

AGENDA FOR  
ELKHART COMMUNITY SCHOOLS  
BOARD OF SCHOOL TRUSTEES

BUSINESS MEETING  
and  
PUBLIC WORK SESSION

J. C. Rice Educational Services Center  
2720 California Road  
Elkhart, Indiana 46514

December 17, 2013  
7:00 a.m.

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BUSINESS MEETING

- A. CALL TO ORDER
- B. Consideration of Claims
- C. Fuel Bids – The Business Office recommends awarding bids for the purchase of gasoline and diesel fuel for calendar year 2014.
- D. Fund Loan Repayment – The Business Office reports on the repayment of loans between funds.
- E. Extra Curricular Purchase
- F. Agreement for Management Services – The Business Office recommends approval of a proposed agreement with TransPar to provide transportation management services.
- G. Authorization for 1028/Preliminary Determination Public Hearing – The Business Office requests authorization to conduct a public hearing to consider a facilities improvement project, including proposed financing of the project, and issuing public notice of a public hearing.
- H. Tax Neutrality Resolution – The Business Office recommends adoption of the proposed tax neutrality resolution.
- I. Conference Leave Report
- J. Personnel Report
- K. ADJOURNMENT

WORK SESSION

1028/Preliminary Determination

**ELKHART COMMUNITY SCHOOLS**  
Elkhart, Indiana

December 12, 2013

TO: Dr. Robert Haworth  
Board of School Trustees

FROM: Robert Woods  
Business Office

SUBJECT: Recommendation for Purchase of Fuel for 2014

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On December 10, 2013 the Business Office received fuel bids for gasoline and diesel fuel for 2014. The Business Office is recommending Board approval of the lowest responsible and responsive bid.

Petroleum Traders .0417 above the lowest available dock price

This amount is fixed during the 2014 calendar year. It includes the bidder's profit, inspection fee, and delivery cost per gallon over the lowest available dock price on the date of purchase. These purchases will be charged to the Transportation Fund. A tabulation of the bids received is shown below:

Petroleum Traders	.0417 above lowest available dock price
Mansfield Oil Company	.2247 above lowest available dock price
North Central Co-op	.058 above lowest available dock price

**LOAN REPAYMENTS**  
(ONE FUND TO ANOTHER)  
ELKHART COMMUNITY SCHOOLS

**THE FOLLOWING LOANS HAVE BEEN PAID BACK EFFECTIVE 12/20/13**

\$475,000.00 FROM FUND 0200 DEBT SERVICE FUND TO FUND 0350 CAPITAL PROJECTS FUND

\$500,000.00 FROM FUND 0250 DEBT SV-RET/SEV FUND TO FUND 0350 CAPITAL PROJECTS FUND

\$525,000.00 FROM FUND 0410 TRANS-OPERATING FUND TO FUND 0200 DEBT SERVICE FUND

\$300,000.00 FROM FUND 0410 TRANS-OPERATING FUND TO FUND 0350 CAPITAL PROJECTS FUND

SUBMITTED BY

DIANA STAMPER

ELKHART COMMUNITY SCHOOLS  
Elkhart, Indiana

December 11, 2013

TO: Dr. Haworth  
Board of School Trustees

FROM: Doug Hasler

SUBJECT: Extra-Curricular Purchase

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The Business Office recommends Board approval of purchase of the following items from extra-curricular funds:

SCHOOL/ACCOUNT	ITEM	AMOUNT
Central Athletic Account	Track Timing System	\$6,945.00



# Elkhart Central High School Athletics

1 Blazer Blvd, Elkhart, IN 46516 \* 574-295-4720 \* fax 574-295-4726  
[www.elkhartblazerssports.com](http://www.elkhartblazerssports.com) / Facebook: Elkhart Central Blazers / Twitter: @BlueBlazers

DATE: December 10, 2013  
TO: Dr. Rob Haworth  
Board of School Trustees  
FROM: Brian Buckley  
Elkhart Central Athletic Department  
RE: ECHS Athletic Funds Usage Request

On behalf of the Elkhart Central Athletic Department, I would like to request permission to use funds from our athletic account to purchase a new track timing system. The current system is over 20 years old and is limited in its functionality. Each year Elkhart Central hosts the NIC Conference track meet which includes eighteen boys and girls teams. This is a large meet that showcases Elkhart each year and we want to make certain that we have the equipment to handle it in a first class manner.

We have received quotes from Lynx System Developers, Inc for three different timing systems with varying abilities. The quotes range from \$ \$6,945.00 to \$11,133.00. We have selected the system costing \$6,945.00 as it will adequately meet our needs.

Thank you for your consideration.

Coach Buck

**BRIAN BUCKLEY**  
ATHLETIC DIRECTOR

**TRUDY BATTJES**  
ASST. ATHLETIC DIRECTOR

**BETSY DELKS**  
ATHLETIC SECRETARY

ELKHART COMMUNITY SCHOOLS  
Elkhart, Indiana

December 11, 2013

TO: Board of School Trustees  
Dr. Haworth

FROM: Douglas A. Hasler

SUBJECT: Proposed Management Agreement with TransPar

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Terry Chomer's duties as Director of Transportation and School Security are being modified. Beginning in January 2014, Terry's duties will be focused on School Security. As a result, it is necessary for Elkhart Schools to identify a new director to manage and direct the operations of our Transportation Department.

To direct the overall operations of the Transportation Department, the Administration is proposing to enter into a management services agreement with TransPar Group. On two occasions in the past five years, Elkhart Schools has called upon TransPar to provide consulting services to assist ECS in developing cost-efficiency options for our transportation operations. TransPar has provided high-quality services in its consulting work. In addition to consulting services, TransPar also provides contracted management services to school corporations around the country. Currently, TransPar is responsible for managing school transportation programs in such places as Tucson, Arizona, St. Louis, Missouri, Providence, Rhode Island, and as nearby as Penn-Harris-Madison in Saint Joseph County, Indiana.

Under the proposed agreement (copy attached), TransPar would provide Elkhart Schools with a Transportation Director to manage and direct the operations of our Transportation Department. In addition, TransPar staff based at other locations, would provide support services for our Transportation Department, such services to include bus routing, management of bus routing software systems, and parts inventory control. The proposed agreement is for a period of 3-years.

I believe that TransPar Group has the experience and expertise in school transportation operations to manage the Elkhart Schools Transportation Department in a safe, and cost-efficient manner. The Administration will be proposing your approval of the Management Services Agreement with TransPar in the December 17<sup>th</sup> Board meeting.

Please contact me at 262-5563 if you have questions concerning this matter prior to next week's Board meeting.

**MANAGEMENT SERVICES AGREEMENT**  
**THREE YEAR**

MANAGEMENT SERVICES AGREEMENT (the "Agreement") made effective as of the first day of December, 2013, by and between the Elkhart Community Schools, a body politic ("District"), and TransPar Group, Inc. a Kansas Corporation with its principal place of business at Suite 200, 18 SW 3<sup>rd</sup> St., Lee's Summit, Missouri 64063("Manager").

**RECITALS**

The District has a student transportation system and desires that Manager, a qualified transportation consulting and management company, render certain management services with respect to the design, structure and operation of such system, as more particularly described herein.

NOW, THEREFORE, in consideration of the foregoing, and the mutual promises, covenants and undertakings set forth herein, the parties hereby agree as follows:

**1. Incorporation of Recitals.**

The matters recited above are hereby incorporated into and made a part of this Agreement.

**2. Engagement and Scope of Services.**

**2.1. Engagement.** The District hereby engages Manager as an independent Manager to manage, supervise and operate the District's Department of Transportation (the "System"), and Manager hereby accepts such engagement, upon the terms and conditions set forth herein.

**2.2. Services.** Manager agrees to provide the professional management services and assume the responsibilities set forth herein and on Exhibit "A" including the deliverables set forth herein (hereinafter, collectively, "Services") in accordance with the terms and conditions of this Agreement.

**2.3. Authority/Final Authority.** The District has ultimate responsibility for and authority over the System. Subject to the District's responsibility and authority and the District's policies, ordinances, guidelines, rules, service agreements, and decisions, Manager shall take all actions necessary and appropriate to manage operation of the System and performance of the Services in the safest, most timely and cost efficient manner possible. In connection therewith, Manager's responsibilities shall include: a.) assigning responsibilities to and monitoring the performance of all transportation related staff b.) dealing directly with vendors; and making recommendations to the District regarding the following: i. bidding contracts under the System, engaging new vendors; ii. terminating vendor contracts; iii. preparing budgets and financial control criteria; and policies, procedures and guidelines and rules for the System, any bus contractors and school officials; and c.) implementing, as directed by the District or its designee,

all District approved ordinances, policies, guidelines, rules or decisions concerning the System . See Exhibits A, C, D.

2.4. Changes. The District may, from time to time, request changes in the scope of Services. Any such changes, including any agreed upon increase or decrease in Manager's fees, shall be documented by amendment as set forth in this Agreement.

2.5. Communications. All reports, communications to the District and/or recommendations shall be directed to the Business Manager unless Manager is instructed otherwise by the Business Manager.

### **3. Personnel.**

3.1. Key Personnel. Key Personnel shall be employed by Manager (or Manager's affiliates) and all costs associated with Key Personnel shall be borne by and be the responsibility of Manager. Key Personnel are identified on Exhibit B.

3.2. Additional Manager Personnel. In addition to furnishing the Key Personnel, Manager shall furnish to the System, at Manager's expense, a sufficient number of trained personnel (the "Additional Manager Personnel") to perform the work designated as Services in this agreement and specified as Services on Exhibit A and otherwise described in Section 2.3 of this agreement. Manager shall pay all costs associated with the Additional Manager Personnel, including but not limited to wages, payroll taxes, benefits, travel, food and lodging. Additional Manager Personnel shall initially include one (1) Director of Transportation, see Exhibit B.

3.3. Removal of Additional Manager Personnel. Manager agrees to remove any Additional Manager Personnel from a particular job function in which such additional manager personnel is employed, upon written direction from the Business Manager and shall bear any costs associated with removal of Additional Manager Personnel if such removal is for cause. However, as an independent contractor, Manager, may assign or reassign such removed Additional Manager Personnel to any job function other than the job from which such person was removed, including other job functions where Services are provided under this Agreement.

3.4. Reassignment or Replacement of Key or Additional Manager Personnel. Manager agrees not to reassign or replace any Key/Additional Manager Personnel without prior written consent from the Business Manager, which consent shall not be unreasonably withheld or delayed. Replacement of Additional Manager Personnel (Director of Transportation) shall be subject to approval of District, with approval not being unreasonably withheld or delayed. Should replacement/approval not be achieved within a reasonable period of time this agreement may be terminated immediately.

3.5. Hiring of Personnel. During the term , any renewal term and for a period of one (1) year following termination or expiration of this agreement, District shall not, without the prior written consent of Manager, be permitted to hire any of Manager's employees.

### **4. Standards of Performance.**



4.1. Standards. Manager agrees for itself and to cause all Key Personnel, Additional Manager Personnel and other staff under its direction and control to devote such time, attention, skill, knowledge and professional ability as is necessary to perform Services effectively and efficiently consistent with the best interests of the District. This includes assuring that sufficient personnel are on site at the District to perform Services through the entire workday each school day.

4.2 Staff. Manager shall retain and utilize sufficient Key Personnel, Additional Manager Personnel, and other staff under its direction and control to assure the effective and efficient performance of Services. It is understood that the level of assigned staff within the transportation department shall remain consistent with that which exists at the time of signing this agreement. It is further understood that all staff (drivers, mechanics, aides, clerical, dispatcher, etc. currently functioning in this department are to remain employees of the District but shall be assigned to the system and shall be under the direct supervision and control of Manager. Manager shall have direct control over such personnel by directing, assigning, managing their tasks, and provide performance evaluations. District agrees to cooperate with the Manager in any replacement of staff and that should any of these staff not perform to an acceptable level they shall be removed from the system.

It is further agreed that these positions shall be reviewed at least annually to determine whether they should remain as District positions or convert to Manager provided positions. If, based on this review or as staff vacate these positions, it is determined to be in the best interest of both parties to convert from District to Manager positions the cost of doing so shall be negotiated at the time of the conversion. Such costs shall be calculated and added to the then current rate of compensation.

4.3. Relationship. Manager and District agree to cooperate with each other in performing Services and each acknowledges that in order to achieve the desired objectives each must cooperate with the other. Manager, an independent contractor, shall act as agent for the District in matters relative to the System.

4.4. District Satisfaction. Manager shall perform all Services to the reasonable satisfaction of the Business Manager and the District.

**5. Outcomes/Deliverables.**

5.1. Outcomes. District and Manager intend that the Services shall be designed to achieve the expected outcomes that are set forth on Exhibit "C". However, District acknowledges and agrees that achievement of the Outcomes is subject to any ordinances, policies, directives, rules or decisions of the District and such District ordinances, policies, directives, rules or decisions may prevent achievement of the Outcomes described on Exhibit C.

5.2 Deliverables. A description of all deliverables, including all required submittals, documents, plans, reports and other materials to be provided to the District in connection with Services performed and the expected completion date(s), are set forth on Exhibit "D" ("Deliverables").

**6. Term and Termination.**

6.1 Initial Term. This Agreement consists of an initial term commencing Dec 1, 2013 and continuing through November 30, 2016 (the "Term"), unless

terminated sooner as provided herein.

6.2. Option to Renew. The District shall have options to renew this Agreement for two (2) one (1) year time periods upon notice as set forth herein. Said notice shall be in writing and given at least one hundred twenty (120) calendar days prior to the end of the initial Term or any renewal term.

6.2.a. The terms and conditions of this Agreement as they may be amended from time to time shall apply to any renewal term.

6.2.b. All renewal terms shall be subject to the agreement of the parties. Said agreement shall be documented in writing prior to the commencement of a renewal term.

6.2.c. Manager may elect not to accept a renewal term, and in such event, Manager shall give written notice to the District within sixty (60) days of receipt of the District's renewal notice.

6.3. Default and Remedies. In the event Manager defaults as defined in section 6.4 of this Agreement and such default is not cured within thirty (30) calendar days after written notice is given by the District, any or all of the following actions may be taken by the District at its option:

6.3.a. Only if said default is due to the insolvency or bankruptcy of Manager, the District may terminate this Agreement immediately upon written notice to Manager without regard to the thirty (30) day cure period;

6.3.b. Manager may be declared to be in default under any other agreement Manager may have with the District;

6.3.c. The remedies herein are not intended to be exclusive and the District may pursue all other remedies available at law or equity.

6.4. Events of Default. The following shall constitute events of default:

6.4.a. Any material misrepresentation by Manager in the inducement of this Agreement or the performance of Services;

6.4.b. Breach of any agreement, representation or warranty made by Manager in this Agreement.

6.4.c. Failure of Manager to perform in accordance with or comply with the terms and conditions of this Agreement;

6.4.d. Any uncured Default by Manager under any other agreement Manager may have with the District; and

6.4.e. Assignment by Manager for the benefit of creditors or consent by Manager to the appointment of a trustee or receiver or the filing by or against Manager of any petition or proceeding under any bankruptcy, insolvency or similar law. However, The parties agree that assignment by Manager of any sums due and owing Manager under this Agreement shall not constitute a default of the Agreement. Further, Manager may, without consent of District (i) assign and/or create a security interest in all such rights to or for the benefit of any lenders to Manager and (ii) assign all rights under this agreement and such obligations to a wholly-owned subsidiary or subsidiaries of Manager or to a successor to the business of Manager which shall assume all obligations and liabilities hereunder.

6.5 Termination without cause/Termination payment. District or Manager shall have the right to terminate this Agreement, without cause, upon 90 days written notice to the other. After the effective date of termination neither party shall be under further obligations under this agreement other than obligations existing on the date of termination, except as otherwise provided in this Agreement. However, if District terminates this agreement pursuant to this Section 6.5, then it agrees to pay to Manager its costs and expenses in locating work for its additional manager personnel, relocating such personnel and the business interruption that termination without cause shall create. District shall pay a termination payment of two months management fees .

## **7. Compensation/Reimbursements/Payment/etc.**

7.1. Compensation. The District shall pay to Manager, during the Initial Term on account of provision of Services, the sum of \$13,260 monthly for the first year; \$13,525 monthly for the second year; and the sum of \$13,796 monthly for the third year. This Compensation is cash compensation for Services and is separate from and in addition to District's obligation to provide to Manager facilities and equipment provided to Manager pursuant to Section 7.4 of this Agreement. The services provided are more readily defined within Exhibit A.

7.2. Basis of Compensation. Compensation for Services shall be based on actual Services performed during the Term of this Agreement and the District shall not be obligated to pay for any Services not in compliance with this Agreement.

7.2.a. In the event of early termination of this Agreement, the District shall be obligated to pay the Compensation provided hereunder, approved reimbursable costs incurred up to the date of termination and a termination payment of two months fees as provided for in Section 6.5 of this Agreement.

7.2.b. District is not liable for any costs incurred or Services performed after the effective date of termination, except as herein provided. However, if a cost or Service was authorized, prior to the effective date of termination, but incurred after the effective date of termination, District shall pay for such cost or service. If a cost or Service was authorized after the effective date of termination, such cost or Service must be the subject of a separate agreement between District and Manager.

7.3. Payment. Manager shall submit invoices to the District and District shall pay Manager's invoices within ten (10) days of receipt of the invoice.

7.4. Facilities, Equipment, etc. During the Term, the District shall provide and make available to Manager the facilities, services, equipment, supplies, etc. currently provided by the District to the Department of Transportation in accordance with the Department of Transportation budget, including but not limited to office space, office furniture and fixtures, telephone and fax, computers, software and all peripherals necessary to operate the System and to access any data processing or management information system necessary to operate the System and office supplies, utilities, office equipment and service agreements covering such equipment. District shall endeavor to maintain and/or upgrade equipment so as to not impede Manager's ability to utilize necessary hardware/software for the fulfillment of its obligations under this agreement. Manager agrees to assist the District, if required, with these upgrades by initially

purchasing required items and arranging for District to reimburse Manager within a reasonable period of time. Further, if at any time during the term of this Agreement or any extension thereof District or its designee determines that any office or office space provided to Manager shall be moved to a new location, District shall pay all costs incident to the relocation of the office and all facilities and equipment that it is providing to Manager under this Section of this Agreement.

7.5. Non-Appropriation. Expenditures not appropriated in the current fiscal year budget are deemed to be contingent liabilities only and are subject to appropriation in subsequent fiscal year budgets. In the event sufficient funds are not appropriated in a subsequent fiscal year by the District for performance under this Agreement, the District shall notify Manager and this Agreement shall terminate on the last day of the fiscal period for which funds were appropriated.

7.6. Revenue. All revenue derived from the operation of the System whether from passengers or from other sources shall be and remain the sole property of the District. The handling and treatment of all such revenue, including the receipts, collection, deposit and accounting therefor, shall be directed by the District.

## **8. Confidentiality and Ownership of Documents.**

8.1. Confidential Information. In the performance of Services, Manager may have access to certain information that is not generally known to others including but not limited to information and/or documentation obtained from the District's student records, administration, personnel/finance department, etc.

8.2. Confidentiality Obligations. Manager agrees not to use or disclose to any third party, except as required in the performance of Services, any Confidential Information or any records, reports or documents or Deliverables prepared or generated as a result of this Agreement without the prior written consent of the District. This provision shall survive the expiration or termination of this Agreement.

8.3. Dissemination of Information. As to performance of Services under this Agreement, Manager shall not issue news releases or grant press interviews or disseminate any information regarding Services except as may be required by law, during or after the performance of Services without the prior consent of the Business Manager. However, Manager may issue news releases or publicity regarding the execution of this Agreement and may advise other potential purchasers of its services as to the nature of Services provided to District. In the event Manager is presented with a Freedom of Information request, a request for documents by any administrative agency or with a subpoena duces tecum regarding any records, data, other documents or Deliverables which may be in Manager's possession by reason of this Agreement and/or the Services being performed, Manager shall, within two business days, give notice to the District and its attorney with the understanding that the District shall have the opportunity to contest such process by any means available to it before such records, data, other documents, or Deliverables are submitted to a court or other third party; provided however, that Manager shall not be obligated to withhold such delivery beyond the time ordered by the court or administrative agency, unless the subpoena or request is quashed or the time to produce is otherwise extended.

8.4. Staff. Manager agrees to cause Key Personnel, Additional Manager Personnel, and other staff under its direction and control if any, to undertake the same obligations of confidentiality agreed to by Manager under this Agreement.

8.5. Ownership. All records, reports, documents, Deliverables and other materials prepared by Manager in performing Services as well as all records, reports, documents, Deliverables and other materials containing Confidential Information prepared or generated as a result of this Agreement shall at all times be and remain the property of the District. However, to the extent that such records, reports or documents are financial records of Manager or are either working drafts of deliverables or final deliverables that have been made public records pursuant to state law, then such records, reports or documents are also property of Manager. All software and other systems delivered to the District that is owned or developed by the Manager for use in delivering services shall remain the property of the Manager unless District arranges to purchase/lease same from Manager.

8.5.a. In the event any of the above items are lost or damaged while in Manager's possession, such items shall be restored or replaced at Manager's expense.

## **9. Representations and Warranties of Manager.**

Manager represents and warrants that the following shall be true and correct as of the effective date of this Agreement and shall continue to be true and correct during the initial term and any renewal term of this Agreement.

9.1. Compliance with Laws. Manager is and shall remain in compliance with all local, state and federal laws, ordinances, regulations and statutes relating to this Agreement and the performance of Manager's Services including but not limited to the Drug-Free Workplace, and those referenced in Sections 14.1 and 14.2 of this Agreement relating to non-discrimination. Further, Manager is and shall remain in compliance with all District policies and Rules and agrees, upon reasonable request, to cause all Key Personnel, Additional Manager Personnel and other staff under its direction and control to submit to criminal background checks.

9.2. Gratuities. No payment, gratuity or offer of employment was made to Manager or to any subcontractors, if any, to the best of Manager's knowledge in relation to this Agreement or as an inducement for award of this Agreement. Manager is and shall remain in compliance with all applicable anti-kickback laws and regulations.

9.3. Ethics. No officer, agent or employee of the District is or will be employed by Manager or has or will have a financial interest, directly or indirectly, in this Agreement or the compensation to be paid hereunder except as may be permitted under this Agreement or in writing by the District's ethics policies, if any.

9.4. Good Standing. Manager, and each of its subcontractors if any, are entities in good standing under the applicable laws of the state where such entity is domiciled.

9.5. Authorization. Manager has taken all action necessary for the approval and execution of this Agreement, and execution by the person signing on behalf

of Manager is duly authorized by Manager and has been made with complete and full authority to commit Manager to all terms and conditions of this Agreement which shall constitute valid, binding obligations of Manager.

**10. Independent Contractor.**

It is understood and agreed that the relationship of Manager to the District is and shall continue to be that of an independent contractor acting as agent for the District and neither Manager nor any of Manager's agents, employees or subcontractors shall be entitled to receive District employee benefits. However, District agrees that to the extent that Manager is performing duties of a governmental nature under this Agreement, in performing such duties Manager is an agent, designee or assignee of District, then District agrees that, even though Manager is an independent contractor it is acting in a governmental capacity and it is entitled to the full protection of immunities afforded to District as if District were exercising its governmental functions. District agrees that all of Manager's actions under this Agreement and in providing the Services and Deliverables are governmental functions. It is further understood and agreed that the District shall not be responsible for, nor incur any liability for, any state or federal withholding or other taxes or for FICA or state unemployment insurance for Manager, its agents, employees or subcontractors and the payment of any such taxes incurred or due by Manager shall be the sole responsibility of Manager. Manager agrees that neither Manager nor its Key Personnel, or staff shall represent themselves as employees of the District. Manager shall provide the District with a valid taxpayer identification number as defined by the United States Internal Revenue Code, including but not limited to a social security number and/or federal employer identification number.

**11. Indemnification and Defense of Litigation**

11.1 Indemnity Manager shall hold District, its officers and employees harmless and does hereby indemnify District, its officers and employees from and against every claim or demand which may be made by any person, firm or District, or other entity arising from or caused by any act, neglect, default or omission of Manager in the performance of this Agreement, except to the extent that such claim or demand arises from or is caused by the negligence or willful misconduct of District, its agents or employees.

District shall hold Manager, its officers, employees, agents, successors and assigns harmless and does hereby agree to indemnify and defend Manager, its officers, employees, agents, successors and assigns from and against every claim or demand which may be made by any person, firm, District or other entity arising from or caused by any act, neglect, default or omission of District or its officers, employees or agents related to this Agreement.

11.2 Separate Obligations. Manager and District expressly understand and agree that the indemnity obligations set forth herein are separate from and not limited by District's obligation to obtain insurance pursuant to this Agreement.

11.3 Survival. The indemnities set forth herein shall survive the expiration or termination of this Agreement.

## **12. Insurance.**

12.1. Insurance. Manager and District shall, procure and keep in force during the entire term of this Agreement, public liability, professional liability and property damage liability insurance protecting each other pursuant to their respective indemnity obligations. Each of them, Manager and District, shall, so long as available at reasonable prices from standard markets in the property, casualty and professional liability insurance industry, provide limits of liability of not less than One Million Dollars (\$1,000,000.00) Combined Single Limit for professional negligence, bodily injury and damage to property. Manager and District each agree to provide to the other a certificate of insurance evidencing such coverage and designating each of them respectively as additional insureds. Each insurance policy shall provide that no coverage shall be cancelled except by thirty (30) days written notice. In the event of cancellation, separate notice shall be provided to each party.

12.1.a. District's Insurance. Manager agrees that District may satisfy its obligation to provide insurance for District's own negligence through District's insurance program. District agrees to provide information regarding the financial solvency of its insurance program to Manager upon Manager's request. If during the term of this Agreement, District replaces its insurance program, then District shall provide such information to the Manager as required in this Agreement.

12.2 Bus Operations Insurance. District shall add Manager as an additional named insured under its bus fleet liability insurance policies protecting Manager against any such claims.

## **13 Dispute Resolution.**

Any dispute arising under this Agreement shall be resolved pursuant to the Dispute Resolution provisions contained on Exhibit E attached hereto and incorporated by

this reference as if they were set out at length herein.

**14 Non Discrimination.**

**14.1 Unlawful Employment Practices.** It shall be an unlawful employment practice for Manager or subcontractors to fail or refuse to hire or to discharge any individual or otherwise to discriminate against any individual with respect to compensation, or the terms, conditions or privileges of employment, because of such individual's race, color, religion, sex, age, handicap or national origin; or to limit, segregate, or classify employees or applicants for employment from equal employment opportunities or otherwise adversely affect an individual's status as an employee because of such individual's race, color, religion, sex, age, handicap or national origin.

**14.2 Compliance.** Manager shall comply with the Civil Rights Act of 1964 as amended, 42 U.S.C.A. Sec. 2000, et seq.; The Age Discrimination in Employment Act., 29 U.S.C.A. §621, et. seq.; Section 504 of the Rehabilitation Act, 20 U.S.C.A. §701, et. seq.; as amended; the Equal Opportunities for Individuals With Disabilities Act, 42 U.S.C.A. §12101, et. seq.; and all applicable Indiana law.

**15. Notices.**

All notices required under this Agreement shall be in writing and sent to the address set forth below:

Notices to District shall be addressed to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Attention: \_\_\_\_\_  
Copies to: \_\_\_\_\_

Notices to Manager shall be addressed to:

Ruth A. Newby, President  
TransPar Group, Inc.  
Suite 200, 18 SW 3<sup>rd</sup> Street  
Lee's summit, Missouri 64063

**16. Assignment:**

This Agreement shall be binding on the parties and their respective successors and assigns, provided however, that neither party may assign this Agreement or any obligations imposed hereunder without the prior written consent of the other party. However, the parties agree that assignment by Manager of any sums due and owing Manager under this Agreement shall not constitute an assignment of the Agreement. Further, Manager may, without consent of District (i) assign and/or create a security interest in all such rights to or for the benefit of any lenders to Manager and (ii) assign all rights under this agreement and such obligations to a wholly-owned subsidiary or subsidiaries of Manager or to a successor to the business of Manager which shall assume all obligations and liabilities hereunder.



**17. Entire Agreement: Amendment.**

This Agreement, including all exhibits and referenced documents, constitutes the entire agreement of the parties with respect to the matters contained herein. No modification of or amendment to the Agreement shall be effective unless such modification or amendment is in writing and signed by both parties hereto. Any prior agreements or representations, either written or oral, relating to the subject matter of this Agreement not expressly set forth herein are of no force or effect.

**18. Governing Law.**

This Agreement shall be governed by and construed in accordance with the laws of the State of Indiana without regard to any conflict of law or choice of law principles.

**19. Waiver.**

No delay or omission by the District to exercise any right hereunder shall be construed as a waiver of any such right and the District reserves the right to exercise any such right from time to time as often and as may be deemed expedient.

**20. Conflict of Interest.**

20.1 The Manager covenants that Manager presently has no interest and shall not acquire any interest, direct or indirect, in the System to which this Agreement pertains which would conflict in any manner or degree with the performance of its Services hereunder without prior written notice to and approval of the District. The Manager further covenants that in its performance of the Services no person having any such interest shall be employed by it.

20.2 During the initial Term, any renewal term and for a period of one (1) years following termination or expiration of this Agreement, neither Manager nor any of Manager's affiliates shall be permitted to function as a bus vendor/contractor for the System.

**21 Investigations**

Each party to this Agreement hereby acknowledges that District has the authority to conduct certain investigations and that the District shall have access to all information and personnel necessary to conduct those investigations.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives as of the date first above written.

**DISTRICT**

\_\_\_\_\_

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

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

**MANAGER**

TransPar Group, Inc.

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

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

## **Schedule of Exhibits**

- A -- Services
- B -- Key Personnel
- C -- Outcomes
- D -- Deliverables
- E -- Dispute Resolution

## **EXHIBIT A**

### **SCOPE OF SERVICES**

Manager shall conduct all of its activities subject to the ordinances, decisions, rules, guidelines, policies and procedures of District and pursuant to such ordinances, decisions, rules, guidelines, policies and procedures (hereinafter, collectively, "District Policies") Manager shall carry out the following functions and responsibilities of the Department of Transportation:

Oversee, manage, and supervise all aspects of the day to day operations of the transportation system.

Recommend to the District short-term and long-term plans, processes and procedures that will improve student transportation services and upon the District's approval and adoption of such policies and procedures, implement same.

Assign students, schools, stops and busses to bus routes. In making bus route assignments make maximum use of the time and capacity available for each bus in the System.

Evaluate the performance of each transportation system staff member and recommend as required.

Provide System users information regarding the System to make the system more effective and responsive.

Recommend to the District procedures for communication and problem solving between schools, bus Managers, parents, advisory agencies, and community members and if adopted by the District, develop and maintain such procedures.

Evaluate the effectiveness of the System and where appropriate recommend to the District, District Policies to improve the effectiveness of the System.

As requested, assist the Business Manager and other District departments with transportation issues.

To the extent required by the Business Manager and the District participate in the process to develop any required vendor specifications and bids.

As appointed by the District or Business Manager, serve on District or other special committees concerning student transportation.

Recruit and maintain Department of Transportation Staff.

Develop and monitor the student transportation budget.

With approval of the District institute a refined bus routing system.

Assist with other required reports as needed.

**EXHIBIT B**

**KEY PERSONNEL**

<b>Deliverable</b>	<b>Description</b>	<b>Resource(s)</b>
<b><i>ONGOING:</i></b>		
TEAMS™	Management System	Allen
Director's Report	Monthly Progress Report	Allen/McHenry
Plan vs. Actual Cost Review (Quarterly)	Budget Variance Analysis	McHenry
On-Site Review (Quarterly)	Performance Evaluation	Newby/Martin
<b><i>SCHEDULED:</i></b>		
Cost Reduction Targets	Historical and Industry	McHenry/Martin
School Start-up Plan	August through September	Allen
2013 Cost Analysis	Plan vs. Actual Analysis	McHenry
RouteYield™	Time & Capacity Analysis	McHenry
Fleet Replacement Plan	Within Capital Constraints	Allen
Safety Climate Analysis	Facility and Program Compliance	Allen
Principal's Survey	Service assessment by Building	Newby
Annual Report	Chronicles the year's performance	Newby/Platt
Assess Bell Time Schedule	Present Plan for tier Balance	Martin
2015 Budget Preparation	Commence fiscal review of year for next year	McHenry
Determine Cost of Programs	Allocate Costs IAW Program Demand	McHenry
Walk Boundary Analysis	Determine Eligibility Adjustments	Bergeron/Archer
Benchmark Analysis	Historical and Industry	Martin
Driver Recruiting Plan	Determine Needs and Targets	Newby/Allen
Eligibility Rules	Review and determine Impact	Viar
Routing Practices	Review and Adjust	Viar

**ADDITIONAL MANAGER PERSONNEL**

TBD

Director

Daily Operations

**EXHIBIT C**  
**OUTCOMES**

District acknowledges and agrees that achievement of the Outcomes is subject to any ordinances, policies, directives, rules or decisions of the District and such District ordinances, policies, directives, rules or decisions may prevent achievement of the Outcomes described below.

Through continuous monitoring improve overall quality/efficiency of the pupil transportation services.

Through time and capacity studies to pair, share and eliminate buses, improve bus utilization and seek cost reduction.


Through increased communications and reporting insure continued improvement of on-time performance.

Through use of surveys, insure that individual buildings served are receiving a quality service.

Through the use of prove recruiting techniques and methodologies improve and maintain an adequate number of qualified drivers.

## EXHIBIT D

### DELIVERABLES

 <b>Management Services Deliverables</b> Prepared for: Elkhart Community Schools		<b>2013-14</b>				
		Jul / Aug / Sep	Oct / Nov / Dec	Jan / Feb / Mar	Apr / May / Jun	
<b>Performance</b>	<b>Ongoing Services</b>					
		Weekly Conference Calls to Measure Progress and Adherence to TEAMS Management Principles				
		Monitor On-Time Performance, Monitor Driver Recruiting Plan Progress, Provide Monthly "Directors" Report				
		Receive, Process & Respond to Requests for Information, Counsel or Issues				
		Provide Daily / Weekly / Monthly Support for District Transportation Manager & Team				
		Accident/Safety Progress Review	Accident/Safety Progress Review	Accident/Safety Progress Review	Accident/Safety Progress Review	
		Financials vs Budget Review	Financials vs Budget Review	Financials vs Budget Review	Financials vs Budget Review	
		<b>Scheduled Services</b>				
		UP		Conduct Principal's Service Survey		
			Perform TransPar's RouteYield	Author Annual Trans. Report (PIMS)	Benchmark Analysis	
<b>Planning</b>	<b>Scheduled Services</b>					
		Identify Cost Reduction Targets		Assess Bell Time Schedule		
		Manager Training		Budget Preparation & Support		
		START	On-Site Visit & Program Review	On-Site Visit & Program Review	On-Site Visit & Program Review	
			Confirm Bus Replacement Plan		Develop Driver Recruiting Plan	
			On-Site Visit & Program Review			
<b>Preparation</b>	<b>Scheduled Services</b>					
		School Startup Planning & Goals		Review Labor Agreement (optional)		
		Review State Funding Submission		Determine Costs of Trans Programs		
		SCHOOL	Perform Safety Climate Analysis		Review Rider Eligibility Rules	
					Assess Routing Practices & Rules	
<b>Local</b>		TACS Install				

## EXHIBIT E

### DISPUTE RESOLUTION

The provisions of this Dispute Resolution Process do not apply to any situation where a third party (someone other than Manager or District) has filed suit against Manager or District alleging that either or both of them were negligent in performance of duties under this Agreement. Otherwise, any dispute or controversy between Manager and District arising out of or relating to this Agreement, including, but not limited to, a dispute relating to the construction of any provision or the validity or enforceability of any term or condition (including this paragraph) of the entire Agreement, or any claim that all or any part of this Agreement (including this provision) is void or voidable, shall be submitted to arbitration pursuant to the procedures outlined below and in accordance with the Commercial Rules of Arbitration of the American Arbitration Association (AAA) then in effect at an office of the American Arbitration Association. Each party shall bear its own costs. In addition to the Commercial Rules of Arbitration of American Arbitration Association, the procedures described in paragraphs 1.1, 1.2 and 1.3 shall apply to all arbitrations hereunder. Where the procedures described in paragraphs 1.1, 1.2 and 1.3 are in addition to or conflict with the AAA Commercial Rules of Arbitration the procedures in paragraphs 1.1, 1.2 and 1.3 shall control.

1.1 If the amount in controversy is less than \$100,000.00 the following procedures shall apply:

- a. Three arbitrators shall be selected by the American Arbitration Association (AAA) selection procedures and all arbitrators shall be attorneys.
- b. There shall be no deposition discovery.
- c. Pursuant to the standard stated in Federal Rule of Civil Procedure (Fed. R. Civ. P.) 26(a)(1) the parties shall exchange documents no later than 60 days prior to the date of the arbitration. Disputes regarding discovery shall be resolved by the Arbitrators.
- d. Pre arbitration briefs shall be due 30 days prior to the arbitration date.
- e. Manager or District may designate a record by stenographic transcription. The designation of a record shall be made no later than seven days before the arbitration.



- f. Post arbitration briefs shall be served within 30 days after any transcribed record is delivered to the parties or if no transcribed record is prepared post arbitration briefs shall be served no later than within 30 days after the arbitrator(s) close the record.
  - g. The arbitrator(s) shall render a decision no later than 30 days after the parties serve post arbitration briefs. The arbitrator(s) shall render a written decision stating findings of fact and conclusions of law in the manner of such an order in a bench tried case in the United States District Court.
- 1.2 If the amount in controversy is greater than \$100,000 or if the amount in controversy cannot be determined, the procedures above shall apply with the exception that the procedures described in this paragraph shall also apply. These procedures replace any conflicting procedure and are in addition to any non-conflicting procedure described above in paragraph 1.1.
- a. The parties shall have 150 days to complete all discovery. The time period for completion of discovery shall commence the day AAA mails notice of intent to arbitrate to the adverse party (this date is hereinafter referred to as the "AAA arbitration notice date").
  - b. Discovery shall be governed by Rules 26-37 of the Federal Rules of Civil Procedure (Fed. R. Civ. P.) and all forms of discovery thereunder are proper.
  - c. Pursuant to Fed. R. Civ. P. 26(2)(a and b, only) each party shall disclose to the other party the identity of any expert witness that it proposes to use in the arbitration no later than 60 days after the AAA arbitration notice date.
  - d. Each party shall be allowed to take six depositions and the deposition of each person identified as an expert witness.
  - e. Pursuant to the provisions of Fed. R. Civ. P. 26(a) each party shall disclose to the other party the identify of witnesses and produce documents no later than 30 days after the AAA arbitration notice date.

- f. If a party fails to follow any procedure adopted hereunder regarding the disclosure of witnesses, documents or exhibits, that party shall be prevented from using the non-disclosed witness, document or exhibit at the arbitration.

1.3 A party may seek review of a decision made by an arbitrator in this matter in the following manner, only. Within 30 days after service of the Arbitrator(s) decision, a party may file an action in the United States District Court seeking to set aside the Arbitrator(s) decision, only on the basis that the Arbitrator(s) have erred in the application of law to fact or in the interpretation and application of law. All findings of fact by the Arbitrators shall be deemed conclusively correct. In addition to the basis for review, stated above in this section 1.3 the parties shall be entitled to assert any basis of appeal from an arbitration decision allowed under applicable state law or 9 U.S.C section1, et seq.

ELKHART COMMUNITY SCHOOLS  
Elkhart, Indiana

December 11, 2013

TO: Board of School Trustees  
Dr. Haworth

FROM: Douglas A. Hasler

SUBJECT: 1028/Preliminary Determination Hearing

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In recent months, Dr. Haworth and other ECS staff have met with community members to discuss areas of need for Elkhart Community Schools. A common understanding that has developed through these discussions is that financial limitations stand in the way of ECS making the necessary capital improvements to enhance the safety and security of school buildings, to provide transportation services that will limit the distances that many students walk to school, and to maintain the high-quality instruction that is currently available in ECS schools.

To make the capital improvements that are necessary to improve the safety and security of school buildings in Elkhart Schools, it will be necessary to seek approval for bond financing to fund these improvements. Indiana law establishes process requirements for such proposed bond financing. Among those requirements is that the Board of School Trustees must conduct a 1028/Preliminary Determination public hearing, and, ultimately, approve a Preliminary Determination Resolution. Prior notice of this public hearing must be published in the newspaper.

A proposed date for the 1028/Preliminary Determination public hearing is January 6, 2014 at 7:00 pm. Notice of a public hearing on this date should be published on December 23<sup>rd</sup>.

In the December 17<sup>th</sup> Board meeting, I will be requesting your authorization to conduct a 1028/Preliminary Determination public hearing on January 6, 2014, and to publish notice of this hearing.

Please contact me at 262-5563 if you have questions concerning this matter prior to next week's Board meeting.

ELKHART COMMUNITY SCHOOLS  
Elkhart, Indiana

December 11, 2013

TO: Board of School Trustees  
Dr. Haworth

FROM: Douglas A. Hasler

SUBJECT: Tax Neutrality Resolution

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I have been in communication with the field examiner from the Department of Local Government who is in the process of reviewing our budget documents. Based on these communications, it has become clear that the tax neutrality resolution that I recommended to the Board misstated the requirements of Indiana law.

Indiana law requires that Indiana school corporations reduce total tax levies in an amount that offsets the debt service cost related to pension bond debt. This requirement was modified in 2012 to allow for reduced offsets for a period of three years (2013 – 2015). During the 2013 General Assembly, Senate Bill 517 included provisions that would reduce these offsets further, and extend them until 2017. Alas, Senate Enrolled Act 517 did not include the tax neutrality changes.

The tax neutrality resolution that I recommended to the Board earlier this year was based on an earlier version of Senate Bill 517. Accordingly, our tax neutrality resolution for 2014 references offsets that are not permissible under current law.

I have prepared a modified tax neutrality resolution that incorporates the allowable offsets that are authorized under Indiana law (see attached). I will be recommending your approval of this resolution during the December 17<sup>th</sup> Board meeting.

Please contact me at 262-5563 if you have questions concerning this matter prior to next week's Board meeting.

**Elkhart Community Schools**  
Elkhart County, Indiana

**TAX NEUTRALITY RESOLUTION**

WHEREAS, Indiana Code 20-48-1-2, as originally enacted, provided that each year that a pension debt service levy is needed for purposes of funding retirement or severance liabilities, a school corporation must reduce the total property tax levy for the school corporation's transportation, school bus replacement, capital projects, art association and historical society funds in an amount equal to the property tax levy needed for the pension debt service;

WHEREAS, IC 20-48-1-2 was amended by Section 27 of HEA 1192 (2012) to allow school corporations with retirement or severance bond liability to reduce the amount of the tax neutrality reduction otherwise required;

WHEREAS, IC 20-48-1-2 now authorizes school corporations to reduce the amount of the tax neutrality reduction by specified percentages in budget years 2013, 2014, and 2015 upon the adoption of a resolution;

WHEREAS, absent modification of the full tax neutrality reduction, the ability of Elkhart Community Schools to fulfill the purposes of its Capital Projects Fund and School Bus Replacement Fund would be significantly impaired due to reduction in the certified levies of such funds;

**THEREFORE, BE IT RESOLVED BY THE BOARD OF SCHOOL TRUSTEES OF ELKHART COMMUNITY SCHOOLS** that the tax neutrality adjustment percentage for property taxes first due and payable in 2013 be 25%, 50% in 2014, and 75% in 2015, with the balance of such adjustments being allocated between its Capital Projects Fund and its Bus Replacement Fund (in proportions specified by the Executive Director of Support Services) for budget year 2013.

Adopted this 17<sup>th</sup> day of December, 2013

AYE

NAY

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Attest: \_\_\_\_\_  
Secretary of Board of Trustees

**ELKHART COMMUNITY SCHOOLS**  
**Elkhart, Indiana**

DATE: December 11, 2013  
 TO: Dr. Robert Haworth, Superintendent  
 FROM: Dr. John Hill   
 RE: **Conference Leave Requests**  
**December 17, 2013 - Board of School Trustees Meeting**

**The following requests for excused absences are recommended for approval:**

2013 - 2014 CONFERENCES	EXPENSES	SUBSTITUTE
<b>MIDWEST MUSIC CLINIC FOR BAND AND ORCHESTRA DIRECTORS</b>  This clinic will provide the most current information regarding the best practices for teaching band and orchestra. Information learned will be used to help recharge the music program at Memorial.  Chicago, IL December 19, 2013 (1 day's absence) KURT WEIMER - MEMORIAL (0-0)	\$550.00	\$85.00
<b>TOTAL</b>	<b>\$550.00</b>	<b>\$85.00</b>
2013 YEAR-TO-DATE GENERAL FUNDS	\$18,405.16	\$2,340.00
2014 YEAR-TO-DATE GENERAL FUNDS	\$453.00	\$470.00
2013 YEAR-TO-DATE OTHER FUNDS	\$125,197.02	\$11,270.00
2013 YEAR-TO-DATE ADJUSTMENTS	\$0.00	\$0.00
2014 YEAR-TO-DATE OTHER FUNDS	\$7,044.95	\$1,530.00
2014 YEAR-TO-DATE ADJUSTMENTS	\$0.00	\$0.00
<b>GRAND TOTAL</b>	<b>\$151,100.13</b>	<b>\$15,610.00</b>

*(Figures in parentheses are the number of conferences & the number of absence days previously approved for the current school yr.)*



Date: December 17, 2013  
To: Dr. Robert Haworth  
From: Mr. W. Douglas Thorne  
Subject: Personnel Recommendations

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**Certified**

a. **Retirement** – We report the retirement of the following employees:

<b>Joy Rogers</b>	<b>Osolo/Intervention</b>	<b>23 YOS</b>	<b>Effective 1/17/14</b>
<b>Barbara Wadzinski</b>	<b>Adult Ed/GED Examiner</b>	<b>15 YOS</b>	<b>Effective 12/20/13</b>

b. **Resignation** – We report the resignation of the following employee:

<b>Terilyn Montague</b> Began: 8/12/13	<b>Pierre Moran/Special Education</b> Resign: 12/20/13
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c. **New Certified Staff:** We recommend the following new certified staff for employment in the 2013-14 school year:

<b>Joshua Kinder</b>	<b>Pierre Moran/Mathematics</b>
<b>Eric Shipp</b>	<b>Memorial/Science</b>

d. **Change to Maternity Leave** – We recommend a change in a maternity leave for the following employee:

<b>Michelle McClintic</b> Begin: 1/6/14	<b>Osolo/Grade 3</b> End: 3/28/14
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e. **Maternity Leave** – We recommend a maternity leave for the following employee:

<b>Mirlym Milfort</b> Begin: 1/21/14	<b>Beardsley/Grade 5</b> End: 5/30/14
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**Classified**

**a. Retirement** – We report the retirement of the following classified employee:

**Nancy Clarke**  
Began: 9/4/87

**Hawthorne/Paraprofessional**  
Retire: 12/20/13  
26 Years of Service