

AGREEMENT FOR SUPPLEMENTAL TRANSPORTATION SERVICES

By and Between

THE WILLIAM S. HART UNION HIGH SCHOOL DISTRICT

And

ZUM SERVICES, INC.

Dated _____, 2019

AGREEMENT FOR SUPPLEMENTAL TRANSPORTATION SERVICES

This Agreement for Supplemental Transportation Services ("Agreement") is made effective as of _____, 2019 ("Effective Date") by and between the William S. Hart Union High School District ("District"), a California public school district, and Zum Services, Inc. ("Contractor"), a Delaware corporation designated as entity number C3789986 by the California Secretary of State. The District and the Contractor may be referred to herein individually as a "Party" and collectively as the "Parties."

RECITALS

A. The District desires that transportation services be available, on an as-needed basis, for District students participating in special education programs and/or receiving special education services ("Transportation Services") that are supplemental to the transportation services otherwise provided by or on behalf of the District. The Parties intend that assistance for District students participating in special education programs and/or receiving special education services (each a "SPED Student"), as may be necessary for their use of the Transportation Services, will be provided by parents, guardians, or other family members, or by school or program personnel, when they are available and able to provide such assistance. However, the Contractor acknowledges that, as described in this Agreement, it may be necessary for drivers providing the Transportation Services, as a normal part of those services or in the event of an emergency situation, to assist the SPED Students in connection with their use of the Transportation Services and, therefore, that drivers must be trained and qualified to provide such assistance.

B. Because the Transportation Services are supplemental to existing transportation services provided by or on behalf of the District, the Parties intend and agree that, consistent with Education Code Section 39802, the total amount payable to the Contractor pursuant to this Agreement ("Contract Amount") shall not exceed ten thousand dollars (\$10,000.00), and this Agreement includes requirements intended to ensure compliance with such maximum Contract Amount.

C. The District has determined that it will be in its best interests to have the Transportation Services available as provided herein, and the Contractor agrees to provide the Transportation Services subject to the terms and conditions specified herein. Thus, the purpose of this Agreement is to set forth the terms and conditions for the Contractor to perform the Transportation Services and for the District to compensate the Contractor for performance of the Transportation Services.

Now therefore, and in consideration of the foregoing and of the respective rights and obligations of the Parties as set forth herein, the Parties agree as follows:

AGREEMENT

PART 1: TRANSPORTATION SERVICES

Section 1.1 Technology Platform and Application. The Contractor shall provide to the District for its use in connection with this Agreement a technology platform and mobile application ("Platform/Application") that shall do all of the following: (i) allow the District to arrange, schedule and track rides provided to individual SPED Students, including, without limitation, confirmation in each case that the ride commenced and was successfully completed; (ii) allow such District, school, and/or program personnel as the District may from time to time authorize ("District Personnel") to view information regarding the identity of drivers and vehicles transporting SPED Students, view information identifying one or more specific SPED Students being transported, and to track the specific locations of

those vehicles and SPED Students, including, without limitation, confirmation in each case that the ride commenced and was successfully completed; and (iii) with respect to any particular SPED Student, allow, as applicable, the SPED Student's parent(s), guardian(s) and other family members as the District from time to time may identify (herein, each a "Parent") to view information regarding the identity of the driver and vehicle transporting the SPED Student, and to track the specific location of the vehicle and SPED Student, including, without limitation, confirmation that the ride commenced and was successfully completed.

Section 1.2 Arranging and Scheduling Rides. The Platform/Application shall: (i) permit only District personnel, and no other person, to arrange and schedule transportation of SPED Students pursuant to this Agreement; and (ii) permit District personnel to specify particular pickup and drop-off time requirements for each ride scheduled through the Platform/Application. The Contractor shall ensure that the District receives a response to each scheduling request within not more than five minutes of submitting the request.

Section 1.3 Transportation Window. Except as the District and the Contractor may agree in writing, the Contractor shall have drivers available to provide rides for SPED Students on each day, Monday through Friday, between the hours of 6:30 a.m. and 5:30 p.m. ("Transportation Window"), or until such later time during any particular day as the Contractor has confirmed that all rides provided pursuant to this Agreement have been completed. The District otherwise may schedule rides to occur outside the Transportation Window if the Contractor has drivers available to accommodate such scheduling requests.

Section 1.4 Passenger Assistance. Drivers providing the Transportation Services shall be trained and qualified to provide, and as may be necessary shall provide, assistance to SPED Students with respect to the following ("Passenger Assistance"): (i) entering into vehicles; (ii) fastening and release of seatbelts or other safety restraints; (iii) loading and securing of wheelchairs, healthcare equipment, educational materials, *et cetera* ("Passenger Items"); (iv) exiting vehicles and removal of Passenger Items. In those situations that a parent, guardian or other family member provides Passenger Assistance to a SPED Student, the driver shall in each case confirm that seatbelts and/or other safety restraints are appropriately in place and being used. In addition, and regardless of whether a parent, guardian or other family member has provided Passenger Assistance to a SPED Student, the driver shall, upon dropping off the SPED Student, confirm that all Passenger Items have been removed from the vehicle and taken by or with the SPED Student.

Section 1.5 Technology and Services Support. Except to the extent of scheduled maintenance periods (which shall be conducted during overnight hours) and for unplanned outages, the Platform/Application shall be operational, in accordance with the foregoing, at all times, twenty four hours per day, seven days per week. The Contractor, using knowledgeable and qualified personnel, shall provide live support, via telephone and electronic messaging: (i) for the Platform/Application at all times, twenty four hours per day, seven days per week; (ii) for the Transportation Services at all times during the Transportation Window (defined in Section 1.4 herein) and until such later time during any particular day as the Contractor has confirmed that all rides provided pursuant to this Agreement have been completed. The Contractor shall make such services available, as applicable, to District, school and program personnel, and to parents, guardians, and other family members of SPED Students being or to be transported pursuant to this Agreement.

Section 1.6 Notice of Emergencies. The Contractor shall require the driver of each vehicle carrying any SPED Student to immediately call 911 to obtain emergency services in the event: (i) the

vehicle is involved in a traffic accident (whether or not involving another vehicle) that has or possibly could have resulted in injury to the SPED Student and the driver was not incapacitated as a result of such accident; and/or (ii) the SPED Student appears in distress or suffers a medical emergency. The Contractor shall require further that the driver provide immediate telephonic notice of any such event to the Contractor. Immediately upon learning of any such event involving a SPED Student, the Contractor shall provide telephonic notice to the District.

PART 2: CONTRACTOR COMPENSATION

Section 2.1 Service Fees. In exchange for the satisfactory performance of the Transportation Services required pursuant to this Agreement, the District shall pay to the Contractor such compensation as is specified in Exhibit "A" attached hereto ("Service Fees"). The Service Fees shall be deemed and construed for all purposes to be all-inclusive compensation for performance of the Transportation Services. Because the Service Fees are all-inclusive compensation, the Contractor shall not be entitled to reimbursement of any expenses that it incurs in connection with performance of the Transportation Services.

Section 2.2 Contractor Invoices. On or about the fifth day of each month following a month in which the Contractor performed any of the Transportation Services, the Contractor shall provide an invoice to the District seeking payment for the Service Fees earned during the preceding one-month period. Any and all invoiced amounts are subject to verification by the District. In addition to the information specified in Section 2.3 herein, the Contractor must in each invoice specifically itemize each ride based on date performed, SPED Student transported, pick-up location and time, and drop-off location and time. The District shall pay the undisputed portion of each such invoice within thirty days after receipt of the invoice. However, within ten days after receipt of any invoice from the Contractor, the District may request in writing that the Contractor provide additional information relating to some or all of the amounts specified in the invoice, and, in such event: (i) the Contractor shall provide such information to the District within five days following receipt of the District's request; and (ii) if the Contractor does not provide such information within such five-day period, the date by which the District must pay such amounts to the Contractor shall be extended for each day or portion of day in excess of the applicable five-day period, until such time as the Contractor provides the requested additional information to the District.

Section 2.3 Maximum Contract Amount. As specified in Recital B of this Agreement, the total, cumulative Service Fees payable to the Contractor pursuant to this Agreement shall in no event exceed ten thousand dollars (\$10,000.00). Notwithstanding anything to the contrary, the District shall not be obligated to pay for Transportation Services, and the Contractor shall not be entitled to payment for Transportation Services, if and to the extent the total, cumulative Service Fees paid to the Contractor pursuant to this Agreement exceeds such maximum Contract Amount. For purposes of assisting in avoiding charges in excess of the maximum Contract Amount, and without limiting anything in Section 2.2 herein, the Contractor shall prominently display in each invoice the total, cumulative Service Fees charged to date, including the then-current invoice amount.

PART 3: DRIVERS

Section 3.1 Compliance with Applicable Laws. In connection with the Transportation Services, the Contractor shall comply with any and all federal, state, and other governmental laws, regulations, rules, and other requirements relating to selection and employment of drivers and/or to transportation of students, including, without limitation, SPED Students. The foregoing shall be deemed

and construed to include, without limitation, requirements for licensing of drivers, and the Contractor shall comply with the provisions of the pull-notice system specified in Vehicle Code Section 1808.1, regardless of whether those provisions would otherwise apply to the Transportation Services.

Section 3.2 Driver Qualifications. The Contractor shall be responsible for ensuring that each driver who will provide any Transportation Services possesses any and all training, qualifications, and experience as necessary and appropriate for the driver to provide the Transportation Services in compliance with all requirements of this Agreement and provisions of applicable laws. Without limiting the foregoing, each driver must: (i) have a valid California driver's license; and (ii) be trained and able to provide any and all Passenger Assistance as needed.

Section 3.3 Certification of Driver Status.

Subsection 3.3.1 Criminal-History Background Checks. Prior to permitting a driver to perform any of the Transportation Services pursuant to this Agreement, the Contractor at its sole cost and expense shall cause the driver to comply with the background-check requirements of Education Code Section 45125.1, regardless of whether such requirements otherwise would apply to the Transportation Services. In that regard, the Contractor, at its sole cost and expense, must comply with all California Department of Justice guidelines and requirements with respect to fingerprinting of the drivers and any other of the Contractor's officers, employees, agents, or other representatives (each, including drivers, a "Contractor Agent") who will or might be present in the vicinity of any SPED Student being transported pursuant to this Agreement;

Subsection 3.3.2 Tuberculosis Assessment and Examination. Prior to permitting a driver to perform any Transportation Services, the Contractor at its sole cost and expense shall cause the driver to comply with the Tuberculosis assessment and examination procedures specified in Education Code Section 49406, regardless of whether such requirements otherwise would apply to the Transportation Services. In that regard, the Contractor, at its sole cost and expense, must comply with such requirements with respect to all drivers and any other Contractor Agents who will or might have frequent or prolonged exposure to any SPED Student being transported pursuant to this Agreement.

Subsection 3.3.3 Contractor Submission of Certification. The Contractor shall complete, execute and deliver to the District one or more copies of the "Certification Regarding Contractor Agents" form attached as Exhibit "B" to this Agreement that, together, list all drivers who will perform any of the Transportation Services and all other Contractor Agents who will or might be present in the vicinity of any SPED Student being transported pursuant to this Agreement. In no event shall the Contractor authorize or permit any driver to perform any of the Transportation Services, or any other Contractor Agent to be in the vicinity of any SPED Student, unless and until the Contractor has submitted to the District a certification that lists that driver or other Contractor Agent. So that the certifications pursuant to this Section are current at all times, the Contractor shall promptly: (i) update the certifications to reflect changes in status of drivers and Contractor Agents, including, without limitation, to reflect the addition or elimination of any driver or Contractor Agent, or any change in the criminal-history or tuberculosis-related status of any driver or Contractor Agent; and (ii) provide the updated certifications to the District.

Section 3.4 Contractor Responsibility for Drivers and Employees. As an independent contractor to the District, the Contractor shall be responsible for ensuring compliance with all laws related to its drivers and employees, including, without limitation, applicable laws relating to workers' compensation, work hours, rest periods, payment of wages, vacations and other benefits, *et cetera*. The Service Fees payable to the Contractor in accordance with this Agreement are all-inclusive and shall not

be increased as a result of any costs or expenses attributable to such compliance. The Contractor shall indemnify, defend and hold-harmless the District with respect to any and all claims and other liabilities arising from the Contractor employing drivers and other employees, regardless of whether the Contractor considers its drivers or employees to be independent contractors, and including, without limitation, any and all workers' compensation claims filed in connection with or as a result of the Transportation Services.

PART 4: CONFIDENTIAL STUDENT INFORMATION

Section 4.1 Definitions. For all purposes of this Agreement, the capitalized terms set forth below shall have the corresponding meanings specified in this Section:

- (i) The term "Confidential Student Information" means any and all information regarding the identity, condition, family members, home address, participation in programs, or other "personally identifiable information" of or relating to SPED Students that is provided to, learned by, or inferred by the Contractor or any driver that provides any Transportation Services pursuant to this Agreement, including, without limitation, any information volunteered by a SPED Student;
- (ii) The term "Recordings" means any and all pictures, videos, audio recordings, video and audio recordings, and other electronic and other images and recordings of a SPED Student recorded by drivers or other representatives of the Contractor in connection with the SPED Student's use of the Transportation Services;
- (iii) The phrase "personally identifiable information" means any information (in whatever form or format) that: (i) can be used to distinguish or trace an individual's identity, such as name, social security number, personal identification number, student identification number, date and place of birth, mother's maiden name, street address, email address, internet protocol address, telephone number, photograph, and fingerprints or other biometric information; or (ii) is linked or linkable to an individual, such as medical, educational, financial, and employment information, race, religion and activities;
- (iv) The phrase "trace an individual's identity" means to process sufficient information to make a determination about a specific aspect of an individual's activities or status; (ii) information that is "linked" to an individual is information about or related to that individual that is logically associated with other information about that individual; and
- (v) The term "linkable" means, with respect to information about or related to an individual, that there is the possibility of a logical association between that information and other information about the individual.

Section 4.2 Contractor Obligations. Except as provided in Section 4.3, the Contractor and each driver providing Transportation Services pursuant to this Agreement shall keep confidential and not disclose to any other person or entity any of the Confidential Student Information. For avoidance of doubt, any and all Recordings shall be deemed and construed to be Confidential Student Information. The Contractor shall: (i) provide written notice to the District if the Contractor permits drivers to make Recordings; (ii) require that each driver or other person who makes any Recordings provide copies of those Recordings to the Contractor (in the same format, resolution, aspect ratio, *et cetera* as the original Recording); and (iii) maintain any and all Recordings as part of the Contractor Records (defined in

Section 6.5). The Contractor and drivers providing Transportation Services may use the Recordings solely for purposes associated with administration of this Agreement and/or disputes and claims arising from this Agreement or the Transportation Services; provided that, in all events except as provided in Section 4.3, the Contractor and the drivers shall strictly maintain the confidentiality of the Recordings. The Contractor and the drivers may delete or otherwise destroy any physical copies of the Recordings or other Confidential Student Information they have in their respective possession only: (i) if the applicable record retention period specified in Section 6.5 has expired; or (ii) upon written consent of the District given, denied, or conditioned in the District's reasonable discretion, which may include, without limitation, a condition that the District receive full and unaltered copies of the Confidential Student Information that is to be destroyed.

Section 4.3 Authorized Disclosure.

Subsection 4.3.1 Mandated Disclosure. The Contractor shall provide written notice to the District immediately upon becoming aware that any subpoena, order, demand, or other process seeking or requiring disclosure or release of any Confidential Student Information is being sought or has been issued. In each such event, the District shall be permitted to intervene for purposes of attempting to stop or limit the disclosure of Confidential Student Information. Notwithstanding Section 4.2 herein, the Contractor may disclose Confidential Student Information if, but only if a court or other governmental entity with competent jurisdiction has ordered that the information be disclosed or authorized a subpoena seeking disclosure of the information. In such event, disclosure shall be limited solely to the scope of disclosure ordered by the court or other governmental entity.

Subsection 4.3.2 Disclosure to District. Notwithstanding Section 4.2 herein, and upon request of the District from time to time, the Contractor shall provide to the District full and unaltered copies of any or all of the Recordings and/or other Confidential Student Information.

Subsection 4.3.3 Provisions are Exclusive. The provisions of this Section 4.3 shall be deemed and construed to constitute the sole and exclusive bases for disclosure or release, by the Contractor or any drivers providing any of the Transportation Services, of any Recordings and/or other Confidential Student Information.

Section 4.4 Driver Non-Disclosure Agreement. The Contractor shall require that each driver, prior to providing any Transportation Services pursuant to this Agreement, and each other employee who may have access to Confidential Student Information, execute a valid and binding confidentiality and non-disclosure agreement ("NDA") to implement, and that is consistent with, the foregoing provisions of this Part 4. The form of the NDA is subject to advance approval by the District in its reasonable discretion, and the Contractor must provide a copy of each executed NDA to the District for its records.

PART 5: DATA SECURITY.

Section 5.1 Contractor Efforts. The Contractor shall make reasonable efforts to secure, protect the privacy of, and prevent the unauthorized disclosure of, any and all Confidential Student Information that it collects or otherwise obtains in connection with the Transportation Services and/or this Agreement. Such reasonable efforts may include, but are not limited to: (i) network and system controls (such as firewalls and network segmentation) intended to prevent introduction of computer viruses and malware; (ii) operational procedures (such as multi-factor authentication and least privilege) intended to prevent unauthorized access to Confidential Student Information; and (iii) behavioral

analytics intended to identify suspicious and/or anomalous activities affecting the Platform/Application and/or any Confidential Student Information.

Section 5.2 Security Protocols. The Contractor shall promulgate or otherwise have in effect policies, procedures, protocols, guidelines and other data-security requirements (collectively, "Security Protocols") based on appropriate and adequate identification and quantification of data-security risks. In developing the Security Protocols, the Contractor shall consider and, to the extent required, incorporate into the Security Protocols any comments and/or suggestions from the insurer that provides the Contractor's cyber liability insurance.

Section 5.3 Response Plan. Prior to the Contractor or any driver collecting or otherwise obtaining any Confidential Student Information, the Contractor shall have in effect reasonable and comprehensive written policies and procedures for responding to the unauthorized disclosure or loss of control of Confidential Student Information and/or activities and incidents (such as hacking attempts) constituting a significant risk to the security of such Confidential Student Information ("Response Plan"). The Response Plan shall conform to all applicable laws and current industry standards, and the Contractor shall as reasonably necessary update the Response Plan from time to time. The Response Plan must include, among other required provisions: (i) provisions for the Contractor, on behalf of itself and the District, to give any and all notices required in connection with any data security breach as may be required by applicable laws and this Agreement; and (ii) provisions for prompt post-breach activation of credit monitoring and reporting services for individuals whose Confidential Student Information was disclosed in connection with the security breach, at no cost to such individuals or the District. Promptly following any request by the District, the Contractor must provide to the District a copy of the Response Plan and/or any updates to the Response Plan.

Section 5.4 Data Breaches. In each case that the Contractor experiences a security breach or other incident that leads to inadvertent disclosure or loss of Confidential Student Information, the Contractor shall immediately notify the District, implement the Response Plan, and otherwise take immediate steps to limit and mitigate the effects of such security breach. The District, in its sole and absolute discretion, may terminate this Agreement in the event of any security breach or any unauthorized disclosure or loss of any Confidential Student Information, or any material breach by the Contractor and/or any driver of the confidentiality provisions of this Agreement. The Contractor shall indemnify and hold the District harmless with respect to any and all losses, costs, damages and/or expenses incurred in connection with any such security breach or unauthorized disclosure or loss, including, without limitation, costs of notice provided by the District to affected persons.

PART 6: MISCELLANEOUS PROVISIONS

Section 6.1 Independent Contractor. The Contractor is, for any and all purposes of or related to this Agreement, an independent contractor. In no circumstances shall the Contractor or any of its officers, employees, contractors, subcontractors, agents, or other representatives be deemed or construed to be an officer, employee, agent, or other representative of the District as a result of this Agreement. The Contractor must at all times conduct its activities in a manner consistent with its status as an independent contractor, and, except as provided in this Agreement, the Contractor shall have the right to determine the methods, means and mechanisms by which it shall perform the Transportation Services. The Contractor shall not suffer or permit any third party (whether person or entity) to continue in any apparent belief that the Contractor or any of its officers, employees, contractors, subcontractors, agents or other representatives is an officer, employee, agent, or other representative of the District.

Section 6.2 Contractor Capability. The Contractor represents and warrants that: (i) it has any and all licenses, certifications, and approvals as are necessary, appropriate, and required by law to permit the Contractor to enter into this Agreement and perform the Transportation Services; (ii) all drivers performing any Transportation Services shall be qualified and appropriately licensed to perform the tasks, duties and responsibilities required pursuant to this Agreement and assigned to them by the Contractor; (iii) any and all persons who will provide or perform the Transportation Services, including, without limitation, drivers and/or persons providing support services pursuant to Section 1.5 herein, shall have the qualifications, technical and/or other skills, and experience required to perform the Transportation Services in an efficient, timely, and satisfactory manner; and (iv) the Contractor has the financial, personnel, and other resources as are necessary to adequately and timely perform the Transportation Services as required pursuant to this Agreement.

Section 6.3 Infringement. The Contractor hereby represents and warrants that it has all necessary power and authority to make the Platform/Application, including, without limitation, any third-party programs incorporated into the Platform/Application, available for use pursuant to this Agreement, free from infringement or other violation of any copyright, trademark, or trade secret of any third party. In connection with any and all claims of infringement or other violation of such rights: (i) should use of the Platform/Application pursuant to this Agreement become enjoined, this Agreement shall terminate; and (ii) without limiting any other rights of the District or third parties in connection with this Agreement, the Contractor shall indemnify and defend the District with respect to any and all such claims.

Section 6.4 Compliance with Applicable Laws. Without limiting anything else in this Agreement, the Contractor must ensure that the Transportation Services are performed in compliance with all applicable federal, State of California and local laws, regulations, ordinances and other governmental requirements, including without limitation, prohibitions against driving while impaired by drugs or alcohol.

Section 6.5 Contractor Records. The Contractor must prepare and maintain, in accordance with generally accepted accounting principles, all financial and other records related to this Agreement and to the Transportation Services as reasonably are necessary, appropriate, or required by law to adequately document the transaction(s) contemplated by this Agreement ("Contractor Records"). The Contractor must maintain the Contractor Records generally for a period of not less than three years from final payment pursuant to this Agreement. Notwithstanding the foregoing, the Contractor must maintain Contractor Records relating to traffic accidents, assault, molestation, and other incidents that potentially could result in personal injury or other liability (each an "Incident"), in each case, for a period of not less than four years from when the Incident occurred. The District and other governmental entities with competent jurisdiction shall each have the right to review, audit and/or copy the Contractor Records, at any and all reasonable times during the record-retention periods specified in this Section. However, if the District or any other governmental entity commences, but does not complete, an audit or other review within an applicable record-retention period, the Contractor must maintain the Contractor Records until such time as the audit or review has been completed.

Section 6.6 District Representatives. The representatives of the District who are authorized to receive notice and administer this Agreement on behalf of the District (each a "District Representative") are identified in Exhibit "C" attached to this Agreement. The District's Superintendent or its Chief Financial Officer may change any District Representative, at any time, without need for reason, and without need to amend this Agreement.

Section 6.7 Contractor Representative. The representative of the Contractor who is authorized to represent the Contractor for all purposes of this Agreement is identified in Exhibit C hereto ("Contractor Representative"). The Contractor Representative shall be the sole contact person for purposes of District communications with the Contractor regarding administration of this Agreement and/or the Transportation Services. The Contractor's chief executive officer or equivalent officer may change the Contractor Representative, at any time, without need for reason, and without need to amend this Agreement.

Section 6.8 Consent Required to Subcontract. Except to the extent the Contractor considers its drivers to be independent contractors, the Contractor shall not subcontract the performance of the Transportation Services absent the advance written consent of the District, which consent the District in its sole discretion may grant, deny, or condition.

PART 7: CONSULTANT INSURANCE

Section 7.1 Required Insurance. Prior to commencing any of the Transportation Services, the Contractor must procure at its sole cost and expense, and, during all periods as required by this Agreement, must maintain in effect, the insurance policies required pursuant to this Part 7 ("Required Policies"). The Required Policies include the following:

- (i) General Liability Insurance. A policy of commercial general liability insurance that is written on an "occurrence" basis and that provides coverage with a combined single limit of not less than \$3,000,000 for all activities conducted by the Contractor pursuant to this Agreement ("General Liability Policy"). The General Liability Policy must include, without limitation, coverage for the contractual liability assumed by the Contractor pursuant to this Agreement.
- (ii) Transportation or Commercial Auto Liability Insurance. A policy of transportation or commercial auto liability insurance (however denominated) that includes coverage for transportation of children, is written on an "occurrence" basis, and has coverage limits of not less than \$1,000,000 per occurrence and \$30,000,000 aggregate ("Vehicle Liability Policy"). The Vehicle Liability Policy must include, without limitation, coverage for liability, property damage, bodily injury, and uninsured-underinsured motorists.
- (iii) Abuse-Molestation Insurance. A policy of abuse-molestation insurance ("Abuse Policy") that: (i) is separate from the General Liability Policy and any professional liability and other insurance policies that the Contractor may have in effect; (ii) is written on an "occurrence" basis; (iii) has coverage limits of not less than \$1,000,000 per occurrence and \$5,000,000 aggregate; (iv) provides coverage for direct and vicarious liability associated with sexual misconduct and other physical abuse, and for verbal, emotional, mental and other non-physical abuse; (v) covers acts and omissions by, among others, the Contractor's subcontracted drivers, if any; (vi) provides coverage for the District prior to any determination that an accused abuser is guilty; and (vi) provides for payment of defense costs outside the Abuse Policy's coverage limits. The Contractor shall comply with any and all risk management controls reasonably required by the insurer that issues the Abuse Policy.
- (iv) Workers' Compensation Insurance. A policy of workers' compensation insurance as required by California law ("Worker Compensation Policy"). Notwithstanding the insurer rating standards set forth in Section 7.2, coverage provided by the California State Compensation Insurance Fund

shall be deemed, with respect to the Worker Compensation Policy, to satisfy such insurer rating standards.

Section 7.2 Insurer Rating Standards. Except as the District may otherwise agree in writing, the Required Policies must be issued by one or more insurers licensed to do business in the State of California and having an A.M. Best Company rating of not less than “A-” (i.e., A minus) and a financial size category of “X.”

Section 7.3 Additional Insureds. Each of the General Liability Policy, the Vehicle Liability Policy, and the Abuse Policy (collectively, the “Liability Policies”) shall name (or be endorsed to name) the District, the District Board and each individual member thereof, and the District’s other officers, employees and agents (collectively, but not including the District, the “District Agents”), as additional insureds in connection with this Agreement and the Transportation Services. The additional insured endorsements must be ISO form CG 2010 11/85 or equivalent approved in advance by the District. For purposes of this Section, and without otherwise limiting the District’s discretion to determine an equivalent to form CG 2010 11/85, a combination of ISO forms CG 2010 10/01 and CG 2037 10/01 shall be deemed an acceptable equivalent to ISO form CG 2010 11/85.

Section 7.4 Waiver of Subrogation. With respect to the District and the District Agents, the Contractor hereby waives, on behalf of its insurers, any and all rights to subrogation that any such insurer may acquire by virtue of the payment of any loss in connection with the Required Policies. Each of the Liability Policies must be endorsed with a cross-liability endorsement and a waiver of the insurer’s rights of subrogation against the District and the District Agents. The Workers Compensation Policy must be endorsed with a waiver of the insurer’s rights of subrogation against the District and the District Agents.

Section 7.5 Contractor Insurance is Primary. To the extent permitted by law, the Required Policies shall be primary and non-contributing with respect to any insurance or self-insurance programs covering the District and/or any of the District Agents. Each of the Liability Policies must be endorsed to provide that it is so primary and non-contributory.

Section 7.6 Deductibles and Self-Insured Retentions. Prior to commencing the Transportation Services, the Contractor must disclose in writing to the District any and all deductibles or self-insured retentions applicable to any of the Required Policies. Any such deductibles or self-insured retentions are subject to discretionary approval by the District. At the option of the District, the Contractor either: (i) must cause the insurer to reduce or eliminate such deductibles or self-insured retentions with respect to claims arising in connection with this Agreement; or (ii) must provide a financial guarantee satisfactory to the District that guarantees payment of losses and related investigations, claim administration, and defense expenses. The Required Policies that are subject to any deductible or self-insured retention must be endorsed to permit the District to pay the deductible(s) and/or retention(s) in the event the Contractor is the subject of any bankruptcy proceeding (whether voluntary or involuntary) or otherwise is unable to, or does not, pay such amounts.

Section 7.7 Evidence of Coverage. Concurrent with execution and delivery of this Agreement, the Contractor must provide to the District such duly-authorized and executed certificates of insurance as reasonably evidence that Required Policies are in full force and effect (each a “Certificate of Insurance”), together with a copy of each and all endorsements required pursuant to this Agreement. The delivery of such Certificates of Insurance and endorsements shall be a condition precedent to the Contractor commencing any of the Transportation Services pursuant to this Agreement. The Certificates

of Insurance shall identify those who are to be named as additional insureds in accordance with this Agreement. The Certificates of Insurance must expressly require that the insurer notify the District not less than thirty days prior to any cancellation, termination, reduction in coverage, or expiration without renewal of any such insurance policy. Language to the effect that the insurer shall “endeavor” to provide such notice shall not be acceptable. The Contractor must provide updated Certificates of Insurance to the District promptly upon renewal of any of the Required Policies.

Section 7.8 Review of Coverage. The District may at any time request that the Contractor provide a full and complete copy of any or all of the Required Policies, and the Contractor must provide such copy to the District within twenty days of the District’s request.

PART 8: INDEMNIFICATION

Section 8.1 General Requirement. The Contractor shall indemnify and hold harmless the District and the District Agents, and each of them, with respect to any and all damages, losses, judgments, costs and expenses (including, without limitation, attorneys’ fees and expenses), and other liabilities of whatever nature (each a “Liability” and, if multiple, the “Liabilities”) to the extent arising from any negligence, recklessness and/or willful misconduct of the Contractor or any of its officers, employees, contractors, agents, or other representatives (collectively, not including the Contractor, the “Contractor Agents”) in connection with the performance of this Agreement. The scope of the Contractor’s obligations pursuant to this Section shall include, without limitation: (i) any disputes of any nature between the Contractor and any of its subcontractors; and (ii) the injury or death of any person or the damage to any property arising from the activities of the Contractor and/or any of the Contractor Agents in connection with this Agreement.

Section 8.2 Subcontracted Drivers. If and to the extent the Contractor considers the drivers who will provide any of the Transportation Services to be independent contractors of the Contractor, then, without limiting anything in Section 8.1, the Contractor shall fully indemnify and hold harmless the District and the District Agents, and each of them, with respect to: (i) any and all claims that would, if the drivers were employees, be wholly or partially within the scope of reasonable policy of workers’ compensation insurance; and (ii) any other matters that arise from or relate to any driver’s status as an independent contractor.

Section 8.3 Defense of District. The Contractor shall defend the District with respect to any and each claim, demand, action, or other proceeding that by allegation or implication is within the scope of the Contractor’s indemnification obligations pursuant to Sections 8.1 and/or 8.2 herein. Any defense of the District or any of the District Agents conducted pursuant to this Agreement must be conducted by qualified and appropriately experienced legal counsel reasonably acceptable to the District, but selected and retained by the Contractor, at no cost to the District or any of the District Agents.

Section 8.4 Limitation on Contractor Obligations. The Contractor shall not be obligated pursuant to Sections 8.1 and 8.2 of this Agreement to the extent any Liability is attributable to the sole negligence, active negligence, or willful misconduct of the District or any of the District Agents. In each such event, the Parties shall be responsible and liable on a comparative basis.

Section 8.5 Insurance Not a Limitation. The obligations of the Contractor pursuant to this Part 8 shall not be deemed or construed to be: (i) conditioned upon or in any other manner limited by the existence of any insurance coverage maintained by any person or entity; or (ii) conditioned upon the receipt by any person or entity of, or limited to the amount of, any insurance proceeds.

Section 8.6 Survival of Obligations. With respect to any and all acts, omissions or incidents occurring prior to termination of this Agreement, the Contractor's obligations pursuant to this Part 8 shall survive termination of this Agreement.

PART 9: DISPUTE RESOLUTION

Section 9.1 Notice and Opportunity to Cure. If a Party ("Alleging Party") alleges that the other Party ("Responding Party") has defaulted with respect to any of its material obligations pursuant to this Agreement, the Alleging Party shall provide written notice to the Responding Party, specifying in reasonable detail the nature and extent of the alleged default ("Notice of Default"). If the Responding Party has not cured the alleged default within fourteen days after receipt of the Notice of Default, then the Alleging Party in its discretion may seek any remedy available pursuant to this Agreement and applicable law. Neither the giving of any Notice of Default, nor the initiation by the Alleging Party of any action or other proceeding in connection with the alleged default, shall by itself operate to terminate this Agreement. Nothing in this Agreement shall be deemed or construed to alter or obviate the requirements of the Government Claims Act set forth in Government Code sections 900 *et seq.* and 940 *et seq.*

PART 10: TERM AND TERMINATION

Section 10.1 Term. The term of this Agreement ("Agreement Term") shall commence on the Effective Date and shall expire on the earliest of: (i) June 30, 2020; or (ii) the date the maximum Contract Amount has been billed to and paid by the District.

Section 10.2 District Termination Without Need for Cause. The District may terminate this Agreement, with respect to some or all of the Transportation Services, without need for cause, by providing written notice of termination to the Contractor. Such termination shall be effective on the date that is sixty days following receipt by the Contractor of the notice of termination, or as of such earlier date as may be specified in the notice of termination.

Section 10.3 District Termination for Cause. Subject to notice and opportunity to cure pursuant to Section 9.1, the District may terminate this Agreement for cause, by giving written notice of termination to the Contractor, if: (i) the District reasonably determines that the Contractor has failed to perform some or all of the Transportation Services in a satisfactory and timely manner; or (ii) the Contractor otherwise has breached any of its material obligations pursuant to this Agreement. Notwithstanding the foregoing or anything else to the contrary, the District may terminate this Agreement without compliance with Section 9.1 herein if the District reasonably determines that the Contractor or any of its drivers, officers, employees, or agents has endangered the health, safety or welfare of any District student(s). A termination pursuant to this Section shall be effective immediately upon receipt by the Contractor of the notice of termination or as of such later date as the notice may specify.

Section 10.4 Contractor Termination for Cause. Subject to notice and opportunity to cure pursuant to Section 9.1, the Contractor may terminate this Agreement for cause, by giving written notice of termination to the District, if the Contractor reasonably determines that the District has breached any of its material obligations pursuant to this Agreement. A termination pursuant to this Section shall be effective immediately upon receipt by the District of the notice of termination or as of such later date as the notice may specify.

PART 11: GIVING OF NOTICE

Section 11.1 General Requirements. Any and all notices required or permitted to be given pursuant to this Agreement (each a "Notice") must be in writing and must be given or served in accordance with this Part 11.

Section 11.2 Methods of Delivery. Each Notice must be delivered via: (i) registered or certified U.S. mail (postage pre-paid and return receipt requested); (ii) FedEx, UPS or other reliable, private delivery service (with name and signature of recipient obtained on electronic or other delivery receipt); or (iii) electronic mail (i.e., email) transmission (with original of the Notice deposited into the U.S. mail, first-class postage prepaid, within twelve hours after transmission).

Section 11.3 Persons to Whom Notices Must be Sent. Notices given to the District must be addressed and delivered to both of the District Representatives as specified in Exhibit D. Notices given to the Contractor must be addressed and delivered to the Contractor Representative as specified in Exhibit D.

Section 11.4 Changes in Contact Information. A Party may give notice of each change in its address, person to whom attention should be directed, or email address by giving Notice in accordance with this Part 11.

Section 11.5 Additional Requirements for Giving Notice by Email. As an additional condition to sending a Notice by email, the reference (or "re") line must be specified as "NOTICE PURSUANT TO AGREEMENT FOR TRANSPORTATION SERVICES." Because email addresses are subject to change more frequently than physical addresses, if a Notice is to be sent by email, unless the sender has actual knowledge of the then-current correct email address of each intended recipient, the sender must call and verify the then-current email address of each intended recipient prior to sending the Notice, or must use some other method of delivering the Notice.

Section 11.6 Effect of Receipt. A Notice shall be deemed to have been given or served only upon actual receipt by the addressee. In the case of email, "actual receipt" shall mean delivery to the recipient's email in-box. However, if any Notice (including, without limitation, any Notice sent by email) is delivered after 4:00 p.m. on any business day, or is delivered on any day that is not a business day, the Notice shall be deemed to have been given or served as of 9:00 a.m. on the next subsequent business day.

Section 11.7 Applicability of Notice Requirements. The requirements of this Part 11 shall not be deemed or construed to apply to: (i) communications between the District and/or the Contractor necessary for day-to-day administration of this Agreement or performance of the Transportation Services; or (ii) service of process in accordance with any applicable law or court rule.

PART 12: INTERPRETATION OF AGREEMENT

Section 12.1 Fair and Reasonable Interpretations. Each Party hereby acknowledges and agrees that, prior to execution and delivery of this Agreement, it has received, or had unqualified opportunities to receive, independent legal advice from its legal counsel with respect to the advisability of entering into this Agreement and the meaning of the provisions herein. Therefore, the provisions of this Agreement shall be construed based on their fair and reasonable meaning, and not for or against

any Party based on whether such Party or its legal counsel was primarily responsible for drafting this Agreement or any particular provision herein.

Section 12.2 Headings and Captions. The headings and captions set forth in this Agreement are for the convenience of the reader only and shall not be deemed or construed to establish, define or limit the meaning of any Part, Section, or other provision herein.

Section 12.3 Recitals and Exhibits. Each Recital set forth herein and each Exhibit referenced herein and attached hereto is hereby incorporated as an effective and operative provision of this Agreement. In the event of any conflict between any provision in the main body of this Agreement and any provision in the Exhibits, the provision in the main body of this Agreement shall govern.

Section 12.4 Meaning of "Days." Except as expressly provided in this Agreement in any particular case, each reference in this Agreement to a specific number of days or other periods shall be construed to mean consecutive days or other periods. Unless expressly qualified as business days, each reference in this Agreement to a period of days shall be construed to mean calendar days. For purposes of this Agreement, the term "business day" means any day that is not: (i) a Saturday or Sunday; (ii) an official federal or State of California holiday; or (iii) with respect to the District's administrative staff, a furlough day mandated by any agency, department, or board of the State of California or by the District Board.

Section 12.5 Entire Agreement. This Agreement constitutes the entire understanding and agreement between the Parties pertaining to the performance of the Transportation Services by the Contractor, and any and all prior and contemporaneous agreements, representations and understandings of the Parties relating to such subject matter, whether oral or written, are hereby superseded and replaced.

Section 12.6 Modifications of Agreement. This Agreement may be amended or otherwise modified only by means of duly-approved written instrument executed and delivered by both Parties.

Section 12.7 Waiver. A waiver by a Party of any provision of this Agreement shall be binding only if the waiver is set forth in writing and has been duly approved and signed by the waiving Party. Unless so specified in the written waiver, a waiver by a Party of any provision of this Agreement shall not constitute a waiver of any other provision(s) herein, similar or not, and shall not be construed as a continuing waiver. Except as waived in accordance with this Section, neither the failure by a Party at any time to require performance of any requirement of this Agreement, nor any forbearance or indulgence of the Party in regard to such requirement, shall in any manner affect the Party's right at a later time to enforce the same or any other provision of this Agreement.

Section 12.8 Governing Law and Venue. This Agreement shall be governed by and interpreted in accordance with the California law, notwithstanding any conflict-of-law, choice-of-law or other provision in any federal or state law. Any action, arbitration, or other proceeding arising from this Agreement shall be initiated and conducted only in the County of Los Angeles, California.

Section 12.9 Severability. If a court of competent jurisdiction determines, for any reason, that any provision or requirement of this Agreement is invalid or unenforceable, such determination shall not be deemed or construed to invalidate or render unenforceable any other provision or requirement of this Agreement. In such event, the remaining provisions and requirements shall be interpreted, to the extent permitted by law, in a manner that is consistent with the intent and purpose underlying the invalid or unenforceable provision or requirement.

Section 12.10 Successors and Assigns. The Contractor shall not assign this Agreement without the express written consent of the District, and any attempt to do so shall be null and void. Subject to the foregoing, this Agreement shall inure to the benefit of, and be binding on, the Parties' authorized successors and assigns.

Section 12.11 No Third-Party Beneficiaries. The Parties have entered into this Agreement solely for their own purposes, and this Agreement shall not be deemed or construed to: (i) benefit any third party; (ii) create any right for any third party; or (iii) except as provided by law, provide a basis for any claim, demand, action or other proceeding by any third party.

Section 12.12 Agreement is Public Record. Notwithstanding anything in any proposal or any discussions or writings relating hereto: (i) nothing in this Agreement shall be deemed or construed to constitute confidential information; and (ii) this Agreement is a public record which the District may disclose in accordance with California law or otherwise.

PART 13: EXECUTION OF AGREEMENT

Section 13.1 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original and all of which, taken together, shall constitute one and the same instrument. Signature pages may be detached from counterpart originals and combined to physically form one or more copies of this Agreement having original signatures of both Parties.

Section 13.2 Due Authority. Each person who has signed this Agreement on behalf of a Party shall be deemed and construed to thereby represent and warrant that he or she has been duly authorized by such Party to sign, and thereby bind such Party to, this Agreement.

IN WITNESS WHEREOF, the duly authorized representatives of the Parties have executed this Agreement as evidenced by their signatures below.

William S. Hart Union High School District

ZUM SERVICES, INC.

By: _____

By: _____

Print Name: _____

Print Name: _____

Print Title: _____

Print Title: _____

Fed. Tax ID No: _____

EXHIBIT "A"
COMPENSATION FOR TRANSPORTATION SERVICES

[insert]

EXHIBIT "B"
CERTIFICATION REGARDING CONTRACTOR AGENTS

District: William S. Hart Union High School District

Contractor: Zum Services, Inc.

Agreement: Agreement for Supplemental Transportation Services dated _____, 2019

The undersigned hereby certifies to the District, subject to penalty for perjury pursuant to the laws of the State of California, that all of the following is true and correct:

- (i) The undersigned is a duly authorized representative of the Contractor and, in that capacity, has executed this certification on behalf of the Contractor;
- (ii) The Contractor has fully complied with the requirements of this Agreement for criminal-history background checks of Contractor Agents, including, without limitation, with respect to drivers that the Contractor considers to be subcontractors;
- (iii) None of the Contractor Agents identified on the Attachment(s) to this certification have been convicted of any violent or serious felony as defined in Subdivision (c) of Education Code Section 45125.2;
- (iv) The Contractor has fully complied with the requirements of this Agreement for determining that all drivers, and all other Contractor Agents who will or might have frequent or prolonged exposure to SPED Students, are free of tuberculosis risk factors or infectious tuberculosis.
- (v) Each of the Contractor Agents identified on the Attachment(s) to this certification has:
 - (1) submitted to a tuberculosis risk assessment within the 60-day period prior to the scheduled commencement of the Transportation Services and either (a) been found not to have any tuberculosis risk factors, or (b) if such risk factors were identified, was examined as contemplated by Section 49406 and found to be free of infectious tuberculosis; or
 - (2) previously acted in a similar capacity pursuant to any contract with the District or another California public school district and both (a) was certified at such time to be free of tuberculosis risk factors or, alternatively, to be free of infections tuberculosis, and (b) has since then and within the last four years been tested and found to have no infectious tuberculosis.
- (vi) The Contractor shall permit only those persons identified on the Attachment(s) to this certification to provide any of the Transportation Services, or otherwise have frequent or prolonged exposure to any SPED Students.

Representative Name: _____

Representative Title: _____

Representative Signature: _____

Date Signed: _____

CERTIFICATION REGARDING CONTRACTOR AGENTS – ATTACHMENT SHEET

Contractor: Zum Services, Inc.

Instructions

- (i) For each Contractor Agent, insert all required information (as specified in the table below) in one row of the table.
- (ii) In the “Driver License/ID” column in the table below: (i) specify the California driver’s license or identification number; and (ii) specify the state that issued the driver’s license or identification.
- (iii) In the “Driver” column in the table below, enter “Y” (for yes) or “N” (for no) if the Contractor Agent is a person who will drive SPED Students pursuant to this Agreement.
- (iv) If identifying more than ten Contractor Agents: (i) use copies of this Attachment to identify the additional Contractor Agents; and (ii) on each such copy, specify the page number and total number of pages where indicated at the bottom of this Attachment.

	Contractor Agent Name	Sex	Date of Birth	Height	Weight	Hair Color	Eye Color	Driver License/ID	Driver (y/n)
1									
2									
3									
4									
5									
6									
7									
8									
9									
10									

Page ____ of ____

EXHIBIT "C"
AUTHORIZED REPRESENTATIVES

Contractor Representative

The Contractor Representative for all purposes of this Agreement (including, Notices given in accordance with this Agreement) and his or her contact information are as follows:

Zum Services, Inc.
Attention: [insert]
275 Shoreline Drive, Suite 300
Redwood City, CA 94065
Email: [insert]

District Representatives

The District Representatives for all purposes of this Agreement (including, without limitation, Notices given in accordance with this Agreement) and their respective contact information are as follows:

Primary Contact

William S. Hart Union High School District
Attn: Director of Transportation
21429 Centre Pointe Parkway
Santa Clarita, CA 91350
Email: BRension@hartdistrict.org

Secondary Contact

William S. Hart Union High School District
Attn: Chief Financial Officer
21429 Centre Pointe Parkway
Santa Clarita, CA 91350
Email: RPeschek@hartdistrict.org