

## TRANSPORTATION AGREEMENT

THIS AGREEMENT, made and entered into this 13<sup>th</sup> day of July, by and between OSWEGO COMMUNITY UNIT SCHOOL DISTRICT 308 of Oswego, Illinois, (hereinafter referred to as "School" or "District") and FIRST STUDENT of Cincinnati, Ohio, hereinafter referred to as "Contractor") (each an individual "Party" and collectively the "Parties").

### RECITALS

**WHEREAS**, District, a school district in need of pupil transportation services, issued a Request for Proposals, including bid specifications and associated bid documents (collectively "District's RFP") soliciting proposals from qualified transportation providers;

**WHEREAS**, Contractor, a school bus transportation provider authorized to do business in the State of Illinois, submitted a Base Proposal ("Contractor's Proposal") in response to the District's RFP;

**WHEREAS**, the District, after reviewing all proposals that were submitted in response to the RFP, found the Contractor's bid to provide transportation services was most suitable for the needs of the District; and

**WHEREAS**, the Parties wish to memorialize their understandings and obligations to one another by entering into this here Agreement.

**NOW THEREFORE**, for a good and valuable consideration and for the further consideration of the promises herein contained to be kept and performed by the respective Parties, it is hereby agreed as follows:

1. Contractor shall, during the term of this Agreement, supply and maintain such school buses (in quantity and capacity not to exceed a fleet-wide average of **twelve years**) and personnel as are required to fulfil District's needs for transportation services as set forth in this Agreement, District's RFP (attached hereto and incorporated herein as EXHIBIT A), District's Addendum to RFP (attached hereto and incorporated herein as EXHIBIT B), and Contractor's Proposal (attached hereto and incorporated herein as EXHIBIT C). In the event of a conflict between these documents the provisions of this Agreement will control. Otherwise, the terms of the other document shall govern the Parties' relationship in the following order of precedence: (1) District's RFP; (2) District's Addendum to RFP; and (3) Contractor's Proposal.
2. The initial term of this Agreement shall be three (3) years beginning on or about July 1, 2020. With the possibility of a two (2) year extension at the option of the District and mutual agreement by the Contractor.
3. In consideration for services rendered hereunder, District shall pay to Contractor all sums due and owing and calculated in accordance with the daily rates set forth in the Contractor's Proposal as provided in EXHIBIT C. The fuel mileage calculations and the excess route hour calculations will be calculated starting and ending at the nearest District boundaries to Contractor facility. Said sums shall be paid monthly upon the presentation to District of the number of days actually run in the preceding month. These sums shall be paid no later than thirty (30) days after receipts of statement for services rendering during the preceding month provided Contractor has submitted all invoicing and supporting documentation in a timely manner according to the District's RFP.

4. During the entire term of this Agreement, Contractor shall comply in every respect with all laws, rules and regulations of the State of Illinois affecting or regulating the transportation of school children, including but not limited to the Motor Vehicle Code, the Illinois Prevailing Wage Act, The School Code of Illinois, and the rules promulgated by the Illinois State Board of Education and Department of Transportation.
5. To the fullest extent permitted by law the Contractor shall indemnify, keep and save harmless the Board, their agents, officials and employees against all injuries, deaths, loss, damages, claims, patent claims, suits, liabilities, judgements, costs and expenses arising from or related to any act, negligence or omission of the Contractor or its employees in performing under this agreement, and the Contractor shall, at its own expense, appear, defend and pay all charges of attorneys costs and any other expenses arising there from or incurred against the Board in any such action, except to the extent caused by any negligence of the Board or its employees.
6. This contract may not be assigned or any part of the same subcontracted without the written consent of the District, and in no case shall such consent relieve Contractor from its obligations or change the terms of the contract.
7. The District reserves the right to use other transportation services for field trips, shuttle runs, athletic activities, out-of-district transportation, and other purposes.
8. Contractor, at its sole expense, agrees to provide insurance coverage as required by District's RFP.
9. Contractor shall provide a one hundred percent (100%) performance bond annually during the term of this Agreement, the cost of which shall be borne by Contractor.
10. This Agreement shall be governed by the laws of the State of Illinois. All references in this Agreement to the "state shall mean the State of Illinois. All regulations, laws and requirements of the state shall mean the regulations, laws, or requirements of the State of Illinois.
11. Both Parties warrant that they are properly authorized to enter into this Agreement.
12. In the event any provision specified herein is held or determined by a Court of competent jurisdiction to be illegal, void, or in contravention of any applicable law, the remainder of the Agreement shall remain in full force and effect.
13. If District cancels any work due to inclement weather (such as, but not limited to, snow, ice, flood, extreme cold/extreme heat), for health or safety reasons, District will not be responsible for paying Contractor for 5 or fewer days of such cancellations. If District cancels work for other emergency situations (including but not limited to epidemics, pandemics, plagues, political unrest, executive / governmental orders etc.), District agrees to pay a sum equal to forty percent (40%) of the daily charges for each operating day cancelled beyond 10 days due to such emergency event. The District further agrees and acknowledges that if, in response to an extended cancellation due to an emergency situation, Contractor is required to furlough or lay off employees, Contractor will make every effort to but cannot guarantee that it will have the minimum number of employees required to fulfill its obligations under this Agreement upon the resumption of business once the emergency situation subsides.

If Contractor cancels any work for whatever reason necessary, Contractor is still responsible for the transportation needs of the Students. If the Contractor cancels more than 5 days of work in any one school year, Contractor is responsible for paying District any costs incurred and associated with the performance of the services that Contractor would otherwise be responsible for.

14. With respect to Appendix B of Contractor's Proposal, all proposed modifications submitted by the Contractor shall be deemed to be rejected by the District except for the following, as further modified by the District:

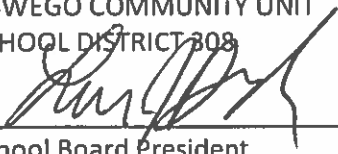
- i. Section 2.16 shall be modified to provide either party has the right to terminate the contract effective at the end of a school year upon a one-hundred twenty (120) day written notice prior to the end of the school year.
- ii. Section 2.17 shall be modified to provide that the District will not enforce this section prior to Labor Day for each school year.
- iii. Section 2.20 shall be modified to provide that all liability under this section shall be with respect to the scope of this Agreement.

Section 3.1(E) shall be modified to provide the term of the Agreement will be for a three year contract beginning on or about July 1, 2020 with the possibility of a two year extensions at the option of the District and mutual agreement between the Parties.

***[Remainder of page intentionally left blank; signature page to follow]***

IN WITNESS WHEREOF, the respective parties have caused this Agreement to be assigned and attested by their duly authorized representative the day and year first above written.

OSWEGO COMMUNITY UNIT  
SCHOOL DISTRICT 308

  
\_\_\_\_\_  
School Board President

  
\_\_\_\_\_  
School Board Secretary

7/13/2020  
\_\_\_\_\_  
Date

CONTRACTOR

  
\_\_\_\_\_  
Contractor Authorized Representative

Sr. Vice President  
\_\_\_\_\_  
Title

8/27/2020  
\_\_\_\_\_  
Date

**EXHIBIT A**  
**[District's RFP]**

**EXHIBIT B**  
**[Addendum to District's RFP]**

**EXHIBIT C**  
**[Contractor's Proposal]**

**EXHIBIT D**  
**[Contractors Final Pricing**  
**1.5% discount based on relaxed fleet specification (8-year**  
**average, 12-year max]**

	Year One	Year Two	Year Three	Extension Year One	Extension Year Two
<b>ANNUAL BASE BID</b>	SCHOOL YEAR 2020-21	SCHOOL YEAR 2021-22	SCHOOL YEAR 2022-23	SCHOOL YEAR 2023-24	SCHOOL YEAR 2024-25
<b><i>Vehicle / Driver Rates</i></b>					
Level one: Rate per vehicle, per day up to four (4) hours, for a round trip regular education route that is within the boundaries of the School District.	\$324.40	\$334.13	\$344.15	\$354.47	\$365.10
Level Two: Rate per vehicle, per day up to four (4) hours, for a round trip special education route that is within the boundaries of the School District.	Not Bid	Not Bid	Not Bid	Not Bid	Not Bid
Level Three: Rate per vehicle, per day up to four (4) hours, for a round trip that is outside the boundaries of the School District.	Not Bid	Not Bid	Not Bid	Not Bid	Not Bid
Level One and Two Extensions: Rate per vehicle, per fifteen (15) minutes increment above the four hour minimum for a round trip that is within the boundaries of the School District.	\$ 17.89	\$ 18.43	\$ 18.98	\$ 19.55	\$ 20.14
Level Three Extensions: Rate per vehicle, per fifteen (15) minutes increment above the four hour minimum for a round trip outside the boundaries of the School District.	Not Bid	Not Bid	Not Bid	Not Bid	Not Bid
Surcharge per wheelchair bus, per day.	Not Bid	Not Bid	Not Bid	Not Bid	Not Bid
<b><i>Bus Monitor Rates</i></b>					
Bus Monitor: rate per bus monitor, per day for up to four (4) hours.	Not Bid	Not Bid	Not Bid	Not Bid	Not Bid
Bus Monitor Extensions: rate per bus monitor, per day, per fifteen (15) minute increment above four (4) hours	Not Bid	Not Bid	Not Bid	Not Bid	Not Bid
<b><i>Field Trip Rate</i></b>					
Rate per bus, per field trip for two (2) hours, plus tolls and parking fees if applicable. Rate includes any and all vehicle requirements.	\$ 103.69	\$ 106.80	\$ 110.00	\$ 113.30	\$ 116.70
Rate per bus, per field trip, per fifteen (15) minute increment above two hours. Rate includes any and all vehicle requirements.	\$ 12.96	\$ 13.35	\$ 13.75	\$ 14.16	\$ 14.58

## **TRANSPORTATION AGREEMENT**

**THIS AGREEMENT**, made and entered into this 13th day of July, 2020, by and between OSWEGO COMMUNITY UNIT SCHOOL DISTRICT 308, (hereinafter referred to as "School" or "District") of Oswego, Illinois, and **SEPTRAN, INC.** of 2601 Navistar Drive, Lisle, IL 60532, (hereinafter referred to as "Contractor") (each an individual "Party" and collectively the "Parties").

### **RECITALS**

**WHEREAS**, District, a school district in need of pupil transportation services, issued a Request for Proposals, including bid specifications and associated bid documents (collectively "District's RFP") soliciting proposals from qualified transportation providers;

**WHEREAS**, Contractor, a school bus transportation provider authorized to do business in the State of Illinois, submitted a Base Proposal ("Contractor's Proposal") in response to the District's RFP;

**WHEREAS**, the District, after reviewing all proposals that were submitted in response to the RFP, found the Contractor's bid to provide transportation services was most suitable for the needs of the District; and

**WHEREAS**, the Parties wish to memorialize their understandings and obligations to one another by entering into this here Agreement.

**NOW THEREFORE**, for a good and valuable consideration and for the further consideration of the promises herein contained to be kept and performed by the respective Parties, it is hereby agreed as follows:

1. Contractor shall, during the term of this Agreement, supply and maintain such school buses (in quantity and capacity not to exceed a fleet-wide average of ten years) and personnel as are required to fulfil District's needs for transportation services as set forth in this Agreement, District's RFP (attached hereto and incorporated herein as EXHIBIT A), District's Addendum to RFP (attached hereto and incorporated herein as EXHIBIT B), and Contractor's Proposal (attached hereto and incorporated herein as EXHIBIT C). In the event of a conflict between these documents the provisions of this Agreement will control. Otherwise, the terms of the other document shall govern the Parties' relationship in the following order of precedence: (1) District's RFP; (2) District's Addendum to RFP; and (3) Contractor's Proposal.
2. The initial term of this Agreement shall be three (3) years beginning on or about July 1, 2020. With the possibility of a two (2) year extension at the option of the District.
3. In consideration for services rendered hereunder, District shall pay to Contractor all sums due and owing and calculated in accordance with the daily rates set forth in the Contractor's Proposal as provided in EXHIBIT C. The fuel mileage calculations and the excess route hour calculations will be calculated starting and ending at the nearest District boundaries to Contractor facility. Said sums shall be paid monthly upon the presentation to District of the number of days actually run in the preceding month. These sums shall be paid no later than thirty (30) days after receipts of statement for services rendering during the preceding month provided Contractor has submitted all invoicing and supporting documentation in a timely manner according to the District's RFP.

4. During the entire term of this Agreement, Contractor shall comply in every respect with all laws, rules and regulations of the State of Illinois affecting or regulating the transportation of school children, including but not limited to the Motor Vehicle Code, the Illinois Prevailing Wage Act, The School Code of Illinois, and the rules promulgated by the Illinois State Board of Education and Department of Transportation.

5. To the fullest extent permitted by law the Contractor shall indemnify, keep and save harmless the Board, their agents, officials and employees against all injuries, deaths, loss, damages, claims, patent claims, suits, liabilities, judgements, costs and expenses arising from or related to any act, negligence or omission of the Contractor or its employees in performing under this agreement, and the Contractor shall, at its own expense, appear, defend and pay all charges of attorneys costs and any other expenses arising there from or incurred against the Board in any such action, except to the extent caused by any negligence of the Board or its employees.

6. This contract may not be assigned or any part of the same subcontracted without the written consent of the District, except to Contractor's parent company, affiliates, subsidiaries, or related entities which consent shall not be unnecessarily withheld or delayed, and in no case shall such consent relieve Contractor from its obligations or change the terms of the contract.

7. The District reserves the right to use other transportation services for field trips, shuttle runs, athletic activities, out-of-district transportation, and other purposes.

8. Contractor, at its sole expense, agrees to provide insurance coverage as required by District's RFP.

9. Contractor shall provide a one hundred percent (100%) performance bond annually during the term of this Agreement, the cost of which shall be borne by Contractor.

10. This Agreement shall be governed by the laws of the State of Illinois. All references in this Agreement to the "state shall mean the State of Illinois. All regulations, laws and requirements of the state shall mean the regulations, laws, or requirements of the State of Illinois.

11. Both Parties warrant that they are properly authorized to enter into this Agreement.

12. In the event any provision specified herein is held or determined by a Court of competent jurisdiction to be illegal, void, or in contravention of any applicable law, the remainder of the Agreement shall remain in full force and effect.

13. This Agreement and Contractor's rates set forth hereunder contemplate a base term of 3 years and a minimum of 175 operating days per school year in accordance with the regularly scheduled school year.

If District cancels any work due to inclement weather (such as, but not limited to, snow, ice, flood, extreme cold/extreme heat), District will not be responsible for paying Contractor for 5 or fewer days of such cancellations. For purposes of clarity, District shall be responsible for paying 100% of the daily charges for cancellations due to inclement weather that extend beyond 5 days. If District cancels work for other emergency situations (including but not limited to epidemics, pandemics, plagues, political unrest, executive / governmental orders etc.), District will not be responsible for paying Contractor for 5 or fewer days of such cancellations but agrees to pay a sum equal to forty percent (40%) of the daily charges to

cover fixed costs for each operating day cancelled beyond 10 days due to such emergency event. The District further agrees and acknowledges that if, in response to an extended cancellation due to an emergency situation, Contractor is required to furlough or lay off employees, Contractor will make every effort to but cannot guarantee that it will have the minimum number of employees required to fulfill its obligations under this Agreement upon the resumption of business once the emergency situation subsides.

If Contractor cancels any work for whatever reason necessary, Contractor will be assessed applicable liquidated damages in accordance with the terms and conditions of the RFP.

14. Payment for such services will be made by check, money order, or ACH or wire transfer in accordance with the Local Government Prompt Payment Act (50 ILCS 505).

If District, acting in good faith, disputes the accuracy of all or part of any invoice, District must notify Contractor of such dispute within thirty (30) days of the receipt of the invoice, including the specific line item subject to dispute and the reasons for the dispute. Notwithstanding such dispute, District shall pay all undisputed amounts. Payment of any undisputed amount shall not constitute waiver for District's right to dispute other unpaid amounts.

In the event undisputed sums due and payable are not received in the time prescribed in the Local Government Prompt Payment Act (50 ILCS 505), a permissible late charge may be assessed upon the account pursuant to said Act.

In the event such undisputed sums are not received within ninety (90) days, service may be discontinued until such time as Contractor has received all undisputed sums due, and District shall hold Contractor harmless for any damages resulting from the discontinued service due to District's failure to pay.

15. If either Party refuses or fails to perform services as specified in this the Agreement, or any separable part thereof, the other Party may, without prejudice to any other right or remedy, serve written notification upon it of intention to terminate and, unless within thirty (30) days after service of such written notice of the condition or violation the party in breach shall cease and make satisfactory arrangements for the correction thereof, the Agreement shall, upon the expiration of the thirty (30) days, cease and terminate.

With respect to Section 2.17 (Contractor Default) in the District's RFP (Exhibit A), the District will not enforce the language in this section prior to Labor Day for each school year.

16. Notwithstanding any contrary statements in the Contract or any documents incorporated herein by reference, in the event any federal, state, local, or other governing body's statutes, laws, rules, or regulations impact Contractor's method and/or cost in connection with the provisions of services hereunder (e.g., changes in equipment requirements, changes in service requirements, changes in unemployment insurance benefit requirements, increase in minimum wage, etc.) or in the event there are other material changes in the requirements of District (such as enrollment changes or changes to the vehicle types to be used), and the impact of such changes materially impacts the methods and/or cost of Contractor in connection with providing bus service hereunder during the term of the Contract, each Party, upon written notice to the other Party, may request a renegotiation of the Contract which shall be conducted in good faith. Such renegotiations may include, without limitation; changes in rates, term,

payment schedules, levels of service, and the types or number of vehicles to be used. Any modification to the Contract resulting from such negotiations shall become effective on a mutually agreed upon date. If the parties cannot come to an agreement, either party may terminate the Contract upon a one hundred twenty (120) days' written notice.

17. In the event market conditions dictate that employee wage increases are necessary, the Contractor, upon written notice to the District, may request a renegotiation of the Contract to mitigate the financial impact of any increased wages to the Contractor which shall be conducted in good faith. Any modification to the Contract resulting from such negotiations shall become effective on a mutually agreed upon date. If the parties cannot come to an agreement, either party may terminate the Contract upon a one hundred twenty (120) days' written notice.

***[Remainder of page intentionally left blank; signature page to follow]***

IN WITNESS WHEREOF, the respective parties have caused this Agreement to be assigned and attested by their duly authorized representative the day and year first above written.

OSWEGO COMMUNITY UNIT  
SCHOOL DISTRICT 308

  
\_\_\_\_\_  
School Board President

  
\_\_\_\_\_  
School Board Secretary

Date

7/13/2020

SEPTRAN, INC.

  
\_\_\_\_\_  
Contractor Authorized Representative

Gary L. Waits Jr., President

\_\_\_\_\_  
Title

7/13/2020

Date

**EXHIBIT A**  
**[District's RFP]**

**EXHIBIT B**  
**[Addendum to District's RFP]**

**EXHIBIT C**  
**[Contractor's Proposal]**