



PURCHASING DEPARTMENT

135 Van Ness Avenue, Room 123
San Francisco, Ca. 94102

T 415.241.6468
F 415.241.6487

WWW.SFUSD.EDU

INVITATION FOR BID

THERAPY BUS TRANSPORTATION SERVICES

IFB No. 17204000-16

PRE-BID CONFERENCE (Mandatory)

135 Van Ness Avenue
1st Floor Conference Room
San Francisco, CA 94102

DATE AND TIME:

May 18, 2011 – 10:00 A.M.

MAIL OR DELIVER BIDS TO

San Francisco Unified School District
Purchasing Department
IFB No. **17204000-16**

135 Van Ness Avenue, Room 123
San Francisco, CA 94102

DUE DATE AND TIME:

June 01, 2011 - 2:00 P.M.

- Competitive bids for the specified material and/or service must be received by the San Francisco Unified School District's Purchasing Department, on or before the due date and time specified herein.
- As a requirement of this solicitation, suppliers are required to respond according to the instructions contained in this Invitation for Bid ("IFB"). Suppliers will respond utilizing the format, forms and other criteria indicated in this IFB.
- Contractor responses that do not comply with the format, forms and other criteria indicated, may be rejected. The District reserves the right to refuse all bids.
- Bids transmitted by facsimile, email or other electronic communication will not be considered. Bids received after the due date and time will be rejected.
- To preserve the integrity of this IFB, contractor is requested not to contact any individual within the District, other than the District's Purchaser as indicated in Section 97 ("Addenda / Clarification") herein.

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(* Indicates documents required to accompany bid response, fully executed)

<u>Timeline</u>	<u>Date</u>
Bid Issue	04/28/2011
Bid Mailed	04/29/2011
Bid Advertisement #1	04/29/2011
Bid Advertisement #2	05/06/2011
Pre-bid Conference	05/18/2011
Question & Answer Response	05/25/2011
Bid Due and Opening	06/01/2011
Intent to Award Notice	06/07/2011
Board of Education Submittal	06/15/2011
Board of Education Meeting	06//28/2011
Contract Award Dated for Convenience (Approximately)	06/30/2011

INTRODUCTION

The San Francisco Unified School District ("District"), on behalf of the District's Transportation Department, is seeking a qualified contractor to furnish curb-to-curb transportation services to special needs students of the San Francisco Unified School District who are receiving AB3632 therapy services within the City and County of San Francisco.

In the current school year, there are approximately one hundred and forty (140) such students receiving therapy services, generating approximately two hundred and ten (210) to two hundred and eighty (280) one-way trips per week. The students' appointments are generally scheduled Monday through Friday in the afternoon/after-school hours, with the majority of the transportation services provided between the times of (1:45 pm) and (4:15 pm). This information is from the current school year and contains approximate values, which may increase or decrease.

As an example, for bidder's information only, as of February 22, 2011, current operations are as follows: to provide services to approximately one hundred and forty (140) students, five (5) dedicated school buses are in use, with an additional overflow of seven (7) students being accommodated elsewhere in the existing fleet. Please note that pursuant to Section 64 ("Types and Kinds of Vehicles"), if the vehicle proposed to be used under this contract is other than a vehicle designated as a school bus, it must be designed to carry no more than ten persons including the driver; however, pursuant to Section 60 ("Services Contractor Agrees to Perform"), if the vehicle used is not a vehicle designated as a school bus, then the maximum number of ambulatory student passengers allowed to be transported under this contract is four (4) per vehicle.

The contractor will provide vehicles equipped with all necessary safety devices as required by state and local agencies for the safe transportation of Special Education students.

Pursuant to Section 91 ("Bid Bond"), accompanying each bid shall be a check (cashier's or certified) in the designated amount herein and payable to the San Francisco Unified School District, or an original bid bond. Bond must be in the form provided and must be executed by a surety company, which has obtained a Certificate of Authority (Admitted) from the California Department of Insurance. Upon award of the contract, pursuant to Section 92 ("Performance Bond"), the Contractor is required to execute a corporate surety bond (performance bond) for the faithful performance of the contract. Bonds are subject to approval of the District's Chief Financial Officer as to sufficiency and qualifications of sureties.

The term of this contract shall be from the award date for five (5) full years. This contract may be renewed for up to five years thereafter by mutual agreement of the parties.

The Contractor must have adequate financial resources to perform the contract, be able to comply with the contract performance schedule taking into consideration all existing other business commitments, must meet the minimum requirements set forth in Section 59 ("Minimum Requirements"); be able to provide the services outlined in Section 60 ("Services Contractor Agrees to Perform"); meet all other requirements set forth in this Invitation for Bids; have a satisfactory performance record; have a satisfactory record of integrity and business ethics; have the necessary organization, personnel, experience, accounting and operational controls, technical skills, equipment and facilities; and be otherwise qualified and eligible to receive an award under applicable state and federal laws and regulations.

Suppliers should read this invitation for bid (IFB) carefully and review all instructions contained herein. Incomplete or incorrect bids may be rejected as not conforming to the requirements of the bid. Bids submitted on other than the prescribed forms contained in this bid will be rejected. Suppliers may copy the forms contained in this bid for use in their bid submission, but substituted forms or formats are unacceptable. The District reserves the right to refuse all bids.

CONTRACT PROPOSAL (Indefinite Quantity)

**RETURN ONE SIGNED ORIGINAL
COPY OF THIS PAGE AND THE
REQUIRED DOCUMENTS**

BIDS WILL BE OPENED AT 2:00 P.M., June 01, 2011

**AT: SAN FRANCISCO UNIFIED SCHOOL DISTRICT
PURCHASING DEPARTMENT
135 VAN NESS AVENUE, ROOM 123
SAN FRANCISCO, CA 94102
TEL: 415-241-6468
FAX: 415-241-6487**

**PROPOSAL NO. 17204000-16
DATE: 04/28/2011**

DELIVER BID, properly executed, to Purchaser, prior to opening time, in sealed envelope. Write the IFB/Contract Proposal Number on the outside of the envelope. Include one completed and signed copy of this Contract Proposal Page. Include other pages as indicated. Retain Bidder's Duplicate copy for your file.

DO NOT INCLUDE SALES OR EXCISE TAXES IN BID PRICES. (See Section 33, "Taxes; Payment of Taxes.")

Upon receipt of a Contract Acceptance, the undersigned hereby agrees to furnish all articles and/or services within the dates specified, in the manner and at the prices stated, in accordance with the bid and contract proposal general and special terms and conditions, which together with the executed Contract Acceptance, constitute the Contract between the District and the undersigned, when authorized by the Board of Education and funds are certified by the District's Chief Financial Officer.

Name under which business is conducted _____

Business Street Address _____ Tel: _____

_____ City State Zip Code

IF SOLE OWNER, sign here:

I sign as sole owner of the business named above.

IF PARTNERSHIP, sign here:

The undersigned certify that we are partners in the business named above and that we sign this contract with full authority so to do. (One or more partners sign)

IF CORPORATION, execute here:

The undersigned certify that they sign this contract with full and proper authorization so to do.

Corporate Name _____

Signed _____ Title _____

Signed _____ Title _____

Incorporated under the laws of the State of _____

Do you have an affirmative Action Policy? _____

GENERAL TERMS AND CONDITIONS (BID AND CONTRACT)**INTRODUCTION**

The San Francisco Unified School District and San Francisco County Office of Education ("District") is the school district for the City and County of San Francisco and serves approximately 55,000 students at its elementary schools, middle schools, high schools and childcare sites. In addition to the District's administrative headquarters at 555 Franklin Street, there are several administrative sites located within the City.

BID FORM

1. The Purchaser will furnish a blank Bid Form to the bidder. The form must be properly executed and delivered prior to the time set for bid opening to receive consideration for an award.
2. Prices should be clearly written by typewriter or pen and ink.

BONDS

3. Bonds are subject to approval of the District's Chief Financial Officer as to sufficiency and qualifications of sureties.

ALTERNATES

4. When the name of manufacturer, brand, or make, with or without model number, is used in describing any item in Contract Proposal, bids for equal articles will be considered unless otherwise stated. The Purchaser shall be the sole judge as to whether such alternate articles are acceptable. Unless the bidder states to the contrary, articles offered would be assumed to be the specific articles named in the proposal. If not offering the specific article named, bidder should enclose with bid full information, specifications and descriptive data on items offered.
5. The Purchaser reserves the right to permit deviations from the specifications if an article offered is substantially in accord with the specifications and is deemed by the Purchaser to be of as good quality and as fully satisfactory for its intended use as an article fully meeting specifications. Unless exceptions are noted by bidder, the article offered will be assumed to be in accord with specifications.

SAMPLES

6. Articles offered as equal to District sample must fully conform thereto; said District samples may be inspected at the place designated by the Purchaser.
7. Samples must be furnished as required by Contract Proposal. Those submitted by successful bidders may be retained for testing or checking against deliveries, in which case allowance will be made to Contractor.
8. Each sample shall be plainly marked in a durable manner with the name of the bidder; the IFB/Contract Proposal Number, and the item number.
9. Submitted sample will be assumed exactly what bidder proposes to furnish unless otherwise clearly indicated by the bidder. The Purchaser will determine sufficiency of sample.
10. Sample shall not be enclosed with Contract Proposal, and Contract Proposal shall not be wrapped in package with sample.

DELIVERIES

11. F.O.B. destination in San Francisco, INSIDE DELIVERY, unless otherwise specified.

DEFAULT; REMEDIES

12. On or after any event of default, District shall have the right to exercise its legal and equitable remedies, including without limitation, the right to terminate this Contract pursuant to 35 ("Termination") herein or to seek specific performance of all or any part of this Contract. In addition, District shall have the right (but no obliga-

tion) to cure (or cause to be cured) on behalf of the Contractor any event of default. Contractor shall pay to District on demand all costs and expenses incurred by District in effecting such cure, with interest thereon from the date of incurrence at the maximum rate then permitted by law. District shall have the right to offset from any amounts due to Contractor under this Contract or any other contract between District and Contractor all damages, losses, costs or expenses incurred by District as a result of such event of default and any liquidated damages due from Contractor pursuant to the terms of this contract or any other contract between District and Contractor. Any such offset by District will not constitute a waiver of any other remedies the District may have against Contractor for financial injury or otherwise. All remedies provided for in this Contract may be exercised individually or in combination with any other remedy available hereunder or under applicable laws, rules and regulations. The exercise of any remedy shall not preclude or in any way be deemed to waive any other remedy.

INDEMNIFICATION

13. Contractor shall indemnify and hold harmless the District, its Board, officers, employees and agents from, and, if requested, shall defend them against any and all claims, demands, liabilities, obligations, losses, damages, judgments, costs or expenses (including legal fees, consultants and costs of investigation) (collectively "Claim"), whether actual or alleged, arising directly or indirectly from or in any way connected with the performance of this Agreement, including but not limited to any Claim for personal injury, death, property damage, loss of profits, infringement upon intellectual property rights, failure to comply with the criminal background check requirements of Education Code section 45125.1 and/or disclosure of confidential information which might be obtained by Contractor or Contractor's agents or employees during the performance of this Agreement.
14. Notwithstanding the foregoing, Contractor shall have no obligation under this Section with respect to any Claim that is caused by the active negligence or willful misconduct of District and which is not contributed to by any act or omission (including any failure to perform any duty imposed by law) by Contractor or Contractor's agents or employees.

INSPECTIONS

15. All articles and services shall be subject to inspection and acceptance or rejection by the Purchaser or District's Director of Transportation or designee.

FAILURE TO DELIVER

16. When Contractor fails to deliver an article or service of the quality, in the manner or within the time called for in the Contract, such article or service may be bought from any source by the Purchaser and if a greater price than that named in the Contract be paid for such article or service the excess price will be charged to and collected from the Contractor or sureties on Contractor's bond if bond has been required; or the District may terminate the Contract for default; or the District may return deliveries made and receive a refund. Nothing in this Section shall preclude, limit, or waive any other remedy or remedies available to the District.

PRICE LIST DISCOUNTS

17. When bids are based on the process contained in a catalog or price list, bidder shall furnish copies as required herein. Contractor shall furnish additional lists as required. Bids will be considered offering discounts from a price list other than specified provided that the alternate price list can be readily compared on an overall basis with the specified price list. Bidder's price list must remain firm during the term of the Contract.

LIABILITY OF DISTRICT

18. DISTRICT'S PAYMENT OBLIGATIONS UNDER THIS AGREEMENT SHALL BE LIMITED TO THE PAYMENT OF THE COMPENSATION PROVIDED UNDER THIS CONTRACT. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, IN NO EVENT SHALL THE DISTRICT BE LIABLE, REGARDLESS OF WHETHER ANY CLAIM IS BASED ON CONTRACT OR TORT, FOR ANY SPECIAL, CONSEQUENTIAL, INDIRECT OR INCIDENTAL DAMAGES, INCLUDING BUT NOT LIMITED TO, LOST PROFITS, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE SERVICES PERFORMED IN CONNECTION WITH THIS AGREEMENT.

ITEM, AGGREGATE BIDS

19. Any bidder may bid separately for any item unless otherwise provided.
20. Bidders may make offer for award in an aggregate of several or all items unless otherwise provided.

OPENING OF BIDS

21. The Purchaser will open bids at the hour and place stated in the advertisement in the presence of all bidders who attend.
22. Bidders may inspect the bids after tabulation, unless the bid has been cancelled.

FIRM PRICES

23. Prices/quotations must be firm, and shall be in effect for a period of not less than ninety (90) days from the date of bid opening. Upon award, prices will be in effect for the term of the Contract.

SEPARATE AND AGGREGATE AWARDS: REJECTION OF BIDS

24. The Purchaser may make awards on separate items or in an aggregate of several or all items unless otherwise specified herein.
25. The Purchaser reserves the right to reject any and all bids, and to waive any irregularities or informalities in any bid or in the bidding.

CASH DISCOUNTS

26. Cash Discount (discount for prompt payment) will be taken into consideration in determining the low bid under the following conditions:
 - A. Discounts, if offered, must be for at least a thirty (30) day period from receipt of materials or services in order to be considered in awarding bids. This does not preclude vendors from offering discounts for lesser periods to expedite payments.
 - B. The discount period will start upon date of completion of delivery of all items on any order or other authorization certified by the Purchaser or upon date of receipt of properly prepared invoices covering such deliveries, whichever is later.
 - C. Payment is deemed to be made for the purpose of earning the discount on the date of mailing the District warrant or check.
27. Whether or not the discount is taken into consideration in determining the low bid, it will be deducted from the payment in accordance with the provision of Section 26(B) and (C) ("Cash Discounts") above, unless otherwise provided by bidder.
28. It is understood and agreed that no additional charge shall accrue against the District in the event that the District does not make payment within any time specified by bidder.

TAXES; PAYMENT OF TAXES

29. The District is exempt from federal excise tax except on articles for resale. Contractor will enter state and local sales or use tax, and excise tax if applicable on invoices, but neither should be included in bid prices. Payment of any taxes, including California Sales and Use Taxes, levied upon this Contract, the transaction, or the services delivered pursuant hereto, shall be the obligation of the Contractor and at no additional cost to the District.

TERM BID – QUANTITIES

30. This is a term, indefinite quantity proposal. Unless otherwise specified herein, deliveries will be required and at times as ordered during the period of the Contract. Estimated quantities are approximate only. The right is reserved to purchase any greater or lesser quantity, as the interests of the District may dictate, and to the extent permitted under Section 33 ("Payment for Services Rendered").

31. Requirements for use outside San Francisco may be excluded at the Purchaser's option unless otherwise provided in bid. Purchaser reserves the right to make minor purchases of articles from other than the Contractor when Purchaser determines that such articles are immediately needed or that it is obviously not practical to purchase against the Contract.

PAYMENT FOR SERVICES RENDERED

32. Payment by the District will be made monthly in arrears for services satisfactorily rendered by the Contractor after receipt of properly documented invoices. Invoices submitted by Contractor must be in a form acceptable to the District. Contractor will be paid for the actual number of transportation trips satisfactorily provided to students to take them to/from therapy services as requested by the District pursuant to this Contract, and except as pursuant to Section 72 ("Liquidated Damages Missed Trip").
33. Pursuant to Section 30 ("Term Bid – Quantities") and Section 81 ("No Minimum or Maximum Quantities or Limitations upon Number of Orders") herein, the District may request an increase or decrease in the number of students to be transported to/from therapy and/or in the number of trips to/from therapy per student under this Contract (based upon students' Individual Educational Plans), and the Contractor must comply with such requests, except that:
- A. If such request for an increase in services will result in an increase in any one school year of ten percent (10%) or more of the original contract price pursuant to Section 58 ("Estimated Annual Contract Value") herein, such request shall be valid only upon written modification of this Contract pursuant to Section 45 ("Modification of Agreement"). It shall be the responsibility of the Contractor to ensure that due to an increase in District orders the original estimated annual value of the Contract is not exceeded by ten percent (10%) or more in any one school year. Any work performed in excess of said amount in a school year shall not be compensated unless pursuant to a written modification as in this Section.

TERM OF AGREEMENT

34. The term of the Contract shall be from award date, for five full years. This Contract may be extended for a period or periods of up to five (5) additional years by mutual agreement of the Parties.

TERMINATION

35. In the event of Contractor default pursuant to Section 54 ("Contractor Default") of this Contract, wherein Contractor fails to perform any of its obligations under this Contract, in addition to any other remedies available to the District, the District through the Purchaser may terminate this Agreement, and all of the Contractor's rights hereunder ended. Termination shall be effective ten (10) days after Contractor's receipt of written notice of termination from the District delivered pursuant to Section 55 ("Notice to the Parties"). No new work will be undertaken, and no new deliveries will be made, as of the effective date of termination. In the event of termination for cause, the Contractor shall be paid for those services performed under this Contract to the satisfaction of the District up to the effective date of the termination. . However, pursuant to Section 12 ("Default; Remedies") herein, District may offset from any such amounts due Contractor any costs to District arising from Contractor's default and may otherwise demand payment from Contractor of such costs.
36. The District may terminate this Contract in whole or in part for District's convenience and without cause at any time by giving Contractor thirty (30) days written notice of such termination. The notice shall specify the date on which termination shall become effective. In no case shall the termination become effective in fewer than thirty (30) days from the date that the notice is deemed received pursuant to Section 55 ("Notice to the Parties"). In event of termination for convenience, Contractor will be paid for those services performed, or deliveries made, pursuant to this Contract and to satisfaction of District up to the specified date of termination. In no event will District be liable for costs incurred by Contractor after the specified date termination. Such nonrecoverable costs include, but are not limited to, anticipated profits on this Contract, post-termination employee salaries, post-termination administrative expenses, or any other costs which is not reasonable or authorized under this Section. This Section shall not prevent Contractor from recovering costs necessarily incurred in discontinuing further work, or canceling further deliveries, under the Contract after receipt of the termination notice.

ENTIRE CONTRACT; SEVERABILITY

37. All of the agreements between the Parties are included herein and no warranties, expressed or implied, representations, promises or statements have been made by either Party unless endorsed here in writing and no change or waiver of any provision hereof shall be valid unless made in writing and executed in the same manner as the Contract. Should the application of any provision of this Contract to any particular facts or circumstances be found by a court of competent jurisdiction to be invalid or unenforceable, then (a) the validity of the other provisions of this Contract shall not be affected or impaired thereby, and (b) such provision shall be enforced to the maximum extent possible so as to effect the intent of the Parties and shall be reformed without further action by the Parties to the extent necessary to make such provision valid and enforceable.

ASSIGNMENT

38. The Contractor shall not assign or transfer by operation or law or otherwise any or all of its rights, including the right to receive payment, burdens, duties or obligations without the prior written consent of the District's Purchaser. The District's consent shall be by resolution of the Board of Education.
39. Any assignment of the Contract by the Contractor with the approval of the District shall be subject to the terms and conditions hereof and to the rights of the District contained in this Contract. No transfer or assignment of the Contract by the Contractor shall release the Contractor from its obligations hereunder.

INDEPENDENT CONTRACTOR

40. Contractor or any agent or employee of Contractor shall be deemed at all times to be an independent contractor and not an employee of the District. Contractor shall be wholly responsible for the manner in which it performs the services required by District under this Contract. Contractor or any agent or employee of Contractor shall not have employee status with the District, nor be entitled to participate in any plans, arrangements, or distributions by District pertaining to or in connection with any retirement, health, or other benefits that District may offer its employees. Contractor or any agent or employee of Contractor is liable for the acts and omissions of itself, its employees and its agents. Contractor shall be responsible for all obligations and payments, whether imposed by federal, state or local law, including but not limited to, FICA, income tax withholdings, unemployment compensation, insurance and other similar responsibilities related to Contractor's performing services and work, or any agents or employee of Contractor providing same. Nothing contained in this Agreement shall be construed as creating an employment or agency relationship between the District and Contractor or any agent or employee of Contractor. Any terms in this Contract referring to direction from District shall be construed as providing for direction as to policy and the result of Contractor's work only, and not as to the means by which such a result is obtained. District does not retain the right to control the means or the method by which Contractor performs work under this Agreement. If any governmental authority should, nevertheless, determine that Contractor is an employee, then the District's payment obligations hereunder shall be reduced so that the aggregate amount of payments directly to Contractor and to the applicable governmental authority does not exceed the maximum amount of compensation specified in this Agreement. Contractor shall refund any amounts necessary to effect such reduction.

INCIDENTAL AND CONSEQUENTIAL DAMAGES

41. The Contractor shall be responsible for incidental and consequential damages resulting in whole or in part from Contractor's acts or omissions. Nothing in this agreement shall constitute a waiver or limitation of any rights that the District may have under applicable law.

BUDGET AND FISCAL PROVISIONS

42. The Contractor understands and agrees as follows:
- A. This Agreement is subject to the budget and fiscal policies, regulations and practices of the District, and approval and appropriation of funds for this Agreement. Charges will accrue only after written authorization is provided by the District's Board of Education, proper execution of this Agreement by the parties, and certification by the Chief Financial Officer as to the availability of funds.
- B. The amount of the District's obligation hereunder shall not at any time exceed the terms herein stated.

- C. The District has no obligation to renew this Agreement after expiration of its term. If funds are appropriated for a portion of a fiscal year, this Agreement will terminate, without penalty, at the end of the term for which funds are appropriated.
- D. Contractor's assumption of risk of possible non-appropriation is part of the consideration for this Agreement.
- E. This Section controls against any and all other provisions of this Agreement.

CONFLICT OF INTEREST

43. Contractor understands the following and certifies the following:
- A. Contractor understands and certifies that it does not know of any facts which constitute a violation of the California Political Reform Act, which states in part that "[N]o public official at any level of state or local government shall make, participate in making or in any way attempt to use his/her official position to influence a governmental decision in which he/she knows or has reason to know that he/she has a financial interest." (Cal. Govt. Code section 87100 *et seq.*) Furthermore, Contractor certifies that no such current or former Board member or employee will derive any compensation, directly or indirectly, from this Agreement.
 - B. Contractor also hereby certifies that to its knowledge, no current Board member or employee of the San Francisco Unified School District, and no one who has been a Board member or an employee of the District within the last two years, has influenced or sought to influence the awarding of this Agreement to Contractor, except as allowed under his/her official duties. Contractor understands that any violation of this Section shall make the Agreement voidable by the District.

PROPRIETARY AND CONFIDENTIAL INFORMATION OF THE DISTRICT

44. The Contractor understands and agrees as follows:
- A. In connection with this Agreement, the Contractor may have access to private or confidential information which may be owned or controlled by the District and that such information may contain proprietary details, the disclosure of which to third parties will be damaging to the District, its employees or students. Contractor also understands and agrees that the disclosure of such information may violate state and/or federal law and may subject the Contractor to civil liability. Consequently, Contractor agrees that all information disclosed by the District to the Contractor shall be held in strict confidence and used only in performance of the Agreement, unless disclosure is required by law or court order. Contractor shall exercise the same standard of care to protect such information as is used to protect its own proprietary data.
 - B. Contractor shall comply at all times with the requirements of the Family Educational Records Privacy Act ("FERPA") and relevant state law regarding the confidentiality and handling of student records, including but not limited to California Education Code sections 49073 and sequential. Contractor shall only access personally identifiable student information pursuant to parent consent, legitimate educational interest pursuant to the performance of this Contract, and/or other applicable provisions federal and state law allowing access to personally identifiable student information. Contractor shall not re-disclose personally identifiable student information unless pursuant to federal and state law. Contractor shall not use such student information or data for any purpose other than the District's purposes as specified in this Agreement. Failure to comply with this Section may constitute a material breach if so deemed by the District.

MODIFICATION OF AGREEMENT

45. This Agreement may not be modified, nor may compliance with any of its terms be waived, except by written instrument executed and approved in the same manner as this Agreement. The District may order changes in the work herein required and may order extra materials and extra work in connection with the performance of the Contract and the Contractor must comply with such orders, except that:
- A. If changes in services are of such a nature as to increase or decrease the cost of any part of the work, the price fixed in the Contract may be increased or decreased by such amount as the Contractor and the Purchaser may agree upon as the reasonable and proper allowance for the increase or decrease in the cost of work, and

- B. No order for any alteration, modification, or extra which will increase or decrease the cost of the services shall be valid unless the resulting increase or decrease in price shall have been agreed upon in writing and approved by the Purchaser and the District's Chief Financial Officer has certified the availability of funds pursuant to Section 42 ("Budget and Fiscal Provisions"). No oral statement of any person whomsoever shall in any manner or degree modify or otherwise affect the terms of this Contract.
- C. Any modifications thus ordered by the District and agreed to by the Contractor must be approved by the Board of Education, and the resultant Contract modification must be executed by the District and the Contractor.

CONTRACT INTERPRETATION; CHOICE OF LAW/VENUE

46. Should any questions arise as to the meaning and intent of this Agreement, the matter shall be referred to the Purchaser who shall decide the true meaning and intent of the Contract.
47. This Contract shall be deemed to be made in, and shall be construed in accordance with the laws of the State of California. The venue for all claims arising out of this Contract shall be in San Francisco.

SUBMITTING FALSE CLAIMS; MONETARY PENALTIES

48. Pursuant to Government Code §12650 et. seq., any person, including a contractor, subcontractor or a consultant, who submits a false claim, shall be liable to the District for three times the amount of damages which the District sustains because of the false claim. A person who commits a false claim act shall also be liable to the District for the costs of a civil action brought to recover any of those penalties or damages, and may be liable to the District for a civil penalty of up to ten thousand dollars (\$10,000) for each false claim. A person will be deemed to have submitted a false claim to the District if the person:
- A. knowingly presents or causes to be presented to an officer or employee of the District, a false claim for payment or approval;
 - B. knowingly makes, uses, or causes to be made or used a false record or statement to get a false claim paid or approved by the District;
 - C. conspires to defraud the District by getting a false claim allowed or paid by the District;
 - D. has possession, custody, or control of public property or money used or to be used by the District and knowingly delivers or causes to be delivered less property than the amount for which the person receives a certificate or receipt;
 - E. is authorized to make or deliver a document certifying receipt of property used or to be used by the District and knowingly makes or delivers a receipt that falsely represents the property used or to be used;
 - F. knowingly buys, or receives as a pledge of an obligation or debt, public property from any person who lawfully may not sell or pledge the property;
 - G. knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the District; or
 - H. is a beneficiary of an inadvertent submission of a false claim to the District, subsequently discovers the falsity of the claim, and fails to disclose the false claim to the District within a reasonable time after discovery of the false claim.

PAYMENT DOES NOT IMPLY ACCEPTANCE OF WORK

49. No payment shall in any way lessen the liability of Contractor to remedy or replace unsatisfactory work, service, equipment, or materials, if the unsatisfactory character of such work, service, equipment or materials was not detected at the time of payment. Service, materials, equipment, components, or workmanship that do not conform to the requirements of this Agreement may be rejected by the District and in such case must be remedied or replaced by Contractor without delay at no additional cost to the District. Nothing in this Section shall preclude, limit, or waive any other remedy or remedies available to the District.

LAWS AND REGULATIONS

50. In the performance of this Contract, Contractor shall keep itself informed of, and at all times comply with, all applicable Federal, State, and Local laws, ordinances, regulations and other legal requirements that are in effect as of the commencement of the term of this Agreement and as may be amended from time to time, including but not limited to the Safety Orders of the California Division of Industrial Safety.

SUBCONTRACTING

51. The Contractor is prohibited from subcontracting this Contract or any services provided pursuant to this Contract unless such subcontracting is agreed to in writing and executed in the same manner as this Contract. No Party on the basis of this contract shall in any way contract on behalf of or in the name of the other Party of this Contract, and violation of this provision shall confer no rights on any Party and any action taken shall be void.

NON-DISCRIMINATION; COMPLIANCE WITH AMERICANS WITH DISABILITIES ACT

52. Contractor acknowledges and agrees as follows:
- A. Contractor agrees that it shall not discriminate on the basis of sex, race, religious creed, national origin, age, marital status, sexual orientation, gender identity, AIDS/ARC/HIV status, or disability, in its performance under this Contract.
 - B. Contractor acknowledges that, pursuant to the Americans Disabilities Act (ADA), programs, services and other activities provided by a public entity to the public, whether directly or through a contractor, must be accessible to the disabled public. Contractor shall provide the services specified in this Agreement in a manner that complies with the ADA and any and all other applicable federal, state and local disability rights legislation. Contractor agrees not to discriminate against disabled persons in the provision of services, benefits or activities provided under this Agreement and further agree that any violation of this prohibition on the part of Contractor, its employees, agents or assigns will constitute a material breach of this Agreement.

BANKRUPTCY

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

CONTRACTOR DEFAULT

54. If the Contractor fails fulfill its obligations under this Contract, whether or not said obligations are specified in this Section, the District reserves the right to: (a) terminate this Contract at no cost to District; (b) take action in accordance with Section 35 ("Termination") herein; or (c) exercise any other legal or equitable remedy.

NOTICE TO THE PARTIES

55. District and Contractor understand and agree that notice to the Parties shall be as follows:
- A. Except as otherwise expressly provided herein, any notices given under this Agreement shall be effective only if in writing and given by delivering the notice in person, by sending it via first class mail or certified mail with a return receipt requested, or via nationally-recognized overnight courier that guarantees next day delivery and provides a receipt therefore, with postage prepaid, addressed as in Subsection D of this Section, below.
 - B. Notices herein shall be deemed to have been received two (2) business days after the date when they shall have been mailed if sent by first class mail, certified mail or overnight courier, or upon the date personal delivery is made.
 - C. Either party may change the address to which notice is to be sent by giving written notice thereof to the other party.
 - D. Notice to the Parties shall be addressed as follows (or such alternative address as may be provided in writing):

NOTICE TO THE DISTRICT:

SITE/DEPARTMENT	Transportation Department
HEAD OF SITE/DEPARTMENT	Director, Dennis Garden
CONTACT PERSON	Director, Dennis Garden
STREET ADDRESS	1000 Selby Street
CITY, STATE, ZIP	San Francisco, CA 94124
TELEPHONE/FAX	(TEL) 415.695.5725 x1001 (FAX) 415.695.5759
EMAIL ADDRESS	gardend@sfusd.edu

NOTICE TO THE DISTRICT CONTRACTS OFFICE:

San Francisco Unified School District
Contracts Office
135 Van Ness Street, Room 102
San Francisco, CA 94102
415-355-6963 (TEL) 415-522-6711 (FAX)

NOTICE TO THE CONTRACTOR:

CONTRACTOR	
CONTACT NAME	
STREET ADDRESS	
CITY, STATE, ZIP	
TELEPHONE/FAX	(TEL) (FAX)
EMAIL ADDRESS	

FILING OF PROTESTS

56. Protests relating to the content of this Invitation for Bid (IFB) document must be filed within ten (10) calendar days after the date the IFB is first advertised. Protests relating to a recommendation for award solicited by this IFB must be filed by an "Interested Party" within five (5) calendar days after the staff's written recommendation and notice of intent to award is issued to the proposing firms. The date of filing shall be the date of receipt of protests or appeals by the District.

All protests shall be filed in writing with Mr. Rod Sarmiento, Director of the Purchasing Department, San Francisco Unified School District, 135 Van Ness Avenue, Room 123, San Francisco CA 94102. No other location shall be acceptable.

SPECIAL TERMS AND CONDITIONS (BID AND CONTRACT)

57. INTENT

The San Francisco Unified School District "District" as mentioned herein, on behalf of the San Francisco Unified School District's Transportation Department, will receive sealed bids to furnish curb to curb transportation services to select special need students who are receiving therapy services.

58. ESTIMATED ANNUAL CONTRACT VALUE

The estimated annual contract value is \$400,000.00.

59. MINIMUM REQUIREMENTS

- A. The District may make such investigation as it deems necessary prior to the award of this Contract to determine the conditions under which the work will be performed. The Purchaser will take into consideration, but not be limited to, the minimum requirements listed in this Section below. Contractor must submit to the District documentation that establishes, and which can be verified, that Contractor meets the following minimum requirements:
- i. **General Experience.** A minimum of five (5) continuous years of experience in providing transportation services.
 - ii. **Variable Route Experience.** Of the five (5) years of experience, at least the most recent three (3) years must be continuous years of experience in providing variable route transportation services as defined herein. As used here, "variable route" means transportation services where the pick-up location varies from day-to-day, and/or the drop-off location varies from day-to-day, and, in addition, the passenger list varies over time. An example of this would be as follows. Monday: pick-up passenger at school, drop off at therapy appointment, then pick up after therapy and drop off at home. Tuesday: pick up passenger at home, drop off at therapy, then pick up after therapy and drop off at school. Wednesday: pick up passenger at school, drop off at therapy, then pick up after therapy and drop off to afterschool program. As used here, "variable route" does NOT mean fixed route, shuttle bus style transportation services where the route is generally the same from day-to-day, e.g. from Point A, to Point B, to Point C, then back to Point A where the same route starts all over again.
 - iii. **Volume Experience.** Of the five (5) years of experience, at least the most recent three (3) years must be continuous years of experience providing transportation services to a volume of riders comparable to, or greater than, the volume listed in Section 60 ("Services Contractor Agrees to Perform") herein as follows: "In the current school year, there are approximately one hundred and forty (140) such students receiving therapy services, generating approximately two hundred and ten (210) to two hundred and eighty (280) one-way trips per week. The students' appointments are generally scheduled Monday through Friday in the afternoon/after-school hours, with the majority of the transportation services provided between the times of (1:45 pm) and (4:15 pm). This information is from the current school year and contains approximate values, which may increase or decrease."
- B. Satisfaction of these minimum requirements is a prerequisite, however, bidders must also demonstrate their ability to meet the other requirements set forth in this Invitation for Bids.
- C. The District reserves the right to inspect Contractor's place of business, including equipment and records, prior to award or at any time during the contract term or any extension or renewal thereof, to aid

Purchaser or designee in determining Contractor's capabilities, qualifications and compliance with requirements.

60. SERVICES CONTACTOR AGREES TO PERFORM

The services under this Contract shall consist of furnishing curb-to-curb transportation services to special needs students of the San Francisco Unified School District who are receiving AB3632 therapy services within the City and County of San Francisco.

In the current school year, there are approximately one hundred and forty (140) such students receiving therapy services, generating approximately two hundred and ten (210) to two hundred and eighty (280) one-way trips per week. The students' appointments are generally scheduled Monday through Friday in the afternoon/after-school hours, with the majority of the transportation services provided between the times of (1:45 pm) and (4:15 pm). This information is from the current school year and contains approximate values, which may increase or decrease.

In providing services, the Contractor shall:

- A. Pick up and deliver students only at locations designated by representatives of the District Transportation Department, and/or according to the schedule and routes established by the District.
- B. Provide notification to the parents and the school of students' scheduled pick-up and drop-off times prior to the initiation of service, or prior to any change in service.
- C. At the District's discretion the Contractor shall provide copies of the daily route assignments.
- D. If the vehicle used is not a vehicle designated as a school bus, the Contractor shall transport no more than four (4) ambulatory students per trip, with a maximum travel time of forty (40) minutes to therapy and sixty (60) minutes from therapy.
- E. Under no circumstances are District students to be mixed with other passengers.
- F. The Contractor shall drop off students only to a receiving adult at the therapy center, school or home, unless instructions to the contrary are transmitted to the Contractor by the District's Director of Transportation.
- G. At no time is a student to be left unattended in the vehicle.
- H. Provide buses equipped with all necessary safety devices as required by state and local agencies for the safe transportation of Special Education students including, but not limited to, three-point shoulder-and-lap seat belts, which will be maintained in working order.
- I. Provide the services on days of the school calendar or as directed by the District's Transportation Director.

61. THE CONTRACT PRICE

The District agrees to pay and the Contractor agrees to accept as full payment for its performance of the work under the Contract, as defined herein, the actual cost to the District for the transportation services in accordance with the Contractor's bid price.

62. CONTRACTOR LICENSE

Contractor must provide the District with proof of a valid and current license prior to receiving award. Contractor's license must correspond to the type of vehicles the Contractor will use in performing this Contract, per Section 64 ("Types and Kinds of Vehicles"). Contractor's license must be continuously in full force and effect during the duration of the Contract. Contractor's license must not be currently under probation or suspension. Failure to maintain these requirements may be considered a breach of contract and grounds for termination.

63. PRICE ADJUSTMENTS

The price charged by Contractor per one-way trip under this Agreement shall be subject to an upward or downward adjustment once each year, commencing prior to the anniversary of the date of the commencement of the initial Term of this Agreement, and prior to the anniversary of each twelve (12) month period thereafter. The percentage increase shall not exceed the All Consumer Price Index (CPI) of the San Francisco Metropolitan Area, as reported by the U.S. Department of Labor for the June-to-June period immediately preceding the adjustment date. In no event shall the increase exceed five percent (5%).

64. TYPES AND KINDS OF VEHICLES

- A. If the vehicle proposed to be used under this Contract is other than a vehicle designated as a school bus, it must be designed to carry no more than ten persons including the driver. On a scheduled basis (maximum 45 days apart) each vehicle shall be inspected by a fully qualified mechanic who will by written report certify that the vehicle is in top mechanical section and safe for the transport of students covered by this Contract. A copy of this report shall be forwarded to the District's Transportation Department, as addressed in Section 55 ("Notice to the Parties").
- B. All vehicles shall be equipped with three-point shoulder-and-lap seat belts and all safety devices required by Federal, State and Local laws.
- C. All buses shall be in excellent mechanical condition and appearance at the beginning of the Contract and shall be maintained in that condition at all times during the term of the Contract. The Superintendent and/or his designee reserve the right to inspect motor vehicle equipment at any time during the term of the Contract. Vehicles which are deemed to be unfit for providing the required service, or which do not have a current certification, shall be replaced by the Contractor with another vehicle of the appropriate size, type and capacity and of proper condition and appearance. All required Special Education equipment shall be installed on all such replacement vehicles. If the District inspects the vehicles or does not inspect the vehicles it does not relieve the Contractor of the responsibility of meeting the requirements of this Agreement.
- D. Mandated Changes - If during the period of the Contract, any installation or modification of equipment is required due to a change in the law or applicable rules and/or regulations, such modification or installation shall be made by the Contractor promptly without notification from the District. The cost of such modification and/or installation shall be borne by the Supplier.
- E. The design of vehicles which the Contractor proposes to furnish shall be subject to the approval and acceptance by the District. A vehicle determined by the District to be unsuitable for its intended use shall be replaced by a vehicle of a design acceptable to the District. No increase in bid price will be permitted.
- F. All vehicles, including standby and substitute vehicles, shall be equipped with a two-way communication system capable of covering the area under this Contract.

65. LOCATION OF EQUIPMENT

The Contractor shall maintain the necessary equipment for the performance of the Contract at a suitable location in San Francisco or the immediate vicinity of San Francisco.

66. BUS ROUTES, SCHEDULES, AND OPERATIONS

- A. During the first six months of the Contract, the Contractor agrees to provide the District with periodic reports and studies as requested by the District, and as requested thereafter.
- B. Throughout the term of this Contract, on a daily basis the Contractor shall provide at least one staff person, (who must not be an active driver) to act as the contact person between the Contractor and District.
- C. In order to be in direct communication, prior to the initiation of service, a ring down line shall be established at the Contractor's expense between the Contractor's office (multiple desks) and the District's

Transportation Department (multiple desks). Contractor's ring down line shall be located on more than one desk so that it can be answered at all times.

- D. Immediately upon notification of an accident involving a vehicle operating under this Contract, the Contractor must notify the District's Transportation Department with all available information and must continually update the District, as more information becomes available. Initial accident reports may be delivered verbally. However, a written report, which includes all pertinent information, must be provided to the District by the Contractor as soon as possible, but in no event no later than two (2) business days after the accident. Any Internal communication problems on the part of Contractor shall in no way relieve the Contractor of its obligation to provide sufficient information and notification to the District.
- E. The Contractor shall notify the District Transportation Department in advance of any delay from normal schedule for any reason.
- F. In the event of a lost or missing student, the Contractor must advise the District Transportation Department immediately and provide all assistance requested by the District to locate the student.

67. RELATIONS WITH THE PUBLIC; PROFESSIONAL STANDARDS OF CONDUCT

- a. It is the intent of the District to obtain the best quality transportation available. As such the Contractor shall incorporate the highest standards of performance and safety for the educational and personal well being of the students. The Contractor will cooperate in every manner within its means in maintaining a proper image for its employees. The drivers will always interact with students, parents, teachers and staff in a courteous and professional manner.
- b. Contractor shall provide a description of organizational standards of conduct for employees and shall ensure that employees adhere to them (including but not limited to policies regarding dress, attention to duty, personal visits and prohibited use of cellular telephones for personal use while on duty).

68. DRIVER REQUIREMENTS

- A. All drivers must have a valid driver's license of the appropriate class, and clear a criminal background check in compliance with California Education Code section 45125.1, pursuant to Section 87 of this Contract ("Criminal Background Check; Subsequent Arrest Notification; Tuberculosis Testing"). Contractor shall provide written certification to the District, pursuant to the aforementioned Section 87, that each driver meets the requirements of this Section.
- B. All drivers must have a certificate of a driver's physical fitness including passing a tuberculosis ("TB") test consistent with California Education Code section 49406, pursuant to Section 87 of this Contract ("Criminal Background Check; Subsequent Arrest Notification; Tuberculosis Testing").
- C. All drivers must have a General Public Para-transit Special Driver's Certificate.
- D. All drivers shall be well groomed and shall wear, at all times a company ID badge with name and picture while driving students for the District.
- E. The Contractor shall require all drivers to have accurate timepieces while on duty to maintain established scheduled times.
- F. When children need to be lifted in and out of a vehicle, the Contractor must furnish a driver who is qualified and trained to properly assist such children.
- G. All drivers and relief/standby drivers shall participate in a District-approved, Contractor-provided course of instruction. The course shall include but not be limited to public relations (parents, students and staff), pupil management, disability awareness, sensitivity to students with disabilities.
- H. The Contractor shall, within twenty-four (24) hours after the receipt of written notice from the District, remove any driver and prohibit him or her from conveying any pupils covered by this Contract. Reasons for the District's request for removal may include, but are not limited to, failure of driver to perform

his/her duties under this Contract in a professional manner in accordance with the goals of the District, pursuant to Section 67 ("Relations with the Public; Professional Standards of Conduct") herein.

- I. Annually all drivers performing work under this Contract shall on a random basis be tested for drug and alcohol abuse by the Contractor. Any driver failing to pass this test shall not drive students of the District.
- J. The Contractor will provide, at the request of the District, the following information:
 - i. Documentation that the Contractor has sufficient existing equipment or commitments from suppliers for delivery of any additional equipment required to perform the services covered by this Contract.
 - ii. In the case of additional drivers being required, the Contractor will include a narrative of the schedule for hiring drivers and the screening qualifications.

69. LIST OF PROPOSED PERSONNEL

- A. Prior to the start of services under this Contract, Contractor will provide the District's Transportation Department with a complete list of all personnel assigned to the Contract, including a list of the names and required license numbers of staff that will be driving and transporting students under this Contract.
- B. Throughout the term of this Contract and any extensions or renewals thereof, Contractor must notify the District when a driver ceases to be employed under this Contract, as well as of the name(s) and license number(s) of newly hired drivers working on the Contract, within three (3) business days of any such change. All newly hired drivers must meet the requirements set forth in this Contract, and Contractor must provide to District all required documentation that newly hired drivers meet such requirements.

70. MONITORS

The District reserves the right to provide bus monitors (adult school bus riders) at such times and for such buses, as the District may deem advisable.

71. CONSULTATION SERVICES; OWNERSHIP OF RESULTS

- A. The Contractor agrees to act as a consultant to the District on matters concerning routine organization and operations at no additional cost to the District.
- B. Any interest of the Contractor in studies, reports, memoranda, computation sheets or other documents prepared by the Contractor in connection with services to be performed under this Agreement shall become the property of and will be transmitted to the District. However, the Contractor may retain and use copies for reference and as documentation of its experience and capabilities, but only to the extent Contractor's use does not violate Section 44 of this Agreement ("Proprietary or Confidential Information of the District").

72. LIQUIDATED DAMAGES FOR MISSED TRIP

The Contractor and the District agree that due to the nature of the services to be rendered, it would be impractical and extremely difficult to fix the actual damages under the Contract for "missed trip". Accordingly, there shall be assessed as liquidated damages, and not as penalty that amount.

- A. A "missed trip" is defined as a trip for which services were delayed by fifteen (15) minutes or more. An amount equivalent to 70% of the current trip price shall be assessed and deducted by the District for each missed trip from the amount due the Contractor each month. In the event that the service is delivered so late that a scheduled therapy session is missed, an amount equivalent to 100% of the current trip price shall be assessed and deducted from the amount due the Contractor each month.
- B. Assessment of such deduction by the District shall in no way mitigate the Contractor's responsibility to provide services under this Contract.

73. LOCAL PURCHASES

While this in no way affects the awarding of the Contract, the District, nevertheless, urges the Contractor to purchase all possible supplies, parts, fuel, tires and other items within the City and County of San Francisco whenever it is economically feasible for the Contractor to do so. Should the Contractor abide by this condition, at its option, the District shall not be obligated to purchase or reimburse the Contractor for the inventory of all possible supplies, parts, fuel, tires and other items.

74. PROGRAM FOR TRAINING AND ORIENTATION

Should the District not approve the Supplier's schedule for implementation, both parties will meet to resolve their differences. In any event the Contractor must implement the Contract to the District's satisfaction and in full compliance with the bid requirements.

75. FORCE-MAJEURE CLAUSE

The Contractor will be excused from performance hereunder during the time and to the extent that they are prevented from obtaining or performing the service by an act of God, fire, commandeering of materials and equipment, products, plants or facilities by the Federal or State Government.

Satisfactory evidence must be presented to the District demonstrating that the non-performance was not due to the fault or negligence of the Contractor, and could not have been avoided by the Contractor.

76. UNSCHEDULED CLOSING OF SCHOOLS

The District shall not be obligated to accept or pay for services herein agreed to be furnished by the Contractor on those days when, by direction of the Superintendent, the District's schools are closed to ensure the health and safety of the pupils or for any other lawful reason.

The District agrees to notify the Contractor not later than (5:30 A.M.) on such days of school closures.

77. INSURANCE

- A. Without in any way limiting Contractor's liability pursuant to the "Indemnification" section of this Agreement, prior to award, Contractor shall procure and maintain during the full term of this Agreement, at the Contractor's expense, insurance acceptable to the District and as follows:
- (1) Commercial General Liability Insurance with limits not less than **\$2,000,000 (two million dollars)** each occurrence Combined Single Limit for Bodily Injury and Property Damage (including coverage for claims of sexual abuse and molestation).
 - i. If sexual abuse and molestation coverage carries a sub-limit, that limit must be identified and not less than \$500,000 per occurrence.
 - (2) Commercial Automobile Liability Insurance with limits not less than **\$10,000,000 (ten million dollars)** each occurrence Combined Single Limit for Bodily Injury and Property Damage, including Owned, Non-Owned and Hired auto coverage, as applicable
 - (3) Workers' Compensation Insurance, with Employer's Liability limits not less than **\$1,000,000 (one million dollars)** each accident.
- B. **Commercial General Liability and Business Automobile Liability policies must provide the following:**
- (1) **Name as Additional Insured the San Francisco Unified School District, its Board, officers and employees.**
 - (2) That such policies are primary insurance to any other insurance available to the Additional Insured, with respect to any claims arising out of this Agreement and that such policies apply separately to each insured against who claim is made or suit is brought.
- C. All policies shall provide thirty (30) days advance written notice to the District of cancellation, non-renewal or reduction in coverage to the following office:
- SFUSD Contracts Office
135 Van Ness Street, Room 102

San Francisco, CA 94102

- D. If any policies are written on a claims-made form, Contractor agrees to maintain such coverage continuously throughout the term of this Agreement and, without lapse, for a period of three years beyond the expiration of this Agreement, such that should occurrences during the Agreement term give rise to claims made after expiration of the Agreement, such claims shall be covered.
- E. Should any of the required insurance be provided under a form of coverage that includes a general annual aggregate limit or provides that claims investigation or legal defense costs are included in such general annual aggregate limit, such annual aggregate limit shall be double the occurrence or claims limits specified above.
- F. Should any required insurance lapse during the term of this Agreement, requests for payments originating after such lapse shall not be processed until the District receives satisfactory evidence of reinstated coverage as required by this Agreement, effective as of the lapse date. If insurance is not reinstated, the District may, at its sole option, terminate this Agreement effective on the date of such lapse of insurance.
- G. Before commencing any operations under this Agreement, Contractor must provide the District with the certificates of insurance, an endorsement showing the **additional insured policy**, all with insurers satisfactory to the District, evidencing all coverages set forth above, and shall furnish complete copies of policies promptly upon the District's request. Contractor also understands and agrees that the District may withhold payment for services performed for any violations of the insurance provisions of this Agreement.
- H. Approval of the insurance by the District shall not relieve or decrease the liability of Contractor hereunder.

78. SECTION HEADINGS

The section headings contained herein are for convenience of reference and are not intended to define or limit the scope of any provision of the Contract.

79. NON-WAIVER OF RIGHTS

The omission by either party at any time to enforce any default or right reserved to it, or to require performance of any of the terms, covenants or provisions hereof by the other party at the time designated, shall not be a waiver of any such default or right to which the party is entitled, nor shall it in any way affect the right of the party to enforce such provisions thereafter.

80. GUARANTEED MAXIMUM COSTS

The School District's obligation herein shall not at any time exceed the amount certified by the District for the purpose and period stated in such certification.

- A. Except as may be provided by District policies governing emergency conditions, the San Francisco Unified School District and its employees and officers are not authorized to request the Contractor to perform services or to provide materials, equipment and supplies that would result in the Contractor performing services or providing materials, equipment and supplies that are beyond the scope of the services, materials, equipment and supplies agreed upon in the Contract unless the agreement is amended in writing and approved as required by law to authorize the additional services, materials, equipment or supplies. The District is not required to reimburse the Contractor for services, materials, equipment or supplies that are provided by the Contractor which are beyond the scope of the services, materials, equipment and supplies agreed upon in the Contract and which were not approved by a written amendment to the agreement having been lawfully executed by the San Francisco Unified School District.
- B. The District and its employees and officers are not authorized to offer or promise to the Contractor additional funding for the Contract which would exceed the maximum amount of funding provided for in the Contract for the Supplier's performance under the Contract. Additional funding for the Contract in excess of the maximum provided in the Contract shall require lawful approval and certification by the District. The District is not required to honor any offered or promised additional funding for a contract which

exceeds the maximum provided in the Contract which requires lawful approval and certification of the District when the lawful approval and certification by the District has not been obtained.

- C. The District is not authorized to make payments on any contract for which funds have not been certified as available in the budget or by supplemental appropriation.

81. NO MINIMUM OR MAXIMUM QUANTITIES OR LIMITATIONS UPON NUMBER OF ORDERS

The District does not guarantee orders nor shall the District be required to limit its orders. This is an indefinite quantity bid. Supplier(s) shall not specify minimum or maximum quantities or charges. Unlimited orders within the term of the Contract shall be allowed to the District at the prices resulting from award of a contract, except as provided in Section 33 ("Payment for Services Rendered").

82. QUALIFIED PERSONNEL

Work under this Agreement shall be performed only by competent personnel under the supervision of and in the employment of the Supplier. The Contractor will conform to the District's reasonable requests regarding assignment of personnel, but all personnel, including those assigned at District's request, and shall be supervised by the Supplier.

To the extent, which the Supplier's employees' work performance is unsatisfactory, the District reserves the right to request substitution of another employee that would take this position and perform adequately. The Contractor agrees to replace staff members who are not performing effectively. Verification of staff members' qualifications should be made available to the District upon request.

83. RESPONSIBILITY FOR EQUIPMENT

The District shall not be responsible for any damage to persons or property as a result of the use, misuse or failure of any equipment used by the Contractor, or by any of its employees, even though such equipment be furnished, rented or loaned to the Contractor by the District. The acceptance or use of such equipment by the Contractor or any of its employees shall be construed to mean that the Contractor accepts full responsibility for and agrees to exonerate, indemnify, defend and save harmless the District from and against any and all claims for any damage or injury of any type arising from the use, misuse or failure of such equipment, whether such damage be to the Contractor, its employees, District employees or third parties, or to property belong to any of the above.

84. AUDIT AND INSPECTION OF RECORDS

The Contractor agrees to maintain and make available to the District, during business hours, accurate books and accounting records including computer records relative to its activities under this Agreement. The Contractor will permit the District to audit, examine and make copies and transcripts from such books and records, and to make audits of all invoices, materials, payrolls, records or personnel and other data related to all other matters covered by this Agreement, whether funded in whole or in part under this Agreement. The Contractor shall maintain such data and records in an accessible location and condition for a period of not less than five years after final payment under this Agreement or until after final audit has been resolved, whichever is later. The State of California or any federal agency having an interest in the subject of this Agreement shall have the same rights conferred upon the District by this Agreement.

85. DRUG FREE WORKPLACE POLICY

The Contractor acknowledges that pursuant to the Federal Drug-Free Workplace Act of 1989, the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited on School District premises. The Contractor agrees that any violation of this prohibition by the supplier, its employees, agents or assigns shall be deemed a material breach of contract.

86. DISASTER RECOVERY

Bidder must acknowledge that in the event of a major catastrophe such as an earthquake, the District will receive priority service over non-governmental users. In the event of a major disaster, in coordination with the District, the Contractor will fulfill the obligations of this Agreement to the extent requested by the District and feasible under the circumstances, in the estimation of the District in consultation with the Contractor.

87. CRIMINAL BACKGROUND CHECK; SUBSEQUENT ARREST; TUBERCULOSIS TESTING**A. Criminal Background Check**

- i. Contractor agrees to comply with California Education Code section 45125.1 and sequential sections concerning fingerprinting employees and conducting criminal background checks through the California Department of Justice. The District is extending this requirement to all types of suppliers if they are deemed to have more than limited contact with the District students. The Contractor shall assume all expenses associated with these background checks and shall immediately remove any employee or agent from Contractor or District property who has been arrested or convicted of any serious or violent felony, as defined by the California Penal Code Sections-667.5 and 1192.7.
- ii. This prohibition does not apply to an employee, agent or volunteer who has obtained a certificate of rehabilitation and pardon pursuant to Cal. Penal Code Section 4852.01 et seq. for a serious or violent felony listed under EC 45122.1.

B. Subsequent Arrest Notification

- i. In addition to the initial criminal background check, Contractor shall obtain subsequent arrest notification to monitor future arrests of employees, agents, or volunteers. Contractor shall assume all expenses associated with these subsequent notifications.
- ii. Upon receipt of notice that an employee, agent or volunteer of Contractor has been arrested or convicted of a serious or violent felony as described in EC 45125 .1 (citing 45122.1), a sexual offense as defined by EC 44010, or a controlled substance offense as described in EC 44011, Contractor will immediately prohibit such employee, agent or volunteer from having any contact with pupils.
- iii. This prohibition does not apply to an employee, agent or volunteer who has obtained a certificate of rehabilitation and pardon pursuant to Cal. Penal Code Section 4852.01 et seq. for a serious or violent felony listed under EC 45122.1.

C. Tuberculosis Testing

- i. Contractor agrees that all employees, agents or volunteers whose functions require frequent or prolonged contact with students will complete tuberculosis testing the same as the testing that is described in California Education Code section 49406. The examination shall consist of an approved intradermal tuberculin test, which, if positive, shall be followed by an x-ray of the lungs. Thereafter, the Contractor shall ensure that its employees, agents or volunteers who are skin test negative have undergone the foregoing examination at least once every four (4) years if the Contractor is still rendering services to the District pursuant to this Contract, and such employees, agents, and volunteers shall be listed by name on the Service Provider/Independent Contractor Agreement Criminal Background Check/ Tuberculosis Clearance Written Certification Form with a notation of the date of each individual's testing/clearance. Contractor shall maintain on file in its offices documentation of tuberculosis clearance for its employees, agents, and volunteers who shall have more than limited contact with students under this Contract.
- ii. The Contractor shall be responsible for the costs of the examination.

D. The District shall be the final arbiter of what constitutes "limited contact".

- E. The District may also, in its sole discretion, waive the provisions of this Section if it determines that emergency or exceptional circumstances exist which threaten student or staff safety if the work is delayed pending clearance.

- F. Contractor must complete, sign and submit the Service Provider/Independent Contractor Agreement Criminal Background Check/ Tuberculosis Clearance Written Certification Form (attached) as written certification of its full compliance with the provisions of this Section.
- G. Contractor's failure to comply with the provisions of this Section may result in termination of this Agreement at the District's sole discretion.

88. CONTRACTOR RESPONSE

- A. Suppliers who do not respond to all of the requirements/instructions stated in this bid document may be deemed non-responsive and their bid may be rejected.
- B. To receive full consideration, a bid should be unqualified and unconditional.

89. COST OF BID PREPARATION

Cost of preparation for the response to this invitation to bid is solely the responsibility of the Supplier. The District accepts or implies no liability in the cost of preparation.

90. MANDATORY PRE-BID CONFERENCE

A mandatory pre-bid conference will be held as follows:

Location: San Francisco Unified School District
135 Van Ness Avenue
1st Floor Conference Room
San Francisco, CA 94102

Date and Time: May 18, 2011 – 10:00 AM

NOTE: Attendance is mandatory for all prospective bidders on this contract.

NOTE: Please bring a copy of this Invitation for Bids (IFB) to the Pre-bid Conference.

It is requested that bidders' questions concerning this IFB be submitted by email or FAX at least 72 hours prior to the date and time of the Pre-bid Conference and directed to:

Richard Nepling
San Francisco Unified School District
Purchasing Department
135 Van Ness Avenue, Room 101
San Francisco, CA 94102

Fax: (415) 241-6487
Email: neplingr@sfusd.edu

NOTE: In all communications, bidders must reference IFB number: 17204000-16 in the subject line, please include an email address if faxed.

The Mandatory Pre-bid Conference will begin at the time specified, and company representatives are strongly urged to arrive on time. Topics already covered will not be repeated for the benefit of late arrivals. Failure to attend the Mandatory Pre-bid Conference shall not excuse the successful bidder from any obligations of the contract. Any change or addition to the requirements contained in the Invitation for Bids as a result of the Mandatory Pre-bid Conference will be executed by written change notice. It is the responsibility of the bidder to check for any change notice which will be posted on the District's website pursuant to Section 97 ("Addenda / Clarification") of this Agreement.

91. BID BOND

Accompanying each proposal shall be a cashier's or certified check payable to San Francisco Unified School District, or an original Bid Bond equivalent to ten percent (10%) of the total bid amount. Bond must be in the form provided (see Attachment), and must be executed by a surety company, which has obtained a Certificate of Authority (Admitted) from the California Department of Insurance. Any condition of limitation placed upon said check of any alteration of said form of bond, or imperfection in the execution thereof, as herein required, may result in the rejection of that proposal under which said check or bond is submitted. Said check or bond shall guarantee that the vendor, if awarded the Contract will execute and deliver required Contracts, Bonds and Insurance requirements. Unsuccessful bidder's cashier's check, certified check or bid bond will be returned within thirty (30) days upon approval of the Board to the successful bidder. Successful bidder's cashier's check, certified check or bid bond will be returned within thirty (30) days upon full execution of all Contract documents.

92. PERFORMANCE BOND

Within fifteen (15) days after notification of intent to award the Contract, the successful vendor must furnish the District a performance bond equivalent to twenty percent (20%) of the estimated annual contract value. Bond must be for (1) year, renewable yearly thereafter. Bond must be in the form provided (see Attachment).

93. BID FORM

Contractor will complete the bid form indicating a rate per one-way trip based on the requirements stated in this bid.

- A. Bids must be returned on the bid form(s) provided and the completed bid form must be in ink or typed without interlineations, alterations, or erasures. Mistakes may be crossed out and corrections made adjacent, corrections must be initialed in ink by the person signing the bid.
- B. All information on the bid form(s) must be executed completely. Suppliers who do not complete the bid form as indicated may be deemed non-responsive and the bid will be rejected. To receive full consideration, a bid should be unqualified and unconditional.

94. BID SIGNATURES

All bids must show the Contractor name and must be signed by a responsible officer or employee fully authorized to bind the organization to the terms and conditions of the Contract. Obligations assumed by such signature must be fulfilled.

95. BID EVALUATION

- A. The bid will be awarded to the lowest priced responsive and responsible bidder consistent with proper and satisfactory service, based on the results of the bid form. In determining the award, Purchaser will take into consideration but will not be limited to:
 - i. Price (per one-way trip)
 - ii. Satisfactory review of bidder's qualifications
 - iii. Any other factors deemed pertinent
 - iv. Prompt payment, discount for payments made within thirty (30) days after receipt of monthly invoice may be considered in the bid award.

96. PREVIOUS PERFORMANCE

Contractor is advised that the District reserves the right to reject a bid from a contractor who cannot demonstrate the ability to provide the services required. Past service and delivery performance with an organization of similar size and scope of work may be a factor in the determination of award against this bid. Suppliers'

past performance practices and service to the District will be examined. Suppliers who have demonstrated unsatisfactory performance will be subject to disqualification as a responsible supplier, thereby disqualifying the contractor from contract award.

97. ADDENDA / CLARIFICATION

Any inquiries/questions regarding this bid must also be submitted, via email, fax, or delivery, to the Purchasing Department, as addressed below. The request for inquiries, questions and or clarification must be received by the Purchasing Department no later than the close of the business day on **May 13, 2011 (5:00 P.M.)**. Questions and or clarifications received after this date and time will be rejected and returned to the sender without response.

Any interpretations, changes, additions, or deletions will be made only by addendum duly issued, a copy of such addendum will be posted on the District's website, see below, and mailed and/or faxed to all know parties.

Issued addenda must be initialed and returned with bid response documents by the bid due date and time.

When communicating, always reference the bid number and the appropriate condition, section, page, etc.

A. Inquiries/questions regarding this bid must be directed to:

Richard Neipling
San Francisco Unified School District
Purchasing Department
IFB No. 68-24407004-12
135 Van Ness Avenue, Room 101
San Francisco, CA 94102

Fax: (415) 241-6487
Email: neiplingr@sfusd.edu

B. Inquiries/questions/communications, etc. regarding this bid will be forwarded via email/attachment. Suppliers are advised; the District is not responsible for receipt, to the bidders, of Inquiries/questions/communications, etc., it is the bidders responsibility to confirm they are in receipt of all communications.

LINK:

<http://www.sfusd.edu/en/doing-business-with-sfusd/current-invitations-for-bids.html>

NAVIGATION:

SFUSD.EDU > Doing Business with SFUSD > Current Invitations for Bids >

Therapy Bus Transportation Services

98. REFERENCES

Bidders must be qualified and experienced in the type and volume of work as indicated in Section 59 ("Minimum Requirements") of this Invitation for Bid/ Contract Proposal. As proof of this, bidders must provide references from at least three (3) companies or organizations to which bidder provides or has provided transportation services that substantiate that bidder meets the requirements of Section 59 ("Minimum Requirements"). The contacts provided must have direct knowledge of the bidder's performance of those services. Bidders must fill out every field in the attached Reference Form. (See Reference Form attached.) Failure to submit this evidence may result in rejection of a bidder's bid.

99. **PRE-AWARD DOCUMENTS REQUIRED**

- A. Copy of Cover Sheet (Page 1)
- B. Contract Proposal Page (Page 4 of IFB and Contract Proposal) properly completed
- C. Bid Form properly completed
- D. Bid Bond properly signed and executed
- E. Reference Form properly completed
- F. All other supporting documents as required by the District

100. **POST AWARD DOCUMENTS REQUIRED**

- A. Insurance certificates and endorsements
- B. Criminal Background Check and Tuberculosis Clearance Form
- C. Copy of Contractor's License
- D. Performance Surety Bond
- E. All other supporting documents as required by the District

(Attachment-A)

BID FORM

Please review all bid documents carefully; the District will not be responsible for any error or omissions on the part of the contractor in submitting a bid.

The undersigned hereby proposes and agrees to furnish and deliver the goods and or services as quoted in the accordance with the terms, conditions and prices herein quoted. The invoice payment is subject to a prompt cash payment, terms of payment. _____

In the current school year, there are approximately one hundred and forty (140) such students receiving therapy services, generating approximately two hundred and ten (210) to two hundred and eighty (280) one-way trips per week. The students' appointments are generally scheduled Monday through Friday in the afternoon/after-school hours, with the majority of the transportation services provided between the times of (1:45 pm) and (4:15 pm). This information is from the current school year and contains approximate values, which may increase or decrease.

(THE INFORMATION ABOVE IS FROM THE CURRENT SCHOOL YEAR AND ARE APPROXIMATE VALUES WHICH MAY INCREASE OR DECREASE. SUPPLIERS ARE REQUIRED TO EXAMINE AND CONSIDER ALL TERMS, CONDITIONS AND INSTRUCTIONS OF THIS INVITATION FOR BID AND RESPOND ACCORDINGLY.)

PRICE PER ONE-WAY TRIP \$ _____

By signing below, I attest that I am an authorized representative/agent, and that I am authorized by my signature to bind this company contractually.

All bids must show the Contractor name and must be signed by a responsible officer or employee fully authorized to bind the organization to the terms and conditions herein. Obligations assumed by such signature must be fulfilled.

Company: _____

Address: _____

City, State, Zip Code _____

Telephone Number: _____

Fax Number: _____

Email Address: _____

Name: _____

(Please Print)

Title: _____

Signature: _____

(Must be a Hand Written Signature)

Date: _____

(Attachment-B)

REFERENCES FORM

Bidders must be qualified and experienced in the type and volume of work as indicated in Section 59 ("Minimum Requirements") of this Invitation for Bid/ Contract Proposal. As proof of this, bidders must provide references from at least three (3) companies or organizations to which bidder provides or has provided transportation services that substantiate that bidder meets the requirements of Section 59 ("Minimum Requirements"). The contacts provided must have direct knowledge of the bidder's performance of those services. Bidders must fill out every field in this Reference Form. Failure to submit this evidence may result in rejection of a bidder's bid. If bidder wishes to provide additional references meeting these requirements, a copy of this form may be used.

1) **Company:** _____

Contact (Name & Title): _____

Address: _____ City & State: _____

Telephone: _____ Email: _____

Description of the transportation services (including dates) bidder provided to the company:

2) **Company:** _____

Contact (Name & Title): _____

Address: _____ City & State: _____

Telephone: _____ Email: _____

Description of the transportation services (including dates) bidder provided to the company:

3) **Company:** _____

Contact (Name & Title): _____

Address: _____ City & State: _____

Telephone: _____ Email: _____

Description of the transportation services (including dates) bidder provided to the company:

(Attachment-C)

**San Francisco Unified School District
Criminal Background Check/Tuberculosis Clearance Written Certification Form**

Name of Independent Contractor/Service Provider:	
Services performing under the Agreement:	
Schools/Locations where services are being performed:	
Total amount to be paid by the District Under this Agreement:	
Term of Agreement:	FY

Contractor shall check the applicable boxes and fill in any applicable blanks.

CRIMINAL BACKGROUND CHECK		
1.	<input type="checkbox"/>	Contractor/Contractor's employees, agents or volunteers will <u>ONLY HAVE LIMITED OR NO CONTACT</u> with District students (as defined by the District) during the Agreement term.
2.	<input type="checkbox"/>	Contractor/Contractor's employees, agents or volunteers, listed herein, will have <u>MORE THAN LIMITED CONTACT</u> with District students (as defined by the District) during Agreement term. <i>INSERT OR ATTACH NAMES OF EMPLOYEES AND DATES OF C.B.C. CLEARANCE</i> The employees, agents, volunteers noted herein have been fingerprinted under procedures established by the California Department of Justice and the FBI, and the results of those fingerprints reveal that none of these employees, etc. have been arrested or convicted of a serious or violent felony, as defined by the California Penal Code and that I have requested a subsequent arrest notification for these employees.
TUBERCULOSIS CLEARANCE		
3.	<input type="checkbox"/>	Contractor/Contractor's employees, agents or volunteers will <u>ONLY HAVE LIMITED OR NO CONTACT</u> with District students (as defined by the District).
4.	<input type="checkbox"/>	Contractor/Contractor's employees, agents or volunteers, listed herein, will have <u>MORE THAN LIMITED CONTACT</u> with District students (as defined by the District) during the term of the Agreement and have received a TB Test. <i>INSERT OR ATTACH NAMES OF EMPLOYEES AND DATES OF T.B. CLEARANCE</i>

Certification by Independent Contractor/Service Provider ("Contractor")

"I hereby certify on behalf of Contractor that the information provided herein is true and accurate.

I further acknowledge that during the term of this Agreement, if Contractor learns of additional information that differs from the responses provided above, including but not limited to hiring of new personnel and/or notice of a subsequent arrest, Contractor will immediately forward this information to District. If Contractor receives any such subsequent arrest notification, I certify that Contractor will immediately notify District and bar such employee/ agent/ volunteer of Contractor from performing any services under this agreement that involve any contact with students."

_____ Contractor's Signature Date	_____ Administrator's Signature Date	_____ Cabinet Member's Signature Date
_____ Print name of Contractor	_____ Print name of Administrator	_____ Print name of Cabinet Member

(Attachment-D)

BID BOND FORM

Know All Men by These Presents That We _____
_____ as Principal, and

(Name of Insurance Company, Name of local representative, address and telephone number)

legally doing business in California as an admitted surety insurer, as Surety, are held firmly bound unto the San Francisco Unified School District, hereinafter called the District, in the penal sum of _____ Dollars (\$ _____) (which represents 10% of the bid amount) in lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION of this obligation is such that,

WHEREAS, the Principal has submitted a Bid for _____
at _____ for which
bids are to be opened on _____

NOW, THEREFORE, if the Principal is awarded the Contract, and, within the time and in the manner required in the Contract Documents, enters into a written Contract with the District in accordance with the Bid, and gives bonds with good and sufficient surety for the faithful performance of such Contract and for the prompt payment for labor and materials in the prosecution thereof; or in the event of the Principal's failure to enter into such Contract and give such bonds, if the Principal shall pay to the District, the difference between the amount specified in said Bid and such larger amount for which the District may procure the work covered by said Bid, then this obligation shall be null and void, otherwise it shall remain in full force and effect.

Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract on the call for bids, or to the work to be performed thereunder, or the specifications accompanying the same, shall in any way affect its obligation under this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of said contract or the call for bids, or to the work, or to the specifications.

In the event suit is brought upon this bond by the District and judgment is recovered, the Surety shall pay all costs incurred by the District in such suit, including a reasonable attorney's fee to be fixed by the court.

IN WITNESS WHEREOF, we have signed and sealed this instrument on this _____ day of _____, 2011.

(Principal) (Seal)

(Witness)

(Title)

Surety) (Seal)

(Witness)

(Title)

SIGNATURE EXECUTED IN BEHALF OF SURETY MUST HAVE PROPER ACKNOWLEDGEMENT.

BID BOND FORM / SECTION F / May 2006

(Attachment-E)

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, San Francisco Unified School District (hereinafter referred to as "District") and _____ (hereinafter referred to as "Contractor"), have entered into a written contract for furnishing of all labor, materials, equipment, transportation and services for the services of _____ at _____ located in San Francisco, California (hereinafter referred to as the "Therapy Bus Services Contract"); and

WHEREAS, Contractor is required by the terms of the Therapy Bus Services Contract to furnish a bond for the faithful performance of all terms and conditions of the Therapy Bus Services Contract;

NOW, THEREFORE, Contractor, as principal, and _____ (hereinafter referred to as "Surety"), as surety, are held and firmly bound unto Claimants, as defined herein, in the penal sum of _____ DOLLARS (\$_____), lawful money of the United States, for the payment of which sum well and truly to be made as provided in this Performance Bond.

1. Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to District for the performance of the Therapy Bus Services Contract, which is incorporated herein by reference.
2. If Contractor timely performs each and every obligation under the Therapy Bus Services Contract, Surety and Contractor shall have no obligation under this Bond, except to participate in conferences as provided in Subparagraph 3.1.
3. Surety's obligation under this Performance Bond shall arise after:
 - 3.1 District has declared a Contractor Default and has notified Contractor and Surety at its address described in Paragraph 10 below that District has declared a Contractor Default and has requested and attempted to arrange a conference with Contractor and Surety to be held not later than seven days after receipt of such notice to discuss methods of performing the Therapy Bus Services Contract; and
 - 3.2 District has agreed to pay the Balance of the Agreement Price, as calculated under the terms of the Therapy Bus Services Contract, to Surety in accordance with the terms of the Therapy Bus Services Contract or to a contractor selected to perform the Therapy Bus Services Contract in accordance with the terms of the Therapy Bus Services Contract with District.
4. When District has satisfied the conditions of Paragraph 3, Surety shall promptly and at Surety's expense take one of the following actions:
 - 4.1 Arrange for Contractor, with consent of District, to perform and complete the Therapy Bus Services Contract; or
 - 4.2 Undertake to perform and complete the Therapy Bus Services Contract itself, through its agents or through independent contractors; or
 - 4.3 Obtain bids or negotiated proposals from qualified contractors acceptable to District for a contract for performance and completion of Therapy Bus Services Contract, arrange for a contract to be prepared for execution by District and the Contractor selected with District's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the

Therapy Bus Services Contract, and pay to District the amount of damages as described in Paragraph 6 in excess of the Balance of the Agreement Price, as calculated under the terms of the Therapy Bus Services Contract, incurred by District resulting from Contractor's Default; or

- 4.4 Waive its right to perform and complete, arrange for completion, or obtain a new Contractor and with reasonable promptness under the circumstances:
- i. After investigation, determine the amount for which it may be liable to District and, as soon as practicable after the amount is determined, tender payment thereof to District; or
 - ii. Deny liability in whole or in part and notify District citing specific reasons therefore.
5. If Surety does not proceed as provided in Paragraph 4 within twenty days from receipt of the notice described in paragraph 3.1 (whether or not a conference has been held pursuant to paragraph 3.1), or such longer period upon which District and Surety may agree in writing, Surety shall be deemed to be in default on this Bond. If the Surety proceeds as provided in Subparagraph 4.4, and District refuses the payment tendered or the Surety has denied liability, in whole or in part, without further notice District shall be entitled to enforce any remedy available to District.
6. After District has declared a Contractor default, and if Surety elects to act under Subparagraph 4.1, 4.2 or 4.3 above, then the responsibilities of Surety to District shall not be greater than those of Contractor under the Therapy Bus Services Contract, and the responsibilities of District to Surety shall not be greater than those of the District under the Therapy Bus Services Contract. To the limit of the amount of this Performance Bond, but subject to commitment by District of the Balance of the Agreement Price to mitigation of costs and damages on the Therapy Bus Services Contract, Surety is obligated without duplication for:
- 6.1 The responsibilities of Contractor for correction of the defective work, materials and equipment and completion of the Therapy Bus Services Contract;
 - 6.2 Additional legal, design professional, construction management and delay costs resulting from the Contractor's Default, and resulting from the actions or failure.
 - 6.3 Liquidated damages, or if no liquidated damages are specified in the Therapy Bus Services Contract, actual damages caused by delayed performance or non-performance of Contractor.
7. Surety shall not be liable to District or others for obligations of Contractor that are unrelated to the Therapy Bus Services Contract, and the Balance of the Agreement Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than District or its heirs, executors, administrators or successors.
8. Surety hereby waives notice of any change, including changes of time, to the Therapy Bus Services Contract or to related subcontracts, purchase orders and other obligations.
9. Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction. The prevailing party in any such action shall be entitled to recover its attorneys' fees, to be faxed as an item of costs.
10. Notice to Surety, District or Contractor shall be mailed or delivered to the address, or sent via telecopier to the facsimile number, shown on the signature page.
11. **DEFINITIONS**
- 11.1 **Balance of the Agreement Price:** The total amount payable by District to Contractor under the Therapy Bus Services Contract after all proper adjustments have been made, including allowance to Contractor of any amounts received or to be received by District in settlement of insurance or other claims for damages

to which Contractor is entitled, reduced by all valid and proper payments made to or on behalf of Contractor under the Therapy Bus Services Contract.

- 11.2 Therapy Bus Services Contract: The agreement between the District and the Contractor identified on the first page of this bond, including all Contract Documents and changes thereto.
- 11.3 Contractor Default: Failure of the Contractor, which has neither been remedied nor waived, to perform or otherwise to comply with the terms of the Therapy Bus Services Contract.

CONTRACTOR, as principal

SURETY

By: _____

By: _____

Title: _____

Title: _____

Address:

Address:

Fax: _____

Fax: _____

Phone: _____

Phone: _____

DISTRICT

San Francisco Unified School District
135 Van Ness Avenue, Room 123
San Francisco CA 94102
Phone: (415) 241-6468
Fax: (415) 241-6487