

# BENNINGTON PUBLIC SCHOOLS

*The mission of the Bennington Public Schools is to provide educational opportunities in a safe, caring environment that will prepare all students to meet the challenges of the future.*

*Jeremy J Edens – Coordinator of Operations and Transportation  
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## Bennington Public School District

### REQUEST FOR PROPOSALS

#### PUPIL TRANSPORTATION SERVICES

The Bennington Public School District of Douglas County Nebraska (hereinafter referred to as “District”) requests written, sealed proposals from qualified contractors to provide the District with Pupil Transportation Services, as further described in this Request for Proposals (RFP) and the attached Contract for Services (Contract).

#### District Contact and RFP Schedule of Events

The sole point of contact at the District for all matters related to this RFP is as follows. No contact between prospective respondents and the District is permitted, except as expressly allowed by the Schedule of Events, and all such contact shall be addressed to the District’s designated representative:

Dr. Terry Haack, Superintendent of Bennington Public Schools  
Bennington Public Schools  
11620 N 156th St.  
Bennington, NE 68007  
402.238.3044  
[thaack@benmps.org](mailto:thaack@benmps.org)

#### **Proposal Due Date: June 1, 2022, 3:00 PM CDT**

No proposal shall be accepted after the due date and time as specified.

#### **Event**

#### **Target Completion Date**

RFP release date	Monday, April 4, 2022
Mandatory Pre-Proposal Conference	Friday, April 15, 2022
Final day to submit questions or requests	Wednesday, May 18, 2022
Proposal due date	Wednesday, June 1, 2022
District review and scoring of submissions	Friday, June 3, 2022
Interviews with shortlisted contractors	Week of June 6, 2022
Notification of intent to award	June 8, 2022
School Board approval of Contract for Services	June 13, 2022
Commencement of services	July 1, 2022

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#### **Administration:**

Dr. Terry Haack, Superintendent  
Dr. Denise Hoge, Asst. Superintendent  
Mrs. Whitney Fagan, Director of Student Services  
Dr. Shannon Thoendel, Asst. Director of CIA

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#### **Board of Education:**

Mark Byars, Valerie Calderon, Tim Dreesen,  
Heather Goertz, Kara Neuverth, Allyson Slobotski

The Pre-Proposal Conference is mandatory for all prospective respondents. Please attend via online meeting using the following link at 12:30pm central time on Friday, April 15:

### **Pre-Proposal Conference for Bennington RFP**

**Friday, April 15 · 12:30 – 1:00pm**

**Google Meet joining info**

**Video call link: <https://meet.google.com/vnm-uead-mdp>**

**Or dial: (US) +1 978-267-1436 PIN: 900 587 726#**

### **Summary of the Requirement**

The District seeks to establish a contractual partnership with a commercial provider of pupil transportation services. The stated objective is to serve the students of the District through the provision of high quality, safe, effective, and efficient transportation services. The District is seeking a positive working partnership with a contractor dedicated to the same objectives. While price will be a factor in the selection of the contractor, a demonstrated ability and willingness to work cooperatively with the District in achieving these objectives will also be a determining factor.

Attachment A - Contract for Services shall be executed by the District and the selected contractor. It documents the specifications for the required services and the governing terms and conditions of the partnership. No alterations or modifications to the Contract as drafted are allowable in the contractor's submission, except as expressly included in any amendment that may be issued to this RFP prior to the proposal submission date.

The prospective contractor is advised to thoroughly review the Contract for Services and to expressly consider its requirements in the construction of its proposal. The proposal submissions shall be utilized to assist in the comparison, evaluation, and selection of a preferred contractor. This RFP and the selected contractor's proposal will not be included as part of the resulting Contract for Services.

The following summary of services is provided for the purpose of introduction only and shall have no bearing on the requirements as stated in the Contract. Currently, home-to-school and various midday transportation services are provided to approximately 800 eligible students attending 1 high schools, 2 middle schools, 6 elementary schools, and 1 preschool center. Services are provided on two primary transportation tiers using a total of 16 route buses. Additional transportation is provided to support athletic and extra-curricular programming. This proposal is for 6-8 daily DRIVERS only. The contractor is expected to drive District owned vehicles. Contracted routes are approximately 1 hour in length. Drivers should be available on school days between the hours of 6:30 am and 8:00 am and 2:30 pm and 4:00 pm.

### **Requirements for Submission**

#### **Proposal Submission Format**

All submissions must follow the submission format specified in this section. The District seeks clarity and brevity in the prospective contractor's description of its qualifications and experience to provide the required services, and in particular its proposed methodology and track record in forming a working partnership with the District. Excessive verbiage, marketing materials, or information not expressly required by this RFP is not desired. The District reserves the right to reject any and all proposals or to waive any informalities, irregularities, or technicalities in any proposal should it be deemed to be in the best interest of the Bennington Public School District to do so.

## **Proposal Content**

The contractor's proposal shall be submitted in a format consistent with the order of the numbered sections as follows:

1. Identifying Information – Include the full legal name(s) of the parent company submitting the proposal and the company that will be providing the proposed services, if different. Provide the legal address of the company(s). Provide the full name, email address, and telephone number of the contractor's designated contact for the submission. This person must be vested with the authority to speak on behalf of the contractor in all matters related to the proposal and must be available during the entirety of the process outlined in the schedule of events above. This section of the proposal must be signed by the designated contact person.

2. Qualifications, Experience, and References – Provide a brief but complete description of the contractor's qualifications and experience to provide the required services. At a minimum, include a description or illustration of the organization structure for the parent company and company proposed to provide the service, if different. Provide a history of the subject organizations, and information to illustrate the size and scope of their operations. Include in this section a minimum of three (3) references for which the contractor is currently or has recently been providing similar services, including location, name and contact information. The District will contact these customers as part of the review of proposals.

3. Methodology and Approach – Provide a brief but complete description of the contractor's proposed organization, systems, methodologies, and processes for providing the required services, meeting or exceeding the requirements of the Contract for Services, and in particular for working with the District as a service partner. While brevity and clarity are the objective, particular emphasis in scoring the proposal will be placed on comprehensiveness of description and the overall fitness of the contractor relative to the District's goals and objectives for this procurement.

4. Additional Relevant Information – While not encouraged, should the contractor feel that additional information concerning its proposal be important to the evaluation that is not explicitly required by this RFP, it should include it in this section.

5. Pricing Proposal – Complete and submit the Proposal Pricing Forms (Attachment C) separately and in their entirety, as described in the Proposal Submission Instructions and Requirements below. The contractor may, at its own discretion, duplicate these forms in a manner that will better enable their submission. The content and format must be reproduced in their entirety to be considered compliant.

## **Proposal Submission Instructions and Requirements**

A representative of the contractor is required to attend the Mandatory Pre-Proposal Conference as specified in the Schedule of Events above.

One (1) complete original printed copy of the contractor's proposal documents must be submitted and received not later than 3:00 PM CDT on the Proposal Due Date specified in the Schedule of Events above. Proposals received after this time will be returned unopened to the contractor and will not be considered.

The printed copy of the contractor's Pricing Proposal (Proposal Content Item 5) must be submitted as a separately sealed element in the proposal package. The contents of the contractor's proposal shall be submitted within a single sealed opaque package endorsed on the outside as follows, and shipped to the District contact address noted above:

### **PROPOSAL FOR PUPIL TRANSPORTATION SERVICES**

Name and return address of the contractor.

No proposal may be withdrawn for a period of ninety (90) days after the Proposal Due Date at which time it may be withdrawn should no contract have been awarded.

#### **Review of Proposals and Contract Award**

Qualified proposals will be reviewed by a committee established by the District for the purpose of evaluating the contractor's wherewithal and desire to provide the required services. Proposals will be subjectively evaluated relative to multiple criteria including, but not limited to:

- Responsiveness to the requirements of the RFP
- Understanding of the District's procurement intent
- Demonstrated ability and willingness to partner with the District in the delivery of services
- Contractor's experience in providing similar services, with an emphasis on its experience within the State of Nebraska
- The financial condition and strength of the contractor
- Contractor's organization, methodologies, processes, and procedures
- The qualifications of the contractor's management team
- The strength of the contractor's references

Once each proposal has been evaluated in this manner, the price proposals shall be opened and compared. The vendor(s) that present the most compelling proposals for a combination of responsiveness and price may be invited to participate in an in-person interview process. Following the interview, a final recommendation for a preferred vendor may be submitted to the school board by the evaluation committee along with a recommendation to award a contract.

#### **Post-Award Activities and Requirements**

It is the intent of the District to award a contract to the successful vendor in accordance with the Schedule of Events. Immediately following the notice of intent to award, and for the period between that notification and the commencement of services, the successful contractor is

expected to work in close cooperation with designated representatives of the District to ensure a successful transition with the incumbent vendor.

**Attachments:**

A – Contract for Services

B – Current Services Summary

C – Proposal Pricing Forms

Bennington Public Schools does not discriminate based on race, color, creed, religion, national origin, sex, gender identity, age, disability, marital status, sexual orientation, physical attributes, physical or mental ability or disability, ancestry, political party preference, military affiliation, socioeconomic status, or familial status.

## ATTACHMENT A

### AGREEMENT FOR PUPIL TRANSPORTATION SERVICES

This Agreement for Pupil Transportation Services, hereinafter referred to as the “Agreement”, is made and entered into this \_\_\_ day of \_\_\_\_\_, 2022, by and between Bennington Public Schools with a principal place office located at 11620 N 156th St. Bennington, NE 68007, hereinafter referred to as “District”, and \_\_\_\_\_, with its principal office located at \_\_\_\_\_, hereinafter referred to as “Contractor”.

#### 1. Term of Agreement

1.1. The services to be provided in accordance with this Agreement shall commence July 1, 2022 and continue for a period of five (5) years ending June 30, 2027. On mutual written consent District and Contractor shall have the option of extending this Agreement for up to three (3) additional one-year renewal terms for a maximum Agreement term of eight (8) years.

1.2. In furtherance thereof, either party may provide to the other a notice of intent to renew the Agreement for an additional one-year renewal term no later than [180] days prior to the expiration of the then current term.

#### 2. District Obligations

2.1. District hereby agrees to compensate Contractor for the provision of Pupil Transportation Services as documented herein.

2.2. District agrees to work cooperatively with Contractor to ensure the provision of safe, effective, and efficient Pupil Transportation Service over the term of this Agreement.

2.3. District shall establish, document, and provide to Contractor such policies as may be required to govern the provision of Pupil Transportation Services in the District. District reserves the right at its sole discretion to modify such policies over the term of this Agreement except to the extent that such modification prevents Contractor or District from complying with the terms and conditions of this Agreement.

2.4. District will provide for routine oversight, measurement, and reporting of Contractor performance as documented herein, and further agrees to fairly and equitably consider all reasonable requests presented by Contractor regarding District’s obligations under this Agreement.

#### 3. Contractor Obligations

3.1. Contractor hereby agrees to provide Pupil Transportation Services to District as documented herein.

3.2. Contractor agrees to work cooperatively with District to ensure the provision of safe, effective, and efficient Pupil Transportation Service over the term of this Agreement.

#### **4. Legal Compliance**

4.1. In providing Pupil Transportation Services, Contractor shall secure, provide and maintain in effect all valid permits, licenses and certifications which are required by law and for the performance of its obligations under this Agreement and shall pay any taxes assessed in connection with such performance. Contractor shall comply with any and all applicable federal, state, county, and municipal laws, statutes, ordinances, policies, regulations, and/or prohibitions currently in force or that may come into force during the term of this Agreement and that pertain to the provision of these services to the District.

4.2. Contractor is responsible for having full knowledge of all such federal, state, county, and municipal laws, statutes, ordinances, policies, regulations, and/or prohibitions at all times over the term of this Agreement.

#### **5. Safe Service**

5.1. Pupil, District employee, contractor employee, and public safety is paramount and will be the highest priority consideration in the delivery of services under this Agreement.

5.2. Contractor shall immediately inform District of any District policies, regulations, procedures, or practices that may conflict with safety prioritization.

5.3. Contractor shall not intentionally compromise safety to achieve any of the requirements of this Agreement.

5.4. Contractor shall not intentionally perform an unsafe act to achieve contractual or related performance criteria.

5.5. Contractor shall immediately perform any service necessary to address a safety concern regardless of whether it is specifically required by this Agreement.

5.6. Contractor shall at all times adhere to a documented Safety Program acceptable in form and content to, and as explicitly approved by District. The Safety Program shall be documented and updated prior to the start of school in each school year covered by the term of this Agreement.

#### **6. Services to be Provided**

##### **6.1. Service Programs, Types, and Volume**

6.1.1. Contractor will provide home to school and school to home transportation service for all regular education students for no less than six but no more than eight regular routes. This may also, at the District's direction, include routing between schools and specific education programs before, during, or after the regular school day.

6.1.2. The Contractor will use its best efforts to provide such other additional and supplemental Pupil Transportation Service as may be requested by the District

including, but not limited to: co-curricular, activity, athletic, late or extended day, vocational, or special programs.

6.1.2.1. The volume of services to be provided in accordance with this requirement will vary based on demand, is not guaranteed, and may be requested of other contractors.

6.1.2.2. All services provided in accordance with this requirement shall be on a per-request basis. District will submit requests no less than three weeks in advance of the event. Contractor may accept or decline to provide the service no later than two weeks prior to the event on a per-request basis. All requests for service accepted by Contractor under this requirement shall be provided at prices not to exceed those established by this Agreement.

## 6.2. Operating Parameters

6.2.1. Contractor will provide the services required under this Agreement in accordance with certain parameters established by District as Board of Education policies, regulations, and standard operating procedures. These may be altered at any time over the term of this Agreement and at the sole discretion of District. Current operating parameters shall be provided to Contractor prior to the start date of this Agreement and at least thirty (30) days prior to the effective date of any approved change.

6.2.2. Contractor may petition District for an adjustment to rates of payment if any approved change to operating parameters has a material impact on Contractor's cost of providing services under this Agreement and is not otherwise compensated within the existing payment rate structure of this Agreement. District will consider and respond within 30 days to a written petition from Contractor requesting an adjustment to rates; provided however, any decision to approve or deny such petition shall be at District's sole discretion.

## 6.3. Contractor Employee Conduct

6.3.1. The conduct of Contractor's employees shall meet the higher of 1) standards specified by District in its Operating Parameters, or 2) customary and reasonable standards for the pupil transportation industry.

6.3.2. Contractor shall be responsive to written direction provided by District as to any personnel or conditions deemed to be insufficient relative to these standards, including but not limited to the Contractor Personnel Terms described on Exhibit A attached hereto.

6.3.3. District may, at its sole discretion and at any time over the term of this Agreement, mandate a change to the Contractor's management personnel if District determines that Contractor's repeated and progressive efforts to resolve a

specific and documented shortcoming identified by District have been unsuccessful.

6.3.4. Contractor must comply with District's request to remove any employee providing service under this Agreement if such removal is deemed to be in the best interest of District, and on submission of written documentation to Contractor providing the reasons for the request, and if District determines that Contractor's repeated and progressive efforts to resolve the issues have been unsuccessful.

## **7. Performance Management**

### **7.1. Responsibilities and Reporting**

7.1.1. This Agreement will be subject to a Contract Performance Management Program to oversee, among other things, compliance with the Minimum Service Levels and Standards of Performance as described in Section 7.2 herein. District shall designate a Contract Manager for the duration of this Agreement who shall be responsible for oversight of Contractor performance under this program. Contractor shall designate a Customer Manager for the duration of the Agreement who shall be the counterparty to the Contract Manager and who shall performance under this Agreement. The Customer Manager must be delegated with the authority to act on behalf of Contractor in all matters related to Contractor's performance under this Agreement.

7.1.2. The Contract Performance Management Program shall be a non-punitive, joint, supportive program of contract compliance monitoring and performance measurement designed to enhance and improve Pupil Transportation Service delivery. Contractor shall be an active participant in, and shall be responsive to the requirements of this program.

### **7.2. Minimum Service Levels and Standards of Performance**

7.2.1. The foundation for the Contract Performance Management Program will be Contractor compliance with a set of minimally acceptable service levels and standards of performance. Contractor will monitor, track, account for, and report to District the data and information required to determine Contractor's success in meeting or exceeding the established standards.

7.2.2. Contractor will comply with two (2) minimally acceptable standards of performance. For the purposes of this section a bus route is defined as either the morning, midday or afternoon component of a daily route package as developed by Contractor, approved for service by District, and defined in the Basis for Contractor Compensation section of this Agreement.

7.2.2.1. No more than two (2) percent of all bus routes operated by Contractor in each week of any service month shall be delayed or missed because of Contractor's inability to provide an adequate number of qualified vehicle drivers or monitors as defined within this Agreement, or for any other operational issue under the direct control of Contractor that

prevents the timely operation of the bus routes as designed and approved. A delayed or missed route is defined as any route component that begins operation more than five (5) minutes after its scheduled time, or that must be serviced by another means.

7.2.2.1. Contractor shall report every incident of delay as defined in this section, as well as all other incidents involving bus accidents, mechanical breakdowns, or injuries to students to District within fifteen (15) minutes of occurrence and in a format and content acceptable to District. This is a zero-tolerance standard of performance.

7.2.3. District has no obligation to provide Contractor with written notice of noncompliance.

7.2.4. Contractor shall comply with District directives to improve operations and outcomes that fall below established standards.

### 7.3. Performance Withholding

7.3.1. District may, in its sole discretion, impose a Minimum Service Level Performance Withholding factor for Contractor non-compliance with Minimum Service Levels and Standards of Performance.

7.3.1.1. District may defer payment of up to one (1) percent of Contractor's next regular monthly invoice for any single weekly instance of noncompliance.

7.3.1.2. District may defer up to three (3) percent of Contractor's next regular monthly invoice should non-compliance continue for two (2) consecutive service weeks.

7.3.1.3. District may defer up to seven (7) percent of Contractor's next regular monthly invoice should non-compliance continue for three (3) consecutive service weeks.

7.3.1.4. District may defer up to ten (10) percent of Contractor's next regular monthly invoice should non-compliance continue for four (4) consecutive service weeks.

7.3.1.5. The number of withholding instances is unlimited and may be repeated for each instance on non-compliance with Minimum Service Levels and Standards of Performance.

7.3.1.6. The withholding shall be paid in full to Contractor if the noncompliance factor resulting in the withholding is cured to the satisfaction of District following the deferral decision.

7.3.1.7. If the non-compliance factor is not cured to the satisfaction of District following the deferral decision, District may retain the withholding without obligation to pay Contractor the withheld amounts.

7.3.1.8. District will notify Contractor in a formal letter delivered via a traceable method to the Contractor address of record for this Agreement should a decision by District to retain a withheld amount be reached.

## **8. Basis for Contractor Compensation**

### **8.1. Daily Bus Service Time**

8.1.1. Contractor's pricing will be primarily based on two hours per route for a total of four hours per day per driver.

### **8.2. Pricing Elements**

8.2.1. The Rates of Compensation section of this Agreement contains a matrix describing each element for which Contractor will be provided compensation and the rate of compensation for each element.

8.2.2. Contractor is guaranteed compensation for a minimum Daily Bus Service Time of four (4.0) hours for each vehicle assigned to a regularly assigned daily route package under this Agreement. Any approved route package with a planned Daily Bus Service Time under four (4.0) hours will receive this rate of compensation.

8.2.3. Additional compensation for recurring or non-recurring Daily Bus Service Time in excess of four (4.0) hours will be provided on the basis of a regular service incremental hourly rate calculated in fifteen (15) minute increments as described in the Daily Bus Service Time section of this Agreement.

8.2.4. Compensation for Additional Supplemental Services will be provided for each documented and approved instance of service, calculated in fifteen (15) minute increments as described in the Rates of Compensation section of this Agreement, rounded down to the nearest fifteen (15) minute increment.

### **8.3. Annual Price Changes**

8.3.1. All prices shall be adjusted upward or downward annually based upon the United States Bureau of Labor Statistics Price Index for United States Department of Labor, Bureau of Labor Statistics for all Urban Consumers, All Items Index for the Midwest (Base 1982-84+100), issued in December of each year for each following year of service under this Agreement. If such Index is not published, then such other Index published by that government authority shall apply as shall be most similar thereto and consistent with the intent to adjust with changes, if any, in the "cost of living".

8.3.2. Any upward adjustment:

8.3.2.1. Shall not exceed three (3) percent if the previous year increase was one (1) percent or more or was the first year of the Agreement.

8.3.2.2. Shall not exceed four (4) percent if the previous year increase was one (1) percent or less.

8.3.3. Any downward adjustment shall not exceed negative (-2) percent.

#### 8.4. Fuel

8.4.1. All fuel used by Contractor vehicles in the provision of service under this Agreement shall be provided by District at no cost to Contractor. Contractor agrees to work cooperatively with District to ensure the accounting for fuel use is accurate throughout the term of this Agreement. Such accounting shall be conducted in a form and provided in a format deemed acceptable to and approved by District.

#### 8.5. Invoicing and Payment for Services

8.5.1. Contractor shall submit an invoice to District at least once and not more than twice for each month of service provided under this Agreement. The invoice shall be submitted in a manner and format, and with content acceptable to District.

8.5.2. At a minimum, the invoice shall include sufficient information and detail to support the amounts billed and shall reconcile to the route data developed under this Agreement.

8.5.3. Each invoice shall be received by District not later than five (5) business days following the final date of service covered by the invoice.

8.5.4. The invoice shall be reviewed and approved by District within five (5) business days of receipt. If Contractor does not receive notice from District within this timeframe, Contractor may assume District has approved the invoice.

8.5.5. If District finds an error or questions the accuracy of any item on the invoice, the error or question shall be reported to Contractor who shall reconcile the error or and the question and resubmit the invoice for approval within two (2) business days of receiving notice. District shall review the revisions within three (3) business days of receiving the revised invoice.

8.5.6. District shall pay all invoices within thirty (30) days of final approval.

#### 8.6. Rates of Compensation

8.6.1. Regular Home-to-School and School-to-Home service as defined in the Service to be Provided section of this Agreement shall be compensated in accordance with the following rate schedule and as subject to the Annual Price Changes section of this Agreement.

Unit of Service	Daily Rate	Hourly Rate
Type A School Bus	\$ -	\$ -

8.6.2. Supplemental service as defined in the Service to be Provided section of this Agreement shall be compensated in accordance with the following rate schedule and as subject to the Annual Price Changes section of this Agreement.

Unit of Service	Hourly Rate	Wait Time Rate
Type A School Bus	\$ -	\$ -

**9. Use of District Facilities**

9.1. Contractor shall be permitted use of District’s transportation operating facility in accordance with the terms and conditions of a Lease Agreement upon terms as mutually agreed be District and Contractor.

**10. Additional Provisions**

10.1. Agreement Documents

10.1.1. This Agreement constitutes the entire agreement between District and Contractor. The Request for Proposals and proposal submission used in the solicitation of services shall be retained as reference documents but shall have no force over this Agreement.

10.2. Force Majeure

10.2.1. Each party shall be excused from performing its obligations and providing service under this Agreement during the time and to the extent that it is prevented from performing in the customary manner by an act of God, fire, flood, war, riot, civil disturbance, terrorism, epidemic, quarantine, oil or fuel shortage, freight embargo, rationing or unavailability of materials or products, loss of transportation facilities, commandeering of equipment, materials, products, or plants by the Government, or any other occurrence which is beyond its control when satisfactory evidence thereof is presented to the other party.

10.2.2. Each party shall be excused from performing its obligations and providing service under this Agreement during the time and to the extent that it is prevented from performing in the customary manner by strike or labor dispute with employees, provided that, in the case of Contractor, Contractor obtains alternate acceptable transportation for

pupils consistent with a contingency plan agreed to by District and Contractor. Such contingency plan shall be determined prior to the start of school in each school year covered by the term of this Agreement.

10.2.3. The party experiencing the force majeure event agrees to give the other party notice promptly following the occurrence of a force majeure event, and to use diligent efforts to re-commence performance as promptly as commercially practicable. If any force majeure event substantially prevents, hinders or delays performance of Contractor’s obligations under this Agreement for more than thirty

(30) consecutive days, then at District's option: (a) District may terminate any transportation services so affected, and the fees payable will be equitably adjusted to reflect those terminated transportation services; or (b) District may terminate this Agreement without liability as of a date specified by District in a written notice of termination to Contractor.

### 10.3. Dispute Resolution

10.3.1. District and Contractor agree to meet in good faith on all matters and disputes under this Agreement. Should any disputes fail to be resolved through the good faith efforts of District and Contractor, and District at its sole discretion chooses not to invoke the Termination of Agreement provisions, then either party to this Agreement may require that the matter be resolved through binding arbitration.

10.3.2. All claims and disputes arising under or relating to this Agreement and not otherwise resolved are to be settled by binding arbitration in the state of Nebraska, Douglas County or another location mutually agreeable to the parties. An award of arbitration may be confirmed in a court of competent jurisdiction. Nebraska law shall apply to and govern the terms of this Agreement.

### 10.4. Termination of Agreement

10.4.1. District may without prejudice to any other right or remedy, serve written notification of its intention to terminate this Agreement within thirty (30) days if any of the following conditions are met:

10.4.1.1. Contractor refuses or fails to provide services as required by this Agreement.

10.4.1.2. If Contractor should be adjudged as bankrupt, or if it should make general assignment for the benefit of its creditors, or if a receiver should be appointed on account of its insolvency.

10.4.1.3. If Contractor breaches or is otherwise guilty of a violation of this Agreement.

10.4.2. This Agreement shall, upon the expiration of thirty (30) days after service of such notice of the condition or violation, cease and terminate.

### 10.5. Hold Harmless Agreement

10.5.1. Contractor shall indemnify and hold harmless District, its Governing Board, Officers, Agents, and Employees from every claim or demand which may be made by reason of any breach of this Agreement by Contractor or injury to person or damage to property sustained by any person, firm, or corporation caused by any negligent act or omission, willful misconduct or default of Contractor or of any person, firm, or corporation directly or indirectly employed by Contractor upon or in connection with its performance under this Agreement.

10.5.2. Contractor at its own expense and risk shall defend any legal proceeding in connection with its performance under this Agreement that may be brought against District, its Governing Board, Officers, Agents, and Employees on any such claim or demand, and satisfy any judgement that may be rendered against District or its Governing Board therein. In the event that any such proceeding is brought against District, its Governing Board, Officers, Agents, and Employees on any such claim or demand, Contractor shall have the right to select and employ counsel to defend such persons and entities and shall have the right to settle any claims when Contractor, in its sole discretion, deems such a settlement is advisable. District, its Governing Board, Officers, Agents, and Employees shall cooperate in all reasonable manners in defense of such claims.

#### 10.6. Notices

10.6.1. Notices to either party to this Agreement shall be in writing and shall be considered duly served and delivered if such notice is delivered by hand; mailed via the United States mail, certified, return receipt requested; or sent via overnight service. All such notices shall be addressed to:

DISTRICT: Bennington Public Schools  
Attn: Superintendent  
11620 N 156th St  
Bennington, NE 68007  
CONTRACTOR:

#### 10.7. Assignments and Subcontracting

10.7.1. Contractor may assign or transfer any its rights, burdens, duties, or obligations under this Agreement to its parent company, affiliates, subsidiaries, or related legal entities with prior written approval of District. Consent to such assignment or transfer shall not be unreasonably denied.

10.7.2. Contractor shall not subcontract any of its rights, burdens, duties, or obligations under this Agreement without express written consent of District. Such consent shall not be unreasonably withheld.

### 11. Insurance Requirements

11.1. Please see Exhibit B for Insurance Requirements

**12. Independent Contractor.** While engaged in carrying out and complying with the terms and conditions of this Agreement, Contractor is an independent contractor, and not an officer, employee, or agent of the District, and Contractor agrees not to imply to any third party that it is associated with the District in any way not previously agreed to by the District. All goods and services necessary for the performance of Contractor's services under this Agreement shall be purchased with its credit and in its name.

IN WITNESS WHEREOF, District and Contractor have executed this Agreement as of the \_\_\_ day of \_\_\_\_\_, 2022.

CONTRACTOR NAME Bennington Public Schools

By: \_\_\_\_\_ By: \_\_\_\_\_

Name: \_\_\_\_\_ Name: \_\_\_\_\_

Title: \_\_\_\_\_ Title: \_\_\_\_\_

### **Exhibit A**

#### **Contractor's Personnel**

All employees and personnel assigned to perform under this Agreement shall be subject to approval by the District and the Contractor.

- a. Contractor shall furnish qualified licensed operators as are necessary for the safe and efficient operation of the buses used in providing service, and shall furnish all other employees and personnel necessary for the continued operation, supervision of service of the routes, including but not limited to supervising, scheduling, purchasing, dispatching, checking, cleaning, accounting, legal, clerical, administrative and management employees and personnel. The Contractor further agrees to cooperate with the District in providing training for operators and other employees and personnel to ensure safe and efficient operating standards and will not make changes to office employees and personnel without the District's prior written consent.
- b. It is specifically agreed and understood that all employees and personnel furnished by the Contractor in connection with the performance of the service under this Agreement shall be and remain during the term of this Agreement the employee of the Contractor and not the employee of the District. Contractor shall pay all wages, salaries, fringe benefits, social security taxes, unemployment compensation contributions, and all other remuneration of said employees. It is specifically agreed and understood that the Contractor operating the service shall be an independent contractor as that term is construed under the applicable laws, rules, regulations and decisions of the courts of the State of Nebraska. Contractor further agrees to abide by all federal, state and local laws and District's policies, regulations and procedures.
- c. Contractor agrees to furnish evidence to the District that all employees and personnel employed in the operation of the service meet the requirements of all authorities charged with regulation of transportation facilities and equipment including but not limited to, physical and mental capacity to discharge the duties assigned. In addition, Contractor agrees to perform criminal and traffic background checks on each employee in the operation of service upon based upon parameters specified by the District, as well as provide evidence that no employee in the operation of service is listed in the Child Abuse Registry, Dependent Abuse Registry or Sex Offender Registry. Upon employment and during annual review or upon request by District the Contractor shall provide records of operator experience and performance.

- d. Contractor shall employ, train and assign to the Agreement a sufficient number of licensed school bus drivers and driver substitutes to meet all of the service needs of this Agreement. "Doubling-up" routes or using management staff in driving positions is prohibited other than in the event of unusual circumstances or emergency. Contractor will supply a list of drivers and a copy of their completed background check one week prior to the start of school to the District. Changes to employees and personnel must be communicated to the District within one (1) week of hire date. Copy of completed background check will be forwarded to District before new hire begins driving.
- e. Each driver shall be at least twenty-one (21) years old and must obtain and maintain, at a minimum, a Class B Commercial Driver's License (CDL) with a passenger endorsement and an air-brake endorsement. In addition, each driver shall continue to meet all Nebraska Department of Education regulations.
- f. For the protection of the children entrusted to the care of Contractor, all drivers and other persons employed by the Contractor who may come into contact with the student population must be of pleasant and stable personality, and the highest moral character.
- g. The Superintendent or his/her designee, with written cause, may call for the removal from service under this Agreement of an employee who in their opinion is no longer fit to provide service under the terms of the Agreement. Contractor, upon written notification by the Superintendent or his/her designee, shall immediately cease to assign said employee to any work that puts him/her in direct contact with students of the District.
- h. The use of tobacco products and possession or use of alcohol, controlled substances, illegal drugs, firearms, weapons of any kind by employees of the Contractor are prohibited on school buses and school grounds at all times.
- i. Each driver must meet or exceed all physical requirements as determined by physical examination, pass a drug-screen test (and submit to subsequent random drug screening), background screening, and have an acceptable Motor Vehicle Record (MVR) and no other criminal history record. MVR checks must be conducted by Contractor before employment and at least every six (6) months thereafter.
- j. Contractor shall provide sufficient standby drivers to meet day-today vacancies due to illness, vacation, personal days and unplanned absences. All standby drivers shall be thoroughly familiar with the routes of the District and competent to meet the assigned schedule on any assigned routes. All standby drivers must meet the same requirements as regular drivers.

## Exhibit B

### Insurance Requirements

- A. The Contractor shall purchase and maintain such insurance as will protect the Contractor from claims set forth below which may arise out of, or result from the Contractor's operations under the contract, whether such operation be by the Contractor or by any subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable. The insurance to be maintained by the

Contractor shall be written as follows:

1. Workers' Compensation and Employers Liability Insurance as prescribed by Nebraska law or the minimum limits shown below;

- a. Nebraska Benefits - Statutory

- b. Employers Liability

Bodily Injury by Accident \$500,000 Each Accident

Bodily Injury by Disease \$500,000 Each Accident

The Workers' Compensation policy shall include a waiver of subrogation clause in favor of the owner.

2. Commercial General Liability Insurance combined single limits shown below covering Bodily Injury, Property Damage and Personal Injury:

General Aggregate Limit \$4,000,000

Products-Completed Operations Aggregate Limit \$4,000,000

Personal & Advertising Injury Limit \$2,000,000

Each Occurrence Limit \$2,000,000

Fire Damage Limit \$ 100,000

Medical Expense Limit \$ 5,000

This insurance must include the following features:

- a. Coverage for all premises and operations. The policy shall be endorsed to provide the aggregate Per Project Endorsement.
  - b. Personal and Advertising Injury
  - c. Operations by independent contractors.
  - d. Contractual Liability coverage

- e. Coverage for property damage underground or damage by explosion or collapse (XCU).
3. Automobile Liability Insurance covering all owned, non-owned, hired and leased vehicles with a minimum combined single limit for Bodily Injury and Property Damage of \$2,000,000 per accident. Insurance must include Contractual Liability.
4. Umbrella/Excess Liability Insurance combined single limit for bodily injury, property damage and personal injury excess primary liability limits: \$18,000,000. The required Liability limits outlined within may be met with any combination of underlying and umbrella/excess policy limits.
5. Additional Insured the Contractor will include the School as additional Insured on all policies except Workers' Compensation as respects all work performed. The additional insured coverage shall be primary and non-contributory to any of the owner's policies and shall apply to both ongoing and completed operations.
6. Insurance Certificates Each policy noted above shall be issued by an insurance company authorized to write such insurance in the State of Nebraska and shall be reasonably acceptable to the School. These insurance policies shall not be cancelled without at least 30 days prior written notice to the School. A properly executed Certificate of Insurance showing evidence of these insurance requirements shall be delivered to the School prior to the commencement of this lease.
7. Government Immunity The following clauses will be added to all liability coverages:
  - a. The company and the insured expressly agree and state that the purchase of this policy of insurance by the insured does not waive any of the defenses of governmental immunity available to the insured under Nebraska Code Section 670.4 as it now exists and as it may be amended from time to time.
  - b. The company and the insured further agree that this policy of insurance shall cover only those claims not subject to the defense of governmental immunity under Nebraska Code Section 670.4 as it now exists and as it may be amended from time to time.
8. Subrogation To the extent that such insurance is in force and collectible and to the extent permitted by law, the School and Contractor each hereby releases and waives all right of recovery against the other or anyone claiming through or under each of them by way of subrogation or otherwise, except in cases of gross negligence.
9. Property Insurance Unless otherwise provided, the Owner shall purchase and maintain property insurance on the project in the amount of the initial Contract Sum, plus value of subsequent Contract modifications and cost of materials supplied or installed by others. Such property insurance shall be maintained, unless otherwise provided in the Contract Documents or otherwise agreed in writing by all persons and entities who are beneficiaries of such insurance, until final payment has been made. This insurance shall include interests of the Owner, the Contractor, Subcontractors and Sub-subcontractors in the Project. Property insurance shall be on an "all-risk" or equivalent policy form and shall

include insurance against the perils of fire, theft, vandalism, malicious mischief, collapse, earthquake, flood, windstorm, testing and debris removal including demolition occasioned by enforcement of any applicable legal requirements, depending on availability. The property insurance may contain sub-limits for these coverages. At the option of the school district, the insurance covering the project may be written under a Builder's Risk policy or covered under the District's permanent property insurance.

10. Professional Insurance If the Contractor is required to furnish professional services as part of the Work, the Contractor shall purchase Professional Liability insurance covering performance of the professional services, with policy limits of not less than \$1,000,000 per claim and \$2,000,000 in the aggregate.
11. Pollution Insurance If the work involves the transport, dissemination, use or release of pollutants, the Contractor shall purchase Pollution Liability insurance, with policy limits of not less than \$1,000,000 per claim and \$2,000,000 in the aggregate.
12. Coverages under sections 10 and 11 may be purchased through a Combined Professional Liability and Pollution Liability insurance policy, with combined policy limits of not less than \$2,000,000 per claim and \$2,000,000 in the aggregate.
13. Aircraft Insurance If the work requires use or operation of manned or unmanned aircraft, including drones, the Contractor shall purchase coverage with policy limits of not less than \$1,000,000 per claim and \$2,000,000 in the aggregate.

**ATTACHMENT B**  
**Current Services Summary**