

NOTICE

PROPRIETARY/CONFIDENTIAL INFORMATION

Any bid, contract or response to any solicitation from St. Mary's County is available for inspection and copying upon request by any person or entity pursuant to the Maryland Public Information Act. The Act requires a denial of inspection of any part of the document that contains a trade secret or confidential commercial information or confidential financial information. Any such protected information **must** be specifically identified by the vendor on their submitted documents. The Contractor agrees to indemnify and hold harmless the Commissioners of St. Mary's County for loss, cost or expense resulting in whole or in part from any such identification or any denial of inspection based thereon.

SECTION C: DESCRIPTION / SPECIFICATIONS / STATEMENT OF WORK

C-1 SCOPE OF CONTRACT

- C-1.1 Contractor agrees to furnish student transportation to and from school for individual Non-Public Schools during the days and hours set forth and over the approved routes, transfer points and stops as described in the bus schedules and on the days established by the County and described in the Non-Public School calendar(s). Bus schedules and routes may be amended from time to time by the County.
- C-1.2 The County has the absolute right to modify the bus routes from time to time to meet the transportation requirements for the St. Mary's County Non- Public Schools. Contractor shall agree to changes in the route upon notice thereof from the Contracting Officer's Representative (COR) and shall further accept adjustment of compensation which the County may deem proper by reason of any change of the route(s).

C-2 LENGTH OF CONTRACT

- C-2.1 This Contract shall be for an annual term from the date signed. Subsequent renewals shall be mutually agreed upon prior to the following school year and are subject to Section C-6-4.

C-3 SCOPE OF SERVICES

- C-3.1 Contractor agrees that the student transportation provided under this Contract shall be for students and staff attending non-public schools assigned by the Non-Public School Bus (NPSB) Transportation Department, in accordance with the Non-Public School Bus insurance policy requirements.
- C-3.2 Contractor agrees not to deviate from their designated routes without the consent of the COR, who may designate stops to be made or time schedules of the bus to change.

C-4 LAWS, POLICIES & REGULATIONS

- C-4.1 Contractor agrees to provide at their expense a sufficient number of school buses and/or spare buses to fulfill the requirements of this Contract, all of which shall be approved by the County and shall meet all requirements of all Federal, State, County and municipal laws, statutes, ordinances, rules and regulations, which are applicable to and enforceable in St. Mary's County, Maryland. The designation of and authorization to utilize spare buses shall be determined at the sole discretion of the County.

C-5 MAINTENANCE REQUIREMENTS

- C-5.1 Contractor agrees to furnish, at their expense, all labor, parts and other materials required for the operation of the school buses, including (but not limited to) drivers, maintenance, repairs, diesel, oil and other motor fuel and lubricants.
- C-5.2 Contractor shall keep their school buses in good and safe mechanical condition at all times in accordance with standards established by statute, lawful authority and the County.
- C-5.3 Contractor shall keep their school buses in clean and sanitary condition at all times.
- C-5.4 Contractors may not place or allow to be placed (on the exterior of their bus) any signs, letters, pictures or decoration of any kind, unless it is for the purpose of identifying Non-Public Schools or the owner of the bus.
- C-5.5 All new buses authorized for purchase must meet the St. Mary's County bus specifications in place at the time the bus is purchased.
- C-5.6 All school buses under this Contract with the County, to include Spare buses & Contingency Fleet buses, shall have fire extinguishers that are inspected by an authorized inspection agency annually. The Contractor will forward the documentation of the annual inspection performed, which will include the date of inspection and the inspection agency, to the COR prior to the beginning of each new school year. Any school bus that does not have a fully functional fire extinguisher with a current inspection on board the vehicle will not be permitted to transport students until it is compliant.

C-6 CONTRACTORS' REQUIREMENTS, INSURANCE, STATE LAWS

- C-6.1 Contractors shall provide the County with the certificate of Workman's Compensation Coverage and Sole Proprietor Status as a Covered Employee by the first weekday in August. All drivers and others engaged in the operation of the Contractors' services shall be employees of the Contractor.
- C-6.2 The County, at its expense, shall provide liability insurance during the life of this Contract insuring the approved school / spare bus (es) and passengers for property damage and bodily injury up to the maximum coverage per occurrence as afforded by the County Insurance policy. This insurance shall not apply to any other use of school buses and it is the responsibility of the Contractor to obtain liability insurance coverage for such other use, including spare buses. The Contractor may provide comprehensive or collision (for physical damage) coverage for all buses.
- C-6.3 The liability insurance provided by the County will cover all regularly Contracted school buses and approved spare buses, while such buses are operated by certified drivers and approved by the County, as follows:
 - a. On official school business, including transporting pupils to or from school or when transporting pupils on school sponsored activities, including the operation of the buses to and from regular storage or garage locations.
 - b. Operated for maintenance or testing purposes.
 - c. Stored or parked at the regular storage or garage locations.
 - d. Training bus drivers.
- C-6.4 School buses required to remain in service over twelve (12) years, but not over fifteen (15)

years, shall qualify for the County's Deferred Bus Replacement Stipend, and shall be provided with school bus liability insurance coverage.

- C-6.5 All drivers shall be qualified under State law to drive a school bus and drivers shall be employed by the Contractor as a school bus driver. Drivers are subject to continued qualification and certification with state law and regulations. Such approval shall be made a condition precedent of any driver / employment agreement entered into by and with the Contractor. All bus drivers must be approved by the County and any other authority required by law.
- C-6.6 Contractors shall be responsible for compliance by their drivers with all laws, statutes, rules and regulations for the transportation of school children including current policies or regulations or those established in the future by the County, State and Federal regulations. No excessive material gifts of any kind shall be given to students at any time, and the student's parents in conjunction with the County shall determine what is considered to be "excessive".
- C-6.7 Contractors shall provide bus drivers who are capable of maintaining control of school children at all times during transportation. Bus drivers shall report the detail of any misconduct or breach of order and discipline to the school principal / disciplinarian via the *School Bus Behavior Report Form* and forms provided by the County and in accordance with all other guidelines as set forth in the current *Non-Public School Transportation Parent / Student Handbook*.
- C-6.8 Drivers shall observe the highest possible standards of safe driving at all times and strictly comply with all Commercial Driver's License (CDL) rules and regulations, as well as all provisions of Maryland Motor Vehicle Laws, and any/all guidelines set forth by the County.
- C-6.9 Contractor and bus drivers shall take every precaution to ensure the safety of passengers. Contractors are responsible for ensuring that their drivers are in compliance with all State, Federal, DOT and Drug and Alcohol regulations including FMCSA 49 CFR Part 40.
- C-6.10 The County shall require a State and Federal finger printing and criminal background check for all drivers and Contractors providing services under this Contract. Therefore, all Contractors and drivers shall have completed the background check with favorable results, using the County's authorization number no later than the beginning of the Contract term, or at the time of employment. The Contractor assumes all financial responsibility for services provided in obtaining this information. The County will determine if the person or persons are authorized to provide services, in accordance with State, Federal, and local policies, and in accordance with School Bus Drivers Disqualifying Conditions & Terms - COMAR 13A.06.07.07.
- C-6.11 Contractors are responsible for monitoring their drivers' yearly MVA record. Contractors must immediately notify the COR of any moving or criminal violations that would affect the employment of the driver. It is the responsibility of the Contractor to initiate disciplinary actions such as driver replacement, suspension, or removal.
- C-6.12 Contractors and drivers must attend a minimum of four (4) hours of In-Service training provided by the St. Mary's County Department of Public Works & Transportation during the school year; Contractors will be reimbursed for the 4 hours and full time drivers will be compensated for four (4) hours. Contractors are required to attend all four (4) hours of training provided by the DPW & T Non-Public School Bus Transportation Division. Emergency absences for drivers will be excused, and it will be the Contractor's responsibility to contact the St. Mary's County Board of Education – Transportation Division to obtain their training

schedule in order to fulfill the requirement and shall submit training documentation to the County.

C-7 CONTRACTOR PAYMENTS

- C-7.1 The County reserves the right to set the rate of reimbursement, including the driver's rate, Per Vehicle Allotment (PVA), fuel maintenance factors, stipends, etc., pursuant to the current fiscal year's approved budget. The County agrees to pay the Contractor in accordance with terms of its approved Contractor Compensation worksheet (Attachment J-1). The Contractor payment formula will be adjusted annually by formal Contract modification, and both parties acknowledge that the Contract shall be funded by the annual appropriations, as authorized by the Commissioners of St. Mary's County. The payment due to the Contractor under this Contract shall be adjusted to reflect any changes in the route or the school(s) calendar. Payment shall be made in ten (10) consecutive monthly installments, and mailed or electronically deposited within thirty (30) days of receipt of the Contractor's invoice(s). The first payment shall be payable on the last day of September for the period covering August.
- C-7.2 Contractor agrees that the County has the absolute right to verify time and mileage being reported by the Contractor for payment. Contractor agrees to allow the County's staff to personally and/or through use of GPS tracking devices placed on the Contractor's bus, verify time and mileage reported by the Contractor for payment. No cost for the tracking devices will be accrued by the Contractor. The County shall provide reasonable notification to the Contractor prior to installation of GPS equipment or physical inspection of the bus.
- C-7.3 Contractors shall ensure that a working cell phone is on each bus at all times while the bus is in operation. The County shall provide a stipend towards cell phone expenses for each full time / regular bus. The County requires that a copy of the monthly cell phone bill be submitted for review, and prior to the payment of the aforementioned cell phone stipend. Maryland State cell phone laws must be followed at all times. An investigation which confirms a violation of this provision may result in Contractual action being taken against the Contractor up to and including termination of the Contract.
- C-7.4 All payments and reimbursements for the Contractor shall be in accordance to the County's Payment and Reimbursement Procedures and Section G-3.
- C-7.5 Reimbursement payments for any drug/alcohol screening require submittal of Contractor invoice within the current school year.

C-8 TERMINATION OF CONTRACTS

- C-8.1 The performance of the terms of this Contract by the Contractor shall at all times be subject to the approval of the County and the County may terminate this Contract for inadequate performance or breach by the Contractor or any of their employees by giving thirty (30) days written notice.
- C-8.2 If it is determined by the County that the Contractor's performance or that of any of their employees presents a risk of danger or harm to any of the passengers of the buses termination may be immediate. If such termination is for inadequate performance or breach, the Contractor may be held responsible by the County for expenses incident to their replacement. If this Contract is terminated for inadequate performance or breach, the Contractor shall be provided the reason or reasons for termination in writing at the same time notice of termination is given.

- C-8.3 The County, in the exercise of its sole discretion, shall have the right to terminate this Contract upon thirty (30) calendar days' notice to the Contractor, in the event of an adverse determination by the Internal Revenue Service relating to the Contractor's status as an independent contractor, or upon the advice of legal counsel to the County that the independent contractor status of the Contractor may not be recognized.
- C-8.4 The County or the Contractor may terminate this Contract at the end of any school year, for any reason, upon at least thirty (30) calendar day notice in writing to the Contractor or the County, respectively.
- C-8.5 If this Contract is terminated by the County, the County will assist Contractor in disposing of Contractor's equipment, but will assume no legal or financial obligation should the County and/or Contractor be unable to dispose of said equipment.
- C-8.6 If a Contractor elects not to continue service with the County, their bus (es) shall be made available to other contractors (Right of First Refusal) vying for the vacated route(s) for a period of 45 days.
- C-8.7 Should a school close between school years (i.e. permanently shuts down) the County shall, in good faith, attempt to reasonably restructure routes to accommodate students and compensation to the affected Contractor, however, the County reserves the right to terminate this Contract in its entirety should a reasonable solution not be achievable.

C-9 TRANSFERRING CONTRACTS

- C-9.1 Contractors shall not assign this Contract or any part thereof without the consent, in writing, of the County. Contracts will be assigned according to the County's criteria for new contracts and/or the transfer of existing contracts in accordance with Section M.

SECTION E: INSPECTION AND ACCEPTANCE

- E-1 All required School Vehicle Type 'A' inspections must be completed, as mandated by the Maryland Motor Vehicle Administration, and copies of 'A' Inspection forms must be submitted to the COR no later than **last day in July**. Any school bus determined by inspection to be unsafe for any reason (i.e., failed bus inspection, test, lack of proper insurance coverage, improperly tagged buses, etc.) shall immediately be removed from service and replaced with an approved alternative and/or spare school bus at the Contractor's expense until the bus, so removed, has been certified safe to resume service by the inspecting authority.
- E-2 Contractor agrees to permit the inspection of their available buses by State and County inspectors, at all reasonable times. Contractors shall immediately correct, or cause to be corrected, all defects or deficiencies reported to them upon inspection, and shall certify to the repairs made, or other work performed (by authorized signature) and return the inspection report to the County no later than thirty (30) days after the date of inspection at no additional cost to the County.
- E-3 It is understood and agreed that the use of any bus that has been removed from service and not repaired shall be grounds for termination of the Contract. All buses under Contract with the County must be inspected at the DPW&T Vehicle Maintenance facility, and all repair orders issued by the County shall be final.
- E-4 Contractors are required to retain and consistently maintain primary and substitute drivers throughout the entire school year; every substitute driver must be approved by the COR prior to operating a school bus for a non-public school bus route. Failure to produce a full time or substitute driver for an

established non-public school bus route may result in termination of this Contract by the County.

- E-5 Portable radios are provided by the County to every Contractor for every non-public school bus. Radios are the responsibility of the Contractor and are used for emergency purposes only. Contractors shall sign the portable radio agreement with the County. (Attachment J-2- Portable radios)

SECTION F: DELIVERY OR PERFORMANCE

- F-1 Contractors are responsible for submitting school bus transportation reports such as the time and mileage compensation report and students' manifests, seating charts and maps in an accurate manner as required by the County in accordance with the deadline established in Section L.
- F-2 Contractors shall notify the COR of any and all Non-Public School Field Trips in which their contracted buses provide transportation. Notification shall be made to the COR **prior** to the scheduled field trip detailing: the bus to be utilized; the designated bus driver for the field trip; the day/hours the bus will be in service; and the location. Field Trip operations are not permitted to interfere with regular school bus operations for the schools, and a County approved school bus must be made available for the regularly assigned route(s).

SECTION G: CONTACT ADMINISTRATION DATA

- G-1 APPOINTMENT OF CONTRACTING OFFICER'S REPRESENTATIVE:

The following individual is appointed as the COR:

Becky George, Transportation Supervisor
DPW&T, Non-Public School Bus Transportation Division
P.O. Box 409
44829 St. Andrews Church Rd. P.O. Box
California, MD
301-863-8400x1122

No authority to modify any provisions of this Contract is granted. Any deviation from the terms of this Contract must be submitted for contractual action to the following Contracting Officer:

Randy Burns, CPPB
Procurement Manager
SMCG Office of Procurement
P.O. Box 653
41770 Baldrige Street
Leonardtown, Maryland 20650
301-475-4200 x 1223
randy.burns@stmarysmd.com

- G-2 PAYMENT TO CONTRACTOR

- G-2.1 The County utilizes an electronic payment system, and prefers its significant contract payments be processed via that method. One of the available methods is ACH processing, which no fee or cost has associated with it. Contractors are encouraged to sign-up for the ACH payment
- G-2.2 Payment will be made within 30 days after receipt of Contractor invoice provided that all specifications have been complied with, and total inspection and acceptance is in accordance

with Contract requirements. No partial payments will be paid, unless otherwise specified by purchase order.

- G-2.3 Fuel prices and the corresponding Fuel Factor will be determined based on, the 1st day, the 10th day and the 20th day of the current month, from the ten (10) authorized gas stations (attachment J-3). The average diesel cost per gallon will be calculated each of the three (3) times the fuel calculations are conducted. The average diesel cost per gallon for the month of June will be determined based on two (2) fuel calculations for that month. These calculations will be conducted on the 1st and the 10th day in June. June's invoice is to be submitted to the transportation office no later than the third week in June.
- G-2.4 Should a "Force Majeure" event occur (i.e. acts of God, strike, acts of terrorism, government action, etc.) that render the application of this Contract (in part or whole) non-compliance, the County and the Contractor agree that the Contract shall be terminated: in part until the Force Majeure event has been remedied; or in whole if the Force Majeure event renders a school permanently closed. This includes suspension or termination of payments during the "event" as applicable.
- G-2.5 Each Contractor's school bus route will be paid a minimum of 5.25 hours per day, and a minimum of sixty-five (65) miles per day for all regular/ transfer routes combined per bus. If the route's time and/or mileage are above the minimum reimbursement rate, then the higher figure shall be paid to the Contractor.
- G-2.6 In the event that the Contractor does not perform services for the required number of schools days as set forth in the yearly school calendar (i.e. due to inclement weather closings and, after factoring in make-up days) the Contractor shall deduct such days from the invoice for the month that the calendar changes occurred.

G-3 CONTRACTOR'S INVOICE

- G-3.1 The Contractor shall submit an original invoice by the 10th of each month for the previous monthly time, fuel and the PVA payment to the COR at:

DPW&T, Non-Public School Bus Transportation Division
44829 St. Andrew Church Rd.
P.O. Box 409
California, MD 20619

Or email to: becky.george@stmarysmd.com

Invoices shall contain the minimum information as follows:

Name of Contractor
Contract Number
Purchase Order Number
Invoice Date
Description of Item
Item Numbers

Invoices not containing the information above will be considered incomplete and returned to the Contractor for completion.

SECTION I – CONTRACT CLAUSES

I-1 OFFICIALS NOT TO BENEFIT

No County Commissioner or other Elected Official of St. Mary's County shall be admitted to any share or part of this Contract or to any benefit arising from it. However, this clause does not apply to this Contract to the extent this Contract is made with a corporation for the corporation's general benefit provided the Official is not a major shareholder.

I-2 DISPUTES

- A. Except as otherwise provided in this Contract, any Dispute concerning a question of fact arising under this Contract which is not disposed of by agreement, shall be decided by the Contracting Officer and shall be final and conclusive unless within 30 days from the receipt of such Decision the Contractor furnishes to the Contracting Officer a written appeal addressed to the Procurement Officer. The Decision of the Procurement Officer or a duly authorized representative for the determination of such appeals shall be final and conclusive. This provision shall limit Judicial review of any such Decisions in cases where fraud by such Official or the representative of such Official is alleged; provided, however, that any such Decision shall be final and conclusive unless the same is fraudulent, capricious or arbitrary, or so grossly erroneous as necessarily to imply bad faith or is not supported by substantial evidence. In connection with any appeal proceeding under this Clause, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its appeal.
- B. Pending final decision of a Dispute hereunder, The Contractor shall proceed diligently with the performance of the Contract and in accordance with the Contracting Officer's decision.
- C. This Disputes Clause does not preclude consideration of questions of law in connection with Decisions provided for in paragraph A. above. Nothing in this Contract, however, shall be construed as making final the Decision of any Administrative Official or representative on a question of law.

I-3 EXTRAS

Except as otherwise provided for in this contract, no payment for Extras shall be made unless such Extras and the price have been authorized in writing by the Contracting Officer.

I-4 ASSIGNMENT OF CLAIMS

- A. The Contractor may assign its rights to be paid amounts due or to become due as a result of the performance of this Contract to a bank, trust company, or other financing institution. The assignee under such an assignment may thereafter further assign its right under the original assignment to any type of financing institution.
- B. Any assignment or reassignment under this Clause shall cover all unpaid amounts payable under this Contract, and shall not be made to more than one party, except, that the one party to whom assignment or reassignment is made may act as agent or trustee for two or more parties participating in the financing of this Contract.

I-5 COUNTY-FURNISHED PROPERTY

- A. The County shall deliver to the Contractor, for use only in connection with this Contract, the property described in the Schedule or Specifications, at the times and locations stated therein. If

the County-furnished property, suitable for its intended use, is not so delivered to the Contractor, and, if the facts warrant such action, the Contracting Officer may equitably adjust any affected provision of this Contract pursuant to the provisions of the "Changes Clause" hereof.

- B. Title to County-furnished property shall remain with the County. The Contractor shall maintain adequate property control records of the property furnished by the County in accordance with sound industrial practice.
- C. Unless otherwise provided in the Contract, the Contractor, upon delivery to them of any County-furnished property, assumes the risk of, and shall be responsible for, any loss thereof or damage thereto except for reasonable wear and tear, and except to the extent that such property is consumed in the performance of the Contract.
- D. The Contractor shall, upon completion of this Contract, prepare for shipment or dispose of all County-furnished property not consumed in the performance of this Contract, as may be directed or authorized by the Contracting Officer. If not delivered to the County, the net proceeds of any disposal shall be credited to the Contract price or paid in such other manner as the Contracting Officer may direct.

I-6 FEDERAL, STATE, AND LOCAL TAXES

- A. Except as may be otherwise provided in this Contract, the Contract price includes all applicable Federal, State, and local taxes and duties. The Contractor, and not the County, shall be responsible for payment of all taxes, including sales and use taxes that are imposed on the Contractor. The Contractor understands that the County is exempt from taxes and that the Contractor is not entitled to the benefit of, and cannot claim exemption under, any tax exemption to which the County is entitled.
- B. Nevertheless, with respect to any Federal excise tax or duty on the transactions or property covered by this Contract, except as provided at subpart C below, if a statute, court decision, written ruling, or regulation takes effect after the Contract Date, and:
 - 1. results in the Contractor being required to pay or bear the burden of any such Federal excise tax or duty or increase in the rate thereof which would not otherwise have been payable on such transactions or property as of the Contract date, the Contract price shall be increased by the amount of such tax or duty or rate increase actually paid by the Contractor, provided the Contractor warrants in writing that no amount for such newly imposed Federal excise tax or duty or rate increase was included in the Contract price as a contingency reserve or otherwise; or
 - 2. results in the Contractor not being required to pay any such Federal excise tax or duty which would otherwise have been payable on such transactions or property as of the Contract date or which was the basis of an increase in the Contract price, the Contract price shall be decreased by the amount of the relief refund, or drawback, or that amount shall be paid to the St. Mary's County Government. The Contract price shall be similarly decreased if the Contractor, through its fault or negligence or its failure to follow instructions of the St. Mary's County Government, is required to pay or bear the burden of, or does not obtain a refund or drawback of, any such Federal excise tax or duty.
- C. Paragraph (B) above shall not be applicable to social security taxes or to any other employment tax.
- D. No adjustment of less than \$100 shall be made in the Contract price pursuant to paragraph (B)

above.

- E. As used in paragraph (B) above, the term "Contract Date" means the date set for bid opening, or if this is a negotiated contract, the Contract Date. As to additional supplies or services procured by modification to this Contract, the term "Contract Date" means the date of such modification.
- F. The Contractor shall promptly notify the St. Mary's County Government of matters which will result in either an increase or decrease in the Contract Price, and shall take action with respect thereto as directed by the St. Mary's County Government.

I-7 EQUAL OPPORTUNITY

During the performance of this Contract, the Contractor certifies that it shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin or disability and that this policy shall be included in all solicitations or advertisements for employees during the term of this Contract.

I-8 DEFAULT

- A. The County may, subject to paragraph C. and D. below, by written notice of Default to the Contractor, terminate the Contract in whole or in part if the Contractor fails to:
 - 1. Deliver the supplies or to perform the service within the time specified in the Contract or any extension;
 - 2. Make progress so as to endanger performance of this Contract;
 - 3. Perform any of the other provisions of this Contract.

The County's right to terminate this Contract under sub-paragraphs (2) and (3) above, may be exercised if the Contractor does not cure such failure within 10 days (or more if authorized by the Contracting Officer) after receipt of the notice from the Contracting Officer specifying the failure.

- B. If the County terminates this Contract in whole or in part, it may acquire, under the terms and in the manner of Contracting Officer considers appropriate, supplies or services. However, the Contractor will continue the Work not terminated.
- C. Except for defaults of Subcontractors at any tier, the Contractor shall not be liable for any excess costs if the failure to perform the Contract arises from causes beyond the control and without the fault or negligence of the Contractor. Examples of such clauses include: acts of God; acts of the County in either its sovereign or contractual capacity; fires, floods; strikes; freight embargoes; or unusually severe weather. In each instance the failure to perform must be beyond the control and without the fault or negligence of the Contractor.
- D. If the failure to perform is caused by the default of a Subcontractor at any tier, and if the cause of the default is beyond the control of both the Contractor and Subcontractor, and without the fault or negligence of either, the Contractor shall not be liable for any excess costs for failure to perform, unless the subcontracted supplies or services were obtainable from other sources in sufficient time for Contractor to meet the required delivery schedule.
- E. If this Contract is terminated for Default, the County may require the Contractor to transfer title and deliver to the County, as directed by the Contracting Officer, any completed or partially completed supplies and materials, parts, tools, plans, drawings, information and contract rights

(collectively referred to as "manufacturing and materials" in this Clause) that the Contractor has specifically produced or acquired for the Terminated portion of this Contract. Upon direction of the Contracting Officer, the Contractor shall also protect and preserve property in its possession in which the County has an interest.

- F. The County shall pay Contract price for completed supplies delivered and accepted. The Contractor and Contracting Officer shall agree on the amount of payment for component materials delivered and accepted. Failure to agree shall be a Dispute under Dispute Clause. The County may withhold from amounts to be paid, any sum the Contracting Officer determines to be necessary to protect the County against loss because of outstanding liens or claims of former lien holders.
- G. If, after Termination, it is determined that the Contractor was not in Default, or that the Default was excusable, the rights and obligations of the parties shall be the same as if the Termination had been issued for the Convenience of the County.
- H. The rights and remedies of the County in this Clause are in addition to any other rights and remedies provided by Law or under this Contract.

I-9 TERMINATION FOR DEFAULT

- A. If the Contractor refuses or fails to prosecute the Work or any separable part, with the diligence that will insure the completion within the time specified in this Contract, Including any extension or fails to complete the Work within this time, the County may, by written notice to the Contractor, Terminate the right to proceed with the Work (or the separable part of the Work) that has been delayed. In this event, the County may take over the Work and complete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the Work site necessary for completing the Work. The Contractor and its sureties shall be liable for any damage to the County resulting from the Contractor's refusal or failure to complete the Work within the specified time, whether or not the Contractor's right to proceed with the Work is terminated. This liability includes any increased costs incurred by the County in completing the Work.
- B. The Contractor's right to proceed shall not be Terminated nor the Contractor charged with damages under this Clause if:
 - I. The delay in completing the Work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include:
 - a. Acts of God or the public enemy;
 - b. Contractual capacity.
 - c. Acts of another Contractor in the performance of a Contract with the County;
 - d. Fires;
 - e. Floods;
 - f. Epidemics;
 - g. Quarantine restrictions;
 - h. Strikes;
 - i. Freight embargoes;
 - j. Unusually severe weather; or
 - k. Delays of Subcontractors or suppliers at any tier arising from unforeseeable causes beyond the control and without the fault or negligence of both the Contractor and the Subcontractor or suppliers; and

2. The Contractor, within 10 days from the beginning of any delay, notifies the Contracting Officer in writing of the causes of the delay. The Contracting Officer shall ascertain the facts and extent of delay. If, in the judgment of the Contracting Officer, the findings of fact warrant such action, the time for completing the Work shall be extended. The findings of the Contracting Officer shall be final and conclusive on the parties, but subject to appeal under the Disputes Clause.
3. If, after Termination of the Contractor's right to proceed, it is determined that the Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the Termination had been issued for the convenience of the County.
4. The rights and remedies of the County in this Clause are in addition to any other rights and remedies provided by Law or under this Contract.

I-10 TERMINATION FOR CONVENIENCE

- A. The County may terminate performance of the Work under this Contract in whole, or, from time to time, in part, if the Contracting Officer determines that a termination is in the County's best interest. The Contracting Officer shall terminate by delivering to the Contractor a Notice of Termination specifying the extent of terminations and the effective date.
- B. After receipt of a Notice of Termination, and except as directed by the Contracting Officer, the Contractor shall proceed immediately with the following obligations, regardless of any delay in determining any amounts due under this Clause:
 1. Stop Work as specified in the Notice of Termination.
 2. Place no further subcontracts or Orders (referred to as subcontracts in this Clause) for materials, services, or facilities, except as necessary to complete the continued portion of this Contract.
 3. Terminate all subcontracts to the extent they relate to the Work terminated.
 4. Assign to the County, as directed by the Contracting Officer, all right, title, and interest of the Contract under the subcontracts terminated, in which case the County shall have the right to settle or to pay any termination settlement proposals arising out of those terminations.
 5. With approval or ratification to the extent required by the Contracting Officer, settle all outstanding liabilities arising from the termination of subcontracts; the approval of ratification will be final for purposes of this Clause
 6. As directed by the Contracting Officer, transfer title and deliver to the County parts, work in progress, completed work, supplies, and other material produced or acquired for the work terminated, and the completed or partially completed plans, drawings, information, and other property that, if the Contract had been complete, would be required to be furnished to the County,
 7. Complete performance of the Work not terminated.
 8. Take any action that may be necessary or that the Contracting Officer may direct, for the protection and preservation of the property related to this Contract that is in the possession of the Contractor and in which the County has or may acquire an interest.
 9. Use its best efforts to sell, as directed by the Contracting Officer, any property of the types referred to in subparagraph (6) above. The proceeds of any disposition will be applied to reduce any payments to be made by the County under this Contract.
- C. The Contractor shall submit a list to the Contracting Officer, certified as to quantity and quality, of termination inventory not previously disposed. Within fifteen (15) calendar days, the County will

accept title to those items and either remove them or enter into a storage agreement with the Contractor.

- D. After termination, the Contractor shall submit a final termination settlement proposal to the Contracting Officer in the form and with the certification prescribed by the Contracting Officer. The Contractor shall submit the proposal promptly, but no later than one (1) year from the effective date of the Termination Notice. If the Contractor fails to submit the proposal within the time allowed, the Contracting Officer may determine the amount due the Contractor, and shall pay the amount determined.
- E. The Contractor and the Contracting Officer may agree upon the whole or any part of the amount to be paid because of the termination. The amount may include a reasonable allowance for profit on work done, but the agreed amount shall not exceed the total Contract price as reduced by the amount of previous payments and the Contract price of the Work not terminated. The Contract shall be amended and the Contractor paid the agreed amount.
- F. If the Contractor and Contracting Officer fail to agree on the whole amount to be paid the Contractor because of Termination of Work, the Contracting Officer shall pay the Contractor the amount determined as follows, but without duplication of any amount agreed upon under paragraph E above:
 - 1. For Contract Work performed before the effective date of Termination, the total (without duplication of any items) of the cost of this Work; the cost of settling and paying any settlement proposals under subcontracts that are properly chargeable to the terminated portion of the Contract; and a sum as profit on the above, determined by the Contracting Officer to be fair and reasonable. However, if it appears that the Contractor would have suffered loss on the entire Contract had it been completed, the Contracting Officer shall allow no profit and shall reduce the settlement to reflect the indicated rate of loss.
 - 2. The reasonable costs of settlement of the Work terminated, including:
 - a. Accounting, legal, clerical and other expenses reasonably necessary for the preparation of Termination Settlement Proposals and supporting data;
 - b. The Termination and settlement of subcontracts (excluding the amounts of such settlements); and
 - c. Storage and transportation, and other costs incurred which are reasonably necessary for the preservation, protection, or disposition of the Termination inventory.
- G. Except to the extent that the County expressly assumed the risk of loss, the Contracting Officer shall exclude from the amounts payable to the Contractor under paragraph F, above, the fair market, as determined by the Contracting Officer, of property that is destroyed, lost, stolen, or damaged so as to become undeliverable to the County or to a buyer.
- H. Generally accepted accounting procedures and principles shall govern all costs claimed, agreed to, or determined under this Clause.
- I. Contractor shall have the right to appeal under the Disputes Clause, from any determination made by the Contracting Officer under paragraph D, F or;
- J. Except that if the Contractor failed to submit the Termination Settlement Proposal within the time provided in paragraph D, and failed to request a time extension, there is no right to appeal.
- K. In arriving at the amount due to the Contractor under this Clause, there shall be deducted:

1. All un-liquidated payments to the Contractor under the terminated portion of this Contract;
2. Any claim which the County has against the Contractor under this Contract;
3. The agreed price for the sale of materials, supplies, or other assets acquired by the Contractor under this Contract not recovered by or credited to the County.

L. If the Termination is partial, the Contractor may file a Proposal with the Contracting Officer for an equitable adjustment of the price(s) of the continued portion of the Contract. The Contracting Officer shall make any equitable adjustment agreed upon. Any Proposal shall be requested by the Contractor within ninety (90) calendar days from the effective date of the Termination, unless extended by the Contracting Officer.

M. Unless otherwise provided in this Contract, the Contractor shall maintain all records and documents related to the Termination portion of this Contract for three (3) years after final settlement. During that time, the Contractor shall make these records and documents available to the County, at the office of the Contractor, at no additional charge to the County.

I-11 INDEMNIFICATION

To the extent permitted by law, the Contractor shall indemnify and save St. Mary's County Government and the Board of County Commissioners for St. Mary's County harmless from and against all actions, liability, claims, suits, damages, costs, statutory penalties, or expenses or any kind which may be brought or made against St. Mary's County Government and/or the Board of County Commissioners for St. Mary's County, Maryland, its agents and employees, or which St. Mary's County Government and/or the Board of County Commissioners for St. Mary's County, Maryland may pay or incur by reason of or in any manner resulting from injury, loss or damage to person or property and caused by the Contractor's, or Subcontractor's, willful or negligent performance of or failure to perform any of its obligations under the terms of this Contract.

I-12 ORAL MODIFICATION

No oral statements of any person whatsoever shall, in any manner or degree, modify or otherwise affect the terms of the Contract.

I-13 SOVEREIGN IMMUNITY

By entering into this Contract, the County and its "employees", as defined in the Local Government Tort Claims Act, §§5-401 et seq. of the Courts and Judicial Proceedings Article, do not waive sovereign immunity, do not waive any defenses and do not waive any limitations of liability as may be provided for by Law. No provision of this Contract modifies and/or waives any provision of the Local Government Tort Claims Act.

I-14 SUFFICIENT APPROPRIATIONS

The County's financial obligations, if any, under this Contract are contingent upon sufficient appropriations and authorization being made by the County for the performance of this Contract. The County's decision as to whether sufficient appropriations are available shall be accepted by the other party or parties to this Contract, and shall be final.

I-15 VENUE

This Contract shall be governed by the laws of the State of Maryland as now and hereafter in force. The Venue for actions is fixed in the Circuit Court for St. Mary's County, Maryland.

PART III – LIST OF DOCUMENTS, EXHIBITS AND OTHER ATTACHMENTS

SECTION J: LIST OF EXHIBITS / ATTACHMENTS

- J-1 Compensation Worksheet
- J-2 Portable Radio agreement
- J-3 Gas Station Locations

SECTION L: INSTRUCTIONS, CONDITIONS, AND NOTICES OFFEROR

- L-1 In the event of extremely adverse weather conditions or declared state of emergency events (i.e.: hurricanes, tornados, radiological incidents, etc.) the DPW&T Non-Public School Bus Transportation Division may authorize alterations to existing school bus routes for the safety of the school bus and its occupants. In such cases, the contractor will be reimbursed for the additional time and mileage upon written receipt by the DPW&T Non Public School Bus Transportation Division of the detour utilized, which must detail the specific route of the bus. Such documentation must be received within thirty (30) working days from the date of the incident.
- L-2 The County reserves the right to make changes, alterations or modifications within the general scope of the contract (i.e., bus routes, fuel price adjustments, mileage, pick-up locations, etc.). The payment due the Contractor under this agreement shall be adjusted (*increased or decreased*) as required to reflect any such changes.
- L-3 Contractor's Service Contract needs to signed and returned to the DPW&T Non- Public School Bus Transportation Division by the 1st week in August.
- L-4 The following are the school bus contractors' contractual Deadlines Submission:

1st week in August

Signed copy of Contractor Services Contract

2nd week in August

Current FBI Fingerprinting / Criminal Background Check and any updated phone numbers/address information on file for all full time and substitute drivers and contractors.

Copy of School Vehicle Type A Inspection Form(s). Contractor will ensure that the MVA is in receipt of original form no later than their established deadline.

Certificate of Workman's Compensation Coverage, or upon the date of renewal each year.

Sole Proprietor Status as a Covered Employee Form.

Contractor initial pre-paid PVA and Deferred Replacement Stipend invoice in the amount of \$4,661/bus (if applicable).

2nd week in September

Route & Time Information Form(s) (i.e. Form A & Form B)

*This information must be received prior to any payment issued to contractor

The 10th of each calendar month, beginning September 10th until June

Contractor Monthly Invoice Form(s) for services rendered for the previous month except for June

June – After last day of school, prior to end of month:

Contractor Monthly Invoice Form for services rendered only for the month of June

Last day in September
Completed Student Manifests
Completed Student Seating Charts

1st week in October
Contractors' detailed maps and directions of each bus route, for both AM and PM routes

Last business day in October
Fall School Bus Evacuation Drill and Form

Last business day in March
Spring School Bus Evacuation Drill and Form

SECTION M: SERVICE AGREEMENT AWARDS AND TRANSFERS

M-1 OVERVIEW

M-1.1 These procedures provide standards and criteria for the selection of non-public school bus Contractors who provide transportation services for students of non-public schools within St. Mary's County, Maryland.

M-1.2 A Non-Public School Bus Service Contract is an agreement between the Commissioners of St. Mary's County (County) and the School Bus Contractor ("Contractor") to provide non-public school transportation services. The Contract describes the scope of responsibilities and requirements that the Contractor must adhere to when providing services for the County. While the Contractor owns the school vehicle and equipment, they do not hold negotiable rights to the bus route. Bus drivers operating the Contractor's school buses are the Contractor's employees and are not employees of the County.

M-1.3 There are three (3) methods for existing and potential contractors to obtain a non-public school bus Contract with the County:

1. Provide for acquisition of the Contract, with written acceptance from the County, by a direct relative (i.e. spouse, children) in case of death or retirement;
2. Transfer of an existing Contract from, and to, an existing Contractor; and
3. Award of a new Contract by the County, via public solicitation.

M-2 TRANSFER OF EXISTING SERVICE AGREEMENTS

M-2.1 Should a Contractor become deceased or retire, they have the option of having their Contract and associated bus(es) transferred to a direct relative (i.e. spouse, children) upon written acceptance from the County. If the County determines that the existing bus route is no longer needed in order to maintain necessary services to the associated school(s), then the Contractor holds no negotiable right to transfer their bus (es) and/or associated Contract.

M-2.2 Should a Contractor decide not to renew their existing Contract prior to the end of the life of their associated buses, or at the end of their bus (es) life cycle, they have the option to request a transfer of the existing Contract to another existing non-public school bus contractor.

If the County determines that the existing bus route is no longer needed in order to maintain necessary services to the associated school(s), then the Contractor holds no negotiable right to transfer their bus (es) and/or associated Contract.

M-2.3 Any Contractors who wish to transfer their Contract to an existing bus contractor or direct relative must submit a request for the transfer in writing to the COR along with the written acceptance of the party they wish to transfer the Contract to. Such requests will be subject to approval by the County in accordance with the eligibility requirements contained herein.

M-2.4 To be eligible to receive a contract transfer, a person or business entity must meet the following criteria:

Must be a direct relative of the current Contractor; or

Must currently be a non-public school bus contractor for the County; and

Must have a history of meeting all of the requirements contained within their Contract.

M-2.5 In order to request the transfer of a Contract, the following information must be submitted to the COR:

1. Written request of the proposed Contract transfer identifying both parties involved in the transfer.
2. If the request is submitted on behalf of a business entity, a copy of all documents providing proof of the formation of the entity with a full listing of all persons having a financial interest (i.e. parent company owner, managing partners, etc.).
3. All applicants must be fingerprinted through the Federal Government (Criminal Justice Information System (CJIS) system and submit to a criminal background check at their own expense.

M-3 NEW SERVICE AGREEMENT AWARDS

M-3.1 The following procedures will be implemented through the DPW&T Non-Public School Bus Transportation Division. The Contracting Officer shall have the final authority to appoint a bus contractor and shall do so without regard to race, creed, sex, national origin, age, marital status, sexual orientation, religion or disability. Contractors who have existing school bus transportation Contracts with the County may be eligible for additional contract awards based on these procedures.

M-3.2 When a route/contract is available; it will be advertised for at least two (2) consecutive weeks as a legal public notice and in the classified ads section of the local newspapers. The process for obtaining and submitting an application is available at the DPW&T Non-Public School Bus Transportation Division office. In addition, information on the availability of routes will be forwarded to all existing non-public school bus contractors.

M-3.3 Applications shall be made available with a copy of the criteria for the screening procedures that will be used by the DPW&T Non-Public School Bus Transportation Division in selecting potential bus contractors.

M-3.4 All applications received will be reviewed and evaluated. Consideration will be given to the applicants based on the following criterion and assigned weight factors:

- a. Qualifications and abilities to successfully operate a business (to include use of general computer/office machinery) and perform bus services if contract is awarded.
- b. Proximity of contractor to the route(s).
- c. Certified copy of the applicant's Department of Motor Vehicle driving record. All applicants will be required to submit to a fingerprint-supported background check at their own expense.
- d. Responses from references listed on application. A minimum of at least three business or personal references who can verify fitness to operate a school bus contract. The references will be contacted by the evaluators.
- e. Experience and adequacy of performance of any past and/or present transportation and business related contract(s) of applicants. Must not have had a student transportation contract terminated for cause in the past.
- f. Ability to provide or obtain sufficient buses and drivers (specify quantities and years of experience), and information demonstrating the ability to store and maintain buses.
- g. Whether the application is complete and was filed in accordance with the deadline established in the formal public notice.

M-3.5 A final selection will be made by the Contracting Officer and the selected individual will be notified of their selection via mail. Once the Contract is offered, the Contractor will have three (3) business days in which to accept the Contract, and thirty (30) business days from the date of the Contract award to demonstrate that the respective route(s) are covered with the appropriate number of insured/qualified school bus (es) and drivers in accordance with the terms of the Contract. If no response is received from the Contractor then they will be considered non-responsive, and the COR will make a recommendation of an alternate selection from the list of candidates who submitted an application to the Contracting Officer. If no other applicants submitted an application the route(s) will be re-advertised in accordance with the procedures set forth.

M-3.6 Contractors who request to withdraw a signed Contract must do so in writing and are subject to reimbursing the County for any reasonable costs incurred by the County to secure alternative contractor(s).

J-1 NON-PUBLIC SCHOOL BUS CONTRACTOR COMPENSATION WORKSHEET
 FY 2016 (subject to bus inspections and receipt / approval of Insurance certificates)

Contractor Salaries-Drivers

	13 drivers (0-9 yrs exp) Tier I Drivers	7 drivers (10-19 yrs exp) Tier II Drivers	17 drivers (20 yrs+ exp) Tier III Drivers
Rate per hour	\$15.40	\$16.12	\$16.89
Fixed Costs	25%	25%	25%

Operation & Maintenance (O&M) Factor

	3.50 / 7.5mi gal = 0.47	
	3.50 \$ / gal	Average Diesel: \$2.96 / gallon as of 1-08-2015
Aver mpg per bus	7.50 miles / gal	
Fuel Factor	0.47 / mile	
Maint Factor	0.75 / mile	
O&M Factor	1.22	

NOTE: Fuel Factor shall be based on the average actual monthly cost as determined by DPW&T. Fuel costs also widely vary within the County. The price per gallon used is based on 1-08-2015 "average" street pricing of \$2.96 per gallon + \$0.36 fluctuation (12%).

PVA Allotment for Buses

The PVA for FY 2016 is based on a new bus purchase price of \$92,000 (verified by contractors).

Bus Stipends: Liability Insurance, Maintenance Stipend, Spare Buses

Insurance Stipend: \$2,580 rider on County policy in lieu of per bus if privately insured
 Spare Bus Stipend: \$3,000 O&M Stipend + \$105 for inspections for each approved active spare bus
 Contingency Fleet: \$ 750 per approved backup - emergency ready vehicles (insurance coverage)
 Deferred Replacement Stipend: For buses required to remain in service over 12 years, but not more than 15 years
 1st year \$6,930; 2nd year \$7,311; 3rd year \$7,661

Medical - Drug & Alcohol Testing

Physical paid to contractors	\$100 per driver	
Choice Point Admin Fee	\$75 per month	
Choice Point Drug Testing	\$50 per driver	Random, Pre-Employment and
Choice Point Alcohol Testing	\$50 per driver	Reasonable Suspicion
Random Selection Listings	\$60 per driver	Contractor reimbursement for time

Communications / Telephone

Cell phone stipend at \$250 per phone per bus



Non-Public School Bus Contractors/Bus Drivers Agreement for St. Mary's County Portable Radios

As contractors and school bus drivers you are given access to a portable radio for Emergency Situations in St. Mary's County. With this opportunity comes responsibility. Please read the information below and ask questions if you need help in understanding your responsible use.

When authorized users no longer have a need for the portable radio, ex: end of the school year, they must return the radio to the Transportation Department -Non-Public School bus division. To verify the equipment return, users must sign a copy of the Portable usage agreement, which will serve as a receipt for the Contractor/Bus Driver.

APPROPRIATE USE:

- Portable Radios are to be used for Emergency Situations only.
- Users are held responsible at all times for the proper use of their portable radio.
- Users will return the portable radio to Transportation-Non-Public School Bus Division when the yearly contract days are complete. Portable radios will be re-issued on the user's first contract day.
- Users must attend the yearly portable radio in-service provided by St. Mary's County Transportation Division.

INAPPROPRIATE USAGE:

- Personal use
- Damage or loss due to negligence.
- Unauthorized use, including use by other individuals.

USER'S RESPONSIBILITY:

- Users are responsible for notifying the Transportation Division immediately if the radio has been damaged or lost or theft due to their neglect.
- Users that are no longer employed by the contractor must return the radio to the Transportation Division.

I accept the responsibility for the portable radio and will return it on my last contract day. I understand the above conditions and knowingly and willingly enter into this agreement.

Contractor's Name _____
(Print Clearly)

Bus Driver's Name _____
(Print Clearly)

Signature: _____ Date: _____
(Contractor/Bus Driver Name)

Date received: _____

Date returned: _____

Portable
Radio Bus# _____

Date Returned _____

Equipment Returned to _____

Signature of Authorized User: _____ **Date:** _____

J-#3- St. Mary's County Gas Station locations:

Authorized Gas Stations:

- WAWA – Charlotte Hall, 30320 Three Notch Rd., Charlotte Hall, MD
- Shell- Callaway, 20943 Pt. Lookout Rd., Callaway, MD
- Sunoco- Leonardtown, 25965 Pt. Lookout Rd., Leonardtown, MD
- BP – Mechanicsville, 28270 Three Notch Rd., Mechanicsville, MD
- Shell- Hollywood, 24686 Three Notch Rd., Hollywood, MD
- Baden's –Ridge, 18161 Three Notch Rd., Lexington Park, MD
- Sunoco- Lexington Park, 22352 Three Notch Rd., Lexington Park, MD
- Ridgell's Oil - Oakville, 26460 Three Notch Rd., Mechanicsville, MD
- Murphy's/Citgo – Avenue, 21270 Oakley Rd., Avenue, MD
- Exxon – Lexington Park, 21697 Great Mills Rd., Lexington Park, MD