

AGREEMENT FOR THE PROVISION OF TRANSPORTATION MANAGEMENT AND LOGISTICS SERVICES

THIS AGREEMENT ("Agreement") is entered into as of October 1st, 2013, between American Logistics Company, LLC ("Contractor") and San Jose Unified School District (the "District"), with the following facts:

- A. Certain special education student(s) of the District require transportation to and from school and/or other transportation services as requested by the District.
- B. Contractor will provide management and logistical support for the purpose of coordinating such transportation services. The District will reimburse Contractor for the provision of these services, in accordance with the terms and provisions of this Agreement.

NOW THEREFORE, for a valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Contractor Services

District may request, from time to time, that Contractor provide management and logistical support to coordinate transportation services, which Contractor may agree to coordinate. To the extent accepted by Contractor, Contractor agrees to coordinate such transportation services and District agrees to pay Contractor in accordance with the provisions of this Agreement. Contractor's providing of management and logistical support to coordinate transportation services pursuant to this Agreement are sometimes referred to herein as the "Services."

In operating under this Agreement, the District will purchase services from the Contractor through the Contractor's agreement with **The Cooperative Purchasing Network (TCPN), Contract No. R5057**, the provisions of which, while not attached hereto, are nonetheless incorporated herein by this reference, and in accordance with the pricing set forth in Attachment 1 of this Agreement, which is attached hereto and incorporated herein by this reference.

2. Term

The initial term of this Agreement shall commence on October 30, 2013 and end on December 31st, 2014. At the end of the initial term this Agreement will be automatically renewed for successive twelve (12) month periods (each a "Renewal Term") on the same terms and conditions unless either party provides the other with not less than thirty (30) days prior written notice that the Agreement should terminate at the end of its then current term. In addition, in the event of a material breach of this Agreement, either party may terminate this Agreement with thirty (30) day notice to cure to the breaching party. If the breach is not cured, this Agreement will terminate immediately following the thirty (30) day notification period.

3. Fees for Service

Contractor shall be paid the agreed sum based on fees outlined on Attachment 1. Contractor shall invoice the District for the provision of the Services on a monthly basis and shall be paid

therefore within thirty (30) days after the District's receipt of Contractor's invoice for the provision of the Services for the relevant month. Any payment not received by Contractor within said thirty (30) day period shall accrue interest at the lesser of (a) the rate of one and one-half percent per month or (b) the maximum rate allowed by law, commencing with the date of the invoice until payment is actually received by Contractor.

4. Vehicles

As part of its Services and for the compensation set forth in this Agreement, Contractor agrees to coordinate the supply of such vehicles (the "Vehicles") as may be necessary to lawfully address the transportation requirements of District. The District requires that all such Vehicles shall fully comply with all applicable laws and regulations. Contractor shall be solely responsible for the management and logistical support necessary to coordinate all Vehicles used in transporting students.

5. Contractor Personnel and Independent Contractor Drivers

As part of its Services and for the compensation set forth in this Agreement, Contractor shall provide qualified and properly licensed personnel as required by laws and regulations and as deemed appropriate by Contractor to coordinate the Services. While Contractor may contract with independent contractor drivers who will provide actual transportation services for the District, Contractor shall at all times remain responsible for the management and logistical coordination of the Services under this Agreement. Contractor expressly represents and warrants to the District that it will contract with independent contractor drivers that have obtained the necessary training and are properly licensed to perform the Services.

6. Contractor Insurance

Contractor shall obtain and maintain in full force and effect during the term of this Agreement, and at no cost to District, general liability and automobile (common carrier) insurance issued by insurance companies authorized to do business in the state with minimum limits of One Million Dollars (\$1,000,000), Combined Single Limit. The District shall be named as an additionally insured of the policy or policies and shall be furnished with a certificate of insurance (COI). The District shall be notified at least thirty (30) days prior to cancellation of any such policy or policies (except 10 days for non-payment of premium).

7. Fingerprint Clearance

To the extent required under applicable law, rule or regulation applicable to the provision of Services and to the transportation services being provided by independent contractor drivers, Contractor shall require each Contractor personnel or independent contractor driver in a position requiring contact with students to have been fingerprinted and cleared by the state Department of Justice (DOJ) and Federal Bureau of Investigations (FBI) verifying no prior convictions for or pleas of nolo contendere to a felony or any sex offense based on the sensitive nature of students for whom transportation services are being provided.

8. Health and Safety (Tuberculosis Testing)

To the extent required under applicable law, rule or regulation applicable to the provision of Services and to the transportation services being provided by independent contractor drivers, Contractor shall require each Contractor personnel or independent contractor driver who may come in contact with student(s) to provide verification of having been tested for tuberculosis

(TB) and cleared to work with students, as evidenced by a state licensed medical doctor's signature. As a service to District, Contractor will maintain a copy of said verifications.

9. Drug and Alcohol Testing

Contractor agrees to implement any drug and alcohol testing requirements the District may choose to require of specific individuals or categories of individuals. Both parties agree to incorporate such requirements by attachment or amendment to this Agreement. Contractor agrees to include in its independent contractor agreements a provision allowing the immediate cancellation of any contract of any independent contractor driver who tests positive for drugs or alcohol in violation of this Agreement, applicable law, rule or regulation.

10. Assignment of Contractor's Rights

Except as it relates to the entering into of contacts with independent contractor drivers for the purpose of those independent contractors providing transportation services, Contractor shall have no right to assign its rights or obligations under this Agreement.

11. Indemnity of the District

Contractor hereby agrees to indemnify and hold the District, its Board Members, employees, agents, officers and assigns, free and harmless from and against all claims, causes of action, liabilities, damages, expenses and costs (including, but not limited to, attorney fees and court costs) arising out of (a) any injury to any person or property sustained by the District and/or Contractor and/or any student(s), in connection with the negligent provision of the Services that are to be provided by the independent contractor drivers pursuant to this agreement, and (b) any injury to any person or property sustained by any person or entity which is caused or alleged to be caused by any act, neglect, fault or omission on the part of Contractor or its agents, affiliates and independent contractors in connection with the provision of the Services, whether or not said injury or damage occurs on or off District property.

12. Independent Contractor

In providing the management and logistical support necessary to coordinate the Services, Contractor shall be and act as an independent contractor in all respects and shall not, for any purpose hereunder, be or act as an employee or agent of the District. Nothing contained in this Agreement shall be deemed to create a partnership or joint venture between either of the parties to this Agreement with each other. Contractor understands and agrees that as an independent contractor, it will not be eligible to participate in any benefits or privileges given or extended by the District to its employees. Contractor shall be solely responsible for the payment when due to appropriate taxing authorities of all federal and state income taxes and related obligations of any nature whatsoever on any consideration paid pursuant to this Agreement, as well as any interest, penalties or other sums due thereon and shall indemnify, and hold the District, its Board Members, Officers, employees and agents free and harmless therefrom.

13. Non-Solicitation

District agrees during the term of this Agreement and for a period of twelve (12) months following the termination of this Agreement, District will not, directly or indirectly, or by acting in concert with others, employ, attempt to employ, or solicit for employment, any employee, independent contractor or other person who has performed services for Contractor at any time during the term of this Agreement.

14. Notices

All notices or other communication required or permitted hereunder shall be in writing, and shall be personally delivered (including by means of professional messenger service) or sent by registered or certified mail, postage prepaid, return receipt requested, or by facsimile or email transmission followed by delivery of a "hard" copy, and shall be deemed received upon the date of receipt thereof.

To District: Contact: Corrin Reynolds
San Jose Unified School District
2222 Unified Way, Bldg. T
San Jose, CA 95125

To Contractor: Craig Puckett, President
American Logistics Company, LLC
520 W Dyer Road, Santa Ana, CA 92707
Ph (866) 999-3371 Fax (714) 891-2502
Email: CPuckett@americanlogistics.com

Notice of change of address shall be given by written notice in the manner detailed in this paragraph 14.

15. Entire Agreement

This Agreement and the attached proposal constitute the entire Agreement between the parties with respect to the provision of the Service and may not be amended except by a writing signed by each of the parties.

16. Waivers

The waiver by either party of a breach or violation of any provisions of this Agreement shall not operate as, or be construed to be, a waiver of any subsequent breach of this Agreement.

17. Attorney Fees

In the event that either party brings an action against the other to enforce any condition or covenant of this Agreement, the prevailing party in such action shall be entitled to recover the court costs and reasonable attorney fees in the judgment rendered in such action.

18. Severability

In the event any of the provisions, or portions, or portions thereof, of this Agreement is held to be unenforceable or invalid, by any court of competent jurisdiction, the validity and enforceability of the remaining provision or portion of it shall not be affected.

19. Further Acts

Each party shall perform any further acts and sign and deliver any further documents that are reasonably necessary to carry out the provisions of this Agreement.

20. Counterparts

This Agreement may be signed in one (1) or more counterparts, each of which shall constitute an original but all of which together shall be one (1) and the same document.

DISTRICT

By: Veronica Lanto

Title: Director of Auxiliary Services

Signed: 

CONTRACTOR

By: Craig Puckett

Title: President

Signed: 

ATTACHMENT 1 - Fees for Service

Contractor shall be paid per **one-way** trip in accordance with the following pricing matrix:

Category	Pricing
Origination Fee	\$35.00
Per Mile	\$2.50
When Applicable...	
Car Seat	\$5.00
Wheelchair	\$25.00
Waiting time (per hour after 15 min.)	\$60.00
Trip minimum (orig. fee + mileage) For trips with 5 students or less	\$65.00
Trip minimum (orig. fee + mileage) For trips with 6-8 students	\$80.00

The Pricing Matrix Applied

Scenario: 5 total students, traveling one-way to school, 15 miles

- Origination Fee (1 x \$35.00) = \$ 35.00
- Mileage Fee (15 mi. x \$2.50 per mile) = \$ 37.50

Total One-Way Cost = \$ 72.50

1. Mileage Charges

Mileage charges are based on driving distance calculations from a third party provider (e.g. Google, MapQuest, Bing, ESRI). The calculations are based on fastest route, and the total is rounded up to the next whole mile. Contractor shall be responsible for plotting the routes collectively, and individually using Contractor's proprietary School Dispatch Software.

Under no circumstances will the District be required to pay for mileage to a pick up or destination other than those authorized by the District.

2. Fuel Surcharges

When the average gasoline price exceeds \$5.00 per gallon, the mileage rate will be increased by calculating 30% of the price of gasoline that exceeds \$5.00 and adding it to the base mileage rate. Thus, if the price of gasoline, according to the gasoline price index, is \$5.20, the increase would be 30% of 20 cents, or 6 cents. The gasoline price index to be used shall be found under the category of "[Your Specific State or Region] U.S. Regular Gasoline Prices (dollars per gallon)" on the following website:

http://www.eia.doe.gov/oil_gas/petroleum/data_publications/wrgp/mogas_home_page.html

3. Invoicing

The invoice shall contain this level of detail and additionally will separate the charges by route showing number of days and total cost. A No Show Report will also be provided with the invoice showing the students who were not transported each day of the billing period. In the

event of a No Show, the trip will be billed at the normal rate. ALC requires 24 hour notice to remove a student from the route.

The District may access a detailed copy of each route including the mileage for each leg of the trip from Contractor's website.

4. When Routes Change or Students are Added or Removed

When it becomes necessary to change a route for any reason, including adding or removing students, Contractor shall plot the revised or new route using Contractor's School Dispatch Software as described above in the most efficient manner based on the information known to Contractor at that time.

Routes will be optimized from time to time as deemed necessary by Contractor or requested by the District. Routes will not be optimized more than once in a month.

If the District adds a Student to be transported, that Student may be individually transported until routes are optimized.

ATTACHMENT 2 – The District requires the following from all INDEPENDENT CONTRACTOR DRIVER(s) working with ALC

As required by the District, prior to beginning services transporting students for the District:

1. Only a Driver of age twenty-one (21) or older holding the required certification and class of driver's license for the vehicle to be operated may transport students under this Agreement.
2. Drivers will utilize identification badges during trip service

ATTACHMENT 3 – The District requires the following DRIVER TRAINING modules for all Independent Contracted Driver(s) working with ALC

As required by the District, prior to beginning services transporting students for the District:

Drivers shall complete awareness courses covering the following subjects:

1. District Contract Review
2. District's Policies and Procedures (as provided by District)
3. Customer Service
4. ADA Sensitivity Training and Disability Awareness

ATTACHMENT 4 – The District requires the following from all VEHICLE(s) providing service

As required by the District, prior to beginning services transporting students for the District:

1. Vehicles will be maintained according to manufactured specifications with records, and/or inspection report(s) made available upon request.
2. Vehicles will be clean at all times during service.
3. Vehicles should have seating capacities of 9 passengers or less. Vehicles able to accommodate between twelve (12) and fifteen (15) passengers are not authorized by the District and shall not be utilized by Contractor at any time for services to be provided under this Agreement.
4. Vehicles shall be marked with window placard or cling stating "Contracted Transportation Provider for SJUSD".

ATTACHMENT 5 – The District requires the following DRUG and/or ALCOHOL TESTING from all Independent Contracted Driver(s) working with ALC

Contractor will ensure that all drivers, prior to performing services to the District, are enrolled in a random drug and alcohol testing program and are compliant with all applicable Federal, State and local regulations related to the class of vehicle operated.

San Jose Unified District Contacts

(Please complete this form and return as soon as possible)

To whom should contract notices be sent?

Name: _____

Address: _____

City: _____ State: _____ Zip: _____ - _____

Email: _____ Fax: _____

Who should our dispatchers contact regarding routine transportation matters?

Name: _____

Email: _____

Phone: _____ Fax: _____

Who should our dispatchers contract regarding emergencies, accidents or student behavior?

Name: _____ ☐ Emergencies ☐ accidents ☐ behavior

Email: _____

Phone: _____ Fax: _____

Name: _____ ☐ Emergencies ☐ accidents ☐ behavior

Email: _____

Phone: _____ Fax: _____

Name: _____ ☐ Emergencies ☐ accidents ☐ behavior

Email: _____

Phone: _____ Fax: _____