and against any loss, cost, or expense, including reasonable attorneys' fees, damages, claims, or liability arising out of or related to the willful or negligent acts of CONTRACTOR related to environmental quality matters affecting the Property or Facility but only to the extent that such damage or claim arose out of the willful or negligent acts of CONTRACTOR
 - g. The indemnification obligations of paragraphs "e" and "f" shall survive the termination or expiration of this AGREEMENT.
20. Fuel. Fuel shall be paid for and provided by DISTRICT.
21. Termination of Agreement. If either Party refuses or fails to perform services as required as specified in this AGREEMENT, or any separable part thereof, the other Party 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 the party in breach 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.
22. Termination for Lack of Funding: District shall have the right to terminate the Agreement at the end of any contract year if it has been denied adequate funding for the provision of school bus services. In the event District is denied adequate funding for the provision of school bus services, District shall immediately notify Contractor in writing. In the event funding is restored, Contractor shall have the right of first refusal to resume providing services to District in accordance with the Agreement.
23. 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 sent via overnight service. All such notices shall be addressed to:

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DISTRICT: Crowley Independent School District
Attn: Dwayne Jones
512 Peach Street
Crowley, TX 76036
Telephone: (817) 297-5800

CONTRACTOR: Durham School Services, L.P.
Attn: Contract Administrator
4300 Weaver Parkway
Warrenville, Illinois 60555
Telephone: (630) 821-5400

24. Discipline. CONTRACTOR will report serious or persistent misconduct on the part of students to the designated DISTRICT employee. DISTRICT shall then impose reasonable disciplinary measures upon the students in accordance with its discipline management program.
25. Force Majeure. CONTRACTOR shall be excused from performance hereunder, and DISTRICT shall not be allowed to levy any damages or penalties, liquidated or otherwise during the time and to the extent that CONTRACTOR is prevented from performing in the customary manner by an act of God, fire, flood, war, riot, civil disturbance, state of emergency, 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 CONTRACTOR.
26. Choice of Law. This AGREEMENT shall be governed by the laws of the State of Texas without regard to its conflict of laws principles.
27. Severability. In the event any provision of this AGREEMENT is determined to be illegal or void, the remainder of this AGREEMENT shall remain in full force and effect.
28. Amendments. Changes to this AGREEMENT may only be made by written amendment mutually agreed to by the parties.
29. Attorney's Fees. If any legal action is brought by either of the parties hereto, it is expressly agreed that the party in whose favor final judgment shall be entered shall be entitled to recover from the other party reasonable attorney's fees in addition to any other relief that may be awarded.

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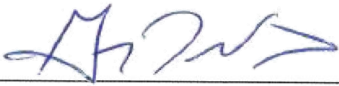
30. Execution by Facsimile or in Counterparts. The Parties may sign this AGREEMENT in counterparts such that their signatures may be on separate pages. A copy, facsimile or an original of this AGREEMENT, with all signatures appended together, shall be deemed a fully executed AGREEMENT. Signatures transmitted by facsimile or other electronic means shall be deemed original signatures.


IN WITNESS WHEREOF, the parties hereto have executed this AGREEMENT as of the date written above.

DURHAM SCHOOL SERVICES, L.P.

CROWLEY INDEPENDENT SCHOOL DISTRICT

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

By: 
Name: Gary Waits
Title: CEO, Student Transportation
Date: August 17, 2017

By: 
Name: DWAYNE JONES
Title: EXECUTIVE DIRECTOR
Date: 8.15.17

SCHEDULE A

Regular and Special Education
Home-to-School Transportation
Normal District School Year

Based on Four (4) Hours		
Bus Capacity	Daily Rate	Excess hour Rate
All Bus Capacities for Regular & Special Education and Choice Program Routes	\$208.68	\$25.73
Regular Mid-day Routes	\$45.64	\$25.73
Regular Shuttles	\$45.64	\$25.73

Based on Two (2) Hours		
Bus Capacity	Daily Rate	Excess hour Rate
Regular Mid-day Routes	\$45.64	\$25.73
Regular Shuttles	\$45.64	\$25.73

Regular and Special Education
Home-to-School Transportation
Extended District School Year

Based on Four (4) Hours		
Bus Capacity	Daily Rate	Excess hour Rate
All Bus Capacities	\$208.68	\$25.73

Additional Transportation Services
Extracurricular Trips and Other District Requested Bus Services

	Hourly Rate	Mileage Rate	Minimum Call-out Charge
All Bus Capacities	\$25.73	N/A	\$51.46

Rates for "Other Transportation" when DISTRICT'S personnel drive the buses and are paid by the DISTRICT:

Bus Capacity	Rate Per Bus Hour	Minimum Call Out Charge
ALL	\$8.71	\$17.42

Rates for "Other Transportation" when DISTRICT'S personnel drive the buses and are paid by the CONTRACTOR for the driving portion of the trip:

Bus Capacity	Rate Per Bus Hour Up to 3 Hours	Rate Per Bus Hour After 3 Hours
ALL	\$56.65	\$18.88

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Non-School Bus Vehicle Maintenance

Rate Per Hour	Additional Charges for Parts Above Actual Cost
\$43.35	10.0%

Bus Monitors and Bus Aides: The District may require the use of bus monitors and/or bus aides in the performance of this contract. If monitors or aides are required, the District shall compensate the Contractor at \$15.16 per hour. Billable time is to be based on total driving time, including layover time. Monitors or aides working in excess of 40 hours in one week shall be billed at one-and-one-half times the hourly rate stated.

Performance Bond: The District may require the Contractor to furnish a performance bond in accordance with the requirements of this Agreement. If a performance bond is required, the District shall reimburse the Contractor an agreed upon amount.

Rates provided for all transportation trips shall begin and end at the transportation center, and shall include total driver's time, including time for bus pre-trip checkout, clean-up, and layover time. For driver's time in excess of 40 hours per week, the charge will be one-and-one-half time the hourly rate stated above.