Submitted By: Maurice Junious, Commissioner of Student Services

Subject: Approval of Cloud 9 Shuttle Service Agreement

The A.S. Council approved the Cloud 9 Shuttle Service Agreement. Document Attached.

Approved: 17
Against: 1
Abstain: 0

Council Approval;
Certified by:

_________________________  _________________________
Chair of the Council        Date for Chair of the Council

_________________________  _________________________
Presidential Approval       Date for the President
Service Agreement ("Agreement")
between
Associated Students, University of California, San Diego ("AS") and
Cloud 9 Shuttle Service ("Cloud 9")

The Associated Students, University of California, San Diego (ASUCSD) desires to engage the services of Cloud 9 Shuttle Service ("Cloud 9") to provide access for UCSD students to shuttle services transportation through its AS Safe Ride program. Therefore, the AS and Cloud 9 hereby agree to the following terms of the Service Agreement ("Agreement"). The term of this Agreement is for the period starting September 2005 through June 2006. During the term of this Agreement the ASUCSD and Cloud 9 agree to the following provisions:

Cloud 9 Shuttle agrees to the following:

1. **Cloud 9** is San Diego's largest ground transportation company, servicing the city with over 100 7-passenger vans. Vans shall be operated by courteous, uniformed drivers who will provide reliable and personalized door to door service to students using the AS Safe Ride service as described in this Agreement. All vans shall be equipped with two-way radios for direct communication between all vehicles and our dispatch office.

2. **Cloud 9** has the ability to load and go, which eliminates passengers from sitting while waiting for a larger bus to fill. All **Cloud 9** vans are equipped with two way radios for direct communication between all vehicles and our dispatch office.

3. **Cloud 9** shall provide AS a special rate of $60.00 one time charge plus $9.00 per hour, minimum 1.5 hours for exclusive Friday and Saturday night ("night" as defined in Section 3 of this Agreement) charters between the below listed San Diego areas: (Response time: within 60 minutes) Each additional half hour will be charged at $34.50 per half hour.

   A. La Jolla
   B. Mira Mesa
   C. Pacific Beach
   D. Del Mar
   E. Gaslamp Quarter - Downtown
   F. Clairemont
   G. University City
   H. Mission Bay
   I. Ocean Beach
   J. Hillcrest
   K. San Diego State

4. **Cloud 9** shall provide 24 hour dispatch for incoming calls requesting Friday & Saturday night transfers, and monitor that no more than 3 vans are dispatched per weekend night. It is further agreed that Cloud 9 will provide the use of up to a maximum of 3 vans at any one time and will respond to additional calls as soon as the number of vans in use for the transfer of UCSD students is below 3.

5. **Cloud 9** shall require drivers to list names of all UCSD students transferred under the terms of this Agreement and shall verify the individual requesting transportation by providing the driver with a valid UCSD Student Identification Card ("Valid ID") and an AS “Take the Safe Ride” card. Drivers shall initial the students AS Safe Ride “Take the Safe Ride” card for verification.
AS agrees to the following:

1. ASUCSD shall provide authorized students with the Cloud 9 Shuttle dispatch number to be used ONLY on Fridays & Saturdays between the hours of 11:00pm and 03:00am.

2. ASUCSD shall require authorized students requesting Transfer by Cloud 9 to identify themselves by showing the Cloud 9 driver their Valid ID and AS Safe Ride “Take the Safe Ride” card.

3. ASUCSD shall receive Cloud 9 Shuttle billing slips as provided by Cloud 9 and process them for monthly payment and delivery to Cloud 9.

4. Upon the acceptance of responsibility by an authorized student for damages caused to the interior of the Cloud 9 vehicle in connection with its use for the AS Safe Ride service or upon the finding of responsibility against the student pursuant to the UCSD Student Conduct Code, the AS shall reimburse Cloud 9 the amount of the deductible on its insurance policy for the damaged vehicle or $200.00, whichever is the greater, for any damages to the interior of Cloud 9 vans caused by authorized students while being transported under the term of this agreement.

5. ASUCSD shall deny access to the AS Safe Ride Service to any authorized student who refuses to comply with the rules or requirements established for participants in the AS Safe Ride Service.

6. ASUCSD will provide a weekly updated list of authorized students to both Sue Henderson and Cloud 9 Shuttle dispatch.

Indemnification

ASUCSD shall defend, indemnify and hold Cloud 9 harmless from any third party claim, demand or damage paid to a third party, including court costs and reasonable attorney’s fees, due to or arising out of ASUCSD’s breach of its obligations under this Agreement, or its negligence or intentional acts or omissions. Cloud 9 shall defend, indemnify and hold UCSD harmless from any third party claim, demand or damage paid to a third party, including court costs and reasonable attorney’s fees, due to or arising out of Cloud 9’s breach of its obligations under this Agreement, or its negligence or intentional acts or omissions.

In the event one Party (the “Indemnifying Party”) is obligated to indemnify any other Party (the “Indemnified Party”) under this agreement, the Indemnified Party will, as soon as is reasonably practicable, provide the Indemnifying Party with prompt written notice of any claim for which indemnification is required, tender the defense of any such claim to the Indemnifying Party, provide full cooperation for such defense at the Indemnifying Party’s expense. The Indemnified Party may participate in any such defense or settlement with counsel of its own choosing at its expense.

Governing Law And Dispute Resolution

This Agreement shall be interpreted and governed in all respects according to the laws of the State of California and the Federal Family Rights and Privacy Act. And case, controversy, suit, action, or proceeding arising out of, in connection with, or related to this Agreement shall be brought in the Southern District of California, State of California, in the case of Federal Court of in the case of State Court such cases shall be brought in the County of San Diego, State of California. AS and Cloud 9 expressly submit to the jurisdiction and venue of any Federal Court in
the Southern District of California or State Court located in the County of San Diego, State of California.

Insurance

Cloud 9 agrees to keep in full force and effect during the term of this Agreement, at the expense of Cloud 9:

Comprehensive or Commercial Form (minimum limits)

a. Each occurrence $1,000,000
b. Products/completed operations aggregate $1,000,000
c. Personal and advertising injury $1,000,000
d. General Aggregate* $2,000,000
   (*Not applicable to comprehensive form)

If the above insurance policy is written on a claims-made form, it shall continue for three (3) years following the termination of this Agreement. The insurance shall provide for a retroactive date of placement prior to or coinciding with the execution date of this Agreement.

Definitions:

1. The term "Vans" shall mean the 7-passenger vehicle owned and operated by Cloud 9 Shuttle and used under the terms of this Agreement.

2. The term “Response time” means the time elapsed from the time Cloud 9 receives a call for transportation services from a UCSD student until the Cloud 9 driver with a Cloud 9 Shuttle 7 passenger van arrives at the location provided to Cloud 9 to pick up the student.

3. The term "Night" shall mean the hours between 11:00pm and 03:00am.

4. The term "Weekend Night" shall mean the hours Friday 11:00pm and Saturday 03:00am, and Saturday between 11:00pm and Sunday 03:00am.

5. The term “Transfer” or “Transfers” shall mean the transporting of UCSD students from the point of pick up to the final destination.

6. The term “authorized students” means a currently enrolled UCSD student as verified by a Valid ID and an AS Safe Ride “Take the Safe Ride” card.

Executed on this _______ day of September 2005 in San Diego, California

Cloud 9, by:

____________________________________
Sue Henderson
Director of Sales

Associated Students, University of California, San Diego by:

____________________________________
Christopher Sweeten
AS President 2005-2006

Associated Students, University of California, San Diego by:

Maurice Junious
Commissioner, Student Services 2005-2006

The Regents of the University of California, by:

Principal Buyer
UCSD Purchasing