

13 FLEET SERVICE CONTRACT (FORM)

THIS AGREEMENT is made and entered into as this 26th day of May,

2011, by and between Gadsden I.S.D. hereinafter called "**BOARD**"
(local board of education)

and Boone Transportation, Inc. herein after referred to as "**CONTRACTOR.**"
(contractor)

W I T N E S E T H:

WHEREAS, BOARD has engaged **CONTRACTOR** to provide the pupil transportation services described herein; and

WHEREAS, **CONTRACTOR** desires to provide such transportation services;

NOW, THEREFORE, in consideration of the covenants hereinafter contained, the parties agree as follows:

[12-31-98]

13.1 TERM

The term of this agreement shall commence July, 2011 and shall continue through June, 2012. This contract may be renewed annually thereafter on the same terms and conditions at the option of the **BOARD**. [12-31-98]

13.2 SCOPE OF SERVICES

a. **CONTRACTOR** shall, during the term of the agreement supply the buses listed on Appendix A incorporated herein by reference and shall maintain such number of school buses specified to provide transportation services to the **BOARD** consistent with the terms of this contract.

b. **CONTRACTOR** shall, provide for the efficient management of the transportation services as set forth herein. **CONTRACTOR** shall advise the **BOARD** of the name(s), address(s), and phone number(s) of individual(s) designated as responsible for the management of services.

c. **CONTRACTOR** shall provide for the to-and-from transportation of students in grades kindergarten through twelve who attend school within the school district, of three and four year old children who meet the **State Board of Education** approved criteria and definition of developmentally disabled, and for the transportation of students to and from their regular attendance centers and vocational programs approved by the Public Education Department.

d. Transportation services shall be provided for 182 school days in accordance with bus routes and schedules agreed to under the terms of this contract. For each day that a bus is not operated, the compensation paid the **CONTRACTOR** shall be decreased by 1/182 of the total compensation for services provided in paragraph 3.a of this contract.

e. **CONTRACTOR** shall comply with all federal and state laws, regulations, policies and directives of the **BOARD**.
[12-31-98]

13.3 COMPENSATION

a. The **BOARD** shall pay **CONTRACTOR** all sums due and calculated in accordance with the conditions of this contract. The **BOARD** agrees to pay the **CONTRACTOR** \$ 556,813.00 for purchase allowance/rental fees, and \$ 4,092,287.00 for services herein for a total of \$ 4,649,100.00 to be paid in consecutive monthly installments as follows: 9 equal installments of \$ 409,228.70 each, and a final installment of \$ 409,228.70, commencing on the 6th day of August, 2011.

b. The compensation payable pursuant to this contract is subject to adjustment by the **BOARD** for route changes, the addition of to-and-from buses approved by the Public Education Department, or changes in the provision of services. Contract amendments required; as a result of such adjustments shall be approved by the **BOARD**.

c. This contract may be further adjusted or payments withheld where audits or investigations by the **BOARD** or Public Education Department verify overpayments, underpayment, or expenditures in violation of state laws or regulations or the terms of this contract.

d. The terms of this contract are contingent upon sufficient legislative appropriations for to-and-from transportation and authorization of the appropriation. [12-31-98]

[12-31-98]

13.4 FUEL

CONTRACTOR shall furnish all fuel to be used in its performance of this agreement. [12-31-98]

13.5 OPERATION AND MAINTENANCE

a. **CONTRACTOR** shall furnish buses of a type and with the equipment required by federal and state law and regulations, including applicable **State Board of Education Regulations**.

b. **CONTRACTOR** shall provide for all operation and maintenance of buses utilized for service under the terms of this agreement.

c. **CONTRACTOR** shall ensure that buses operating under this contract meet established **State Board of Education** safety inspection requirements.
[12-31-98]

13.6 SALARIES

CONTRACTOR shall provide for salaries and benefits of all employees providing service under the terms of this agreement. [12-31-98]

13.7 ROUTES AND SCHEDULES

a. **CONTRACTOR** shall operate the bus(es) according to the routes approved by the **BOARD**. The **BOARD** on the basis of safety, efficiency and economy shall approve such routes.

b. On the 40th day of the school year, **CONTRACTOR** shall furnish **BOARD** a complete route map and roster of eligible students who are transported. Additional reports shall be submitted as follows:

c. The **BOARD** reserves the right to modify the routes consistent with the terms of this contract, should circumstances require such modifications. The superintendent or designee may modify stops and time schedules as required. The **CONTRACTOR** shall be notified in writing by the **BOARD**'s superintendent or designee when changes are necessary, and **CONTRACTOR** shall adjust its operations to incorporate such changes.
[12-31-98]

13.8 RECORDS AND REPORTS

a. All records required by state law or regulations shall be subject to inspections and audits by the Public Education Department, the Office of the State Auditor, and any auditor designated to conduct such inspections or audits. The Public Education Department and the State Auditor shall have the right to audit both before and after payment, and payment under this contract shall not foreclose the right of the **BOARD** to recover excessive or illegal payments.

b. The **CONTRACTOR** shall complete Appendix B, incorporated herein by reference, and shall submit annually a final expenditure report for fuel, operation and maintenance, and salary and benefits on forms provided by the Public Education Department.

c. The **CONTRACTOR** shall make such reports as may be required by the **BOARD** or the Public Education Department. Failure to make required reports on time and with accuracy shall be considered a breach of contract and shall be cause to adjust payments or withhold payments until reporting requirements are met. [12-31-98]

13.9 INDEMNIFICATION

CONTRACTOR shall hold **BOARD**, its officers and employees harmless and does hereby indemnify the **BOARD**, its officers and employees from and against every claim or demand which may be made by any person, firm or corporation, or other entity arising from or caused by any act, neglect, default or omission of **CONTRACTOR** in the performance of this agreement, except to the extent that such claim or demand arises from or is caused by the negligence or willful misconduct of **BOARD**, its agents or employees. [12-31-98]

13.10 INSURANCE

a. The **BOARD** shall provide automobile liability coverage to the **CONTRACTOR**, which includes bodily injury, property damage, and physical damage for all buses under contract to the **BOARD**. The terms, conditions and limits of coverage shall be in accordance with that provided by the New Mexico Public Schools Insurance Authority or any other coverage provided by the local **BOARD** and allowed by statute.

b. The **CONTRACTOR** shall carry Worker's Compensation insurance as statutorily required by the State of New Mexico and shall provide evidence of Insurance to the **BOARD**. [12-31-98]

13.11 INCLEMENT WEATHER AND SCHOOL CLOSINGS

In the event of inclement weather or impassability of roads or whenever school is canceled, delayed or is dismissed early, **BOARD** shall notify **CONTRACTOR** not later than 2 hours before service. [12-31-98]

13.12 SAFETY

CONTRACTOR shall be responsible for meeting all safety requirements established by local, state, or federal laws or regulations. A record of training and other safety reporting requirements shall be provided to the **BOARD** upon request. [12-31-98]

13.13 OPERATION/PERSONNEL/DRIVER QUALIFICATIONS

a. **CONTRACTOR** shall employ a sufficient number of drivers and support personnel to carry out the terms of this contract.

b. **CONTRACTOR** shall ensure that employees meet training requirements set forth by federal and state law, **State Board of Education** regulations and **BOARD** policies and shall assume the cost of training for drivers and bus assistants.

c. **CONTRACTOR** shall establish rules, which prohibit the driver from smoking on the bus or driving under the influence of drugs or alcohol while operating any bus.

d. **CONTRACTOR** shall comply with federal laws and regulations for drug and alcohol testing and shall provide to the **BOARD** verification of compliance.

e. **CONTRACTOR** shall be responsible for hiring and discharging personnel employed by **CONTRACTOR** to perform its obligations hereunder; provided, however, that the **BOARD** shall have the right to require **CONTRACTOR** to remove from service under this agreement any employee whose performance is, in good faith, deemed by the **BOARD** unsuitable to the provision of transportation services for **BOARD**; and provided further that **BOARD** shall provide the **CONTRACTOR** such notification in writing and provide justification for its determination.

f. **CONTRACTOR** shall provide qualified drivers, trained and licensed in accordance with the laws of this State and the rules and regulations of **BOARD**. [12-31-98]

13.14 TERMINATION OF CONTRACT BY BOARD

Subject to procedures hereinafter set forth, the **BOARD** may terminate this contract before its expiration date for violation of law, terms of the contract, or regulations and policies of the **State Board of Education** or **BOARD**. The procedures for termination of this contract are as follows:

a. The **BOARD** shall serve notice upon the **CONTRACTOR** in person, or by registered or certified mail, specifying the charges against the **CONTRACTOR**

under which the contract is sought to be terminated, with a copy of such notice provided to the State Transportation Director.

b. The notice shall also specify a time and place at which the **BOARD** will hold a hearing on the charges made against the **CONTRACTOR** which hearing shall not be more than ten (10) calendar days after service of the notice upon the **CONTRACTOR**.

c. The **CONTRACTOR** shall have the right to appear and be represented by legal counsel, to be heard, and to call witnesses in his/her own behalf.

d. The **BOARD** shall have the power to suspend the **CONTRACTOR** pending a hearing on the charges.

e. The decision of the **BOARD** shall be final and conclusive, subject only to the approval of the State Transportation Director.

f. In the event that this contract is terminated, the Secretary of Education shall calculate the remaining number of years that the bus could be used based on a twelve-year replacement cycle and calculate a value reflecting that use. The **DISTRICT** shall deduct an amount equal to that value from any remaining amount due on the contract. If no balance remains on the contract, the **CONTRACTOR** shall reimburse the **DISTRICT** an amount equal to the value calculated.

g. In the event that this contract is terminated, the buses owned by the **CONTRACTOR** and used pursuant to the terms of this contract as set forth in Appendix A herein shall be appraised by three qualified appraisers appointed by the **BOARD** and approved by the State Transportation Director. The operator succeeding to the contract shall purchase, with the approval of the **CONTRACTOR**, all said buses at their appraised value.

[12-31-98]

13.15 TERMINATION OF CONTRACT BY CONTRACTOR

Subject to procedures hereinafter set forth, the **CONTRACTOR** may cancel this contract before its expiration by the following procedures:

a. The **CONTRACTOR** shall serve a written notice upon the **BOARD** in person or by registered or certified mail, with a copy of such notice provided to the State Transportation Director, specifying the reason for cancellation.

b. The notice shall also specify the date at which such cancellation shall be effective, but not less than sixty (60) calendar days after the service of notice.

c. Cancellation of the contract shall be effective only after the **BOARD** grants written consent and notice provided to the State Transportation Director.

d. This contract shall not be assigned to another individual or corporation.

e. In the event that this contract is terminated, the Secretary of Education shall calculate the remaining number of years that the bus could be used based on a twelve-year replacement cycle and calculate a value reflecting that use. The DISTRICT shall deduct an amount equal to that value from any remaining amount due on the contract. If no balance remains on the contract, the **CONTRACTOR** shall reimburse the DISTRICT an amount equal to the value calculated.

f. In the event that this contract is terminated, the buses owned by the **CONTRACTOR** and used pursuant to the terms of this contract as set forth in Appendix A herein shall be appraised by three qualified appraisers appointed by the **BOARD** and approved by the State Transportation Director. The operator succeeding to the contract shall purchase with the approval of the **CONTRACTOR** all said buses at their appraised value.

IN WITNESS WHEREOF we have set our hands and seals.

____Gadsden_____BOARD OF EDUCATION

BY: _____PRESIDENT

ATTEST: _____SECRETARY

_____CONTRACTOR

[12-31-98]