

# Hamilton County Department of Education Board Meeting - Special Called Session

April 25, 2019 5:00 PM  
3074 Hickory Valley Road Chattanooga, TN 37421  
3074 Hickory Valley Road  
Chattanooga, TN 37421

Attendance Taken at 5:10 PM.

Dr. Steve Highlander:	Present
Mrs. Jenny Hill:	Present
Mrs. Karitsa Jones:	Present
Mrs. Kathy Lennon:	Present
Mr. Tucker McClendon:	Present
Mrs. Tiffanie Robinson:	Present
Mr. Joe Smith:	Present
Mrs. Rhonda Thurman:	Present
Mr. Joe Wingate:	Present

{{Name: Agenda Item Name}} {{Actions: Agenda Item Actions}} {{Discussion: Agenda Item Discussion}} {{Comments: Agenda Item Comments}} {{AgendaItemEnd}}

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Chairperson

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Date

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Superintendent

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Date

**I. Roll Call**

**II. \*\*Approval of the Agenda**

III. approval of the agenda passed with a motion by Dr. Steve Highlander and a second by Mr. Tucker McClendon.

IV. Mrs. Karitsa Jones:	V. Absent
VI. Dr. Steve Highlander:	VII. Yes
VIII. Mrs. Jenny Hill:	IX. Yes
X. Mrs. Kathy Lennon:	XI. Yes

XII. Mr. Tucker McClendon:            XIII. Yes  
IV. Mrs. Tiffanie Robinson:            XV. Yes  
VI. Mr. Joe Smith:                        VII. Yes  
VIII. Mrs. Rhonda Thurman:            IX. Yes  
XX. Mr. Joe Wingate:                    XI. Yes

XXII. Yes: 8, No: 0, Absent: 1

**XXIII. Chief Operations Officer - Dr. Ken Bradshaw**

A. \*\*Approval of First Student Contract

B. approval to table the First Student Contract and address Item B. Approval of Facilities Lease Agreement passed with a motion by Mrs. Jenny Hill and a second by Mrs. Tiffanie Robinson. passed with a motion by Mrs. Jenny Hill and a second by Mrs. Tiffanie Robinson.

C. Dr. Steve Highlander:                D. Yes  
E. Mrs. Jenny Hill:                        F. Yes  
G. Mrs. Karitsa Jones:                  H. Yes  
I. Mrs. Kathy Lennon:                    J. Yes  
K. Mr. Tucker McClendon:              L. Yes  
M. Mrs. Tiffanie Robinson:              N. Yes  
O. Mr. Joe Smith:                        P. Yes  
Q. Mrs. Rhonda Thurman:                R. Yes  
S. Mr. Joe Wingate:                      T. Yes

U. Yes: 9, No: 0

V. approval of First Student Contract passed with a motion by Mr. Tucker McClendon and a second by Mrs. Tiffanie Robinson.

W. Mrs. Rhonda Thurman:                X. No  
Y. Dr. Steve Highlander:                Z. Yes  
AA. Mrs. Jenny Hill:                      BB. Yes  
CC. Mrs. Karitsa Jones:                DD. Yes  
EE. Mrs. Kathy Lennon:                 FF. Yes  
GG. Mr. Tucker McClendon:            HH. Yes  
II. Mrs. Tiffanie Robinson:             JJ. Yes  
KK. Mr. Joe Smith:                      LL. Yes  
MM. Mr. Joe Wingate:                    NN. Yes

OO. Yes: 8, No: 1

PP. Mrs. Rhonda Thurman: No

QQ. \*\*Approval of Facilities Lease Agreement with First Student

RR. approval of Facilities Lease Agreement with First Student passed with a motion by Mrs. Rhonda Thurman and a second by Mr. Tucker McClendon.

SS. Dr. Steve Highlander:                TT. Yes  
UU. Mrs. Jenny Hill:                      VV. Yes  
WW. Mrs. Karitsa Jones:                XX. Yes  
YY. Mrs. Kathy Lennon:                 ZZ. Yes  
AAA. Mr. Tucker McClendon:            BBB. Yes

CCC. Mrs. Tiffanie Robinson:

DDD. Yes

EEE. Mr. Joe Smith:

FFF. Yes

GGG. Mrs. Rhonda Thurman:

HHH. Yes

III. Mr. Joe Wingate:

JJJ. Yes

KKK. Yes: 9, No: 0

XXIV. **Adjourn**The meeting was adjourned at 5:38 p.m.

Hamilton County Board of Education  
Board Meeting - Special Called Session  
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3074 Hickory Valley Road  
Chattanooga, TN 37421

**I. Roll Call**

**II. \*\*Approval of the Agenda**

**III. Chief Operations Officer - Dr. Ken Bradshaw**

**A. \*\*Approval of First Student Contract**

**B. \*\*Approval of Facilities Lease Agreement with First Student**

**IV. Adjourn**

## **SCHOOL BUS TRANSPORTATION SERVICES AGREEMENT**

THIS AGREEMENT ("Agreement") is made and entered into as of the 25<sup>th</sup> day of April 2019, by and between the Hamilton County Board of Education, with principal offices at 3074 Hickory Valley Road Chattanooga, Tennessee 37421, (hereinafter called "District"), and First Student, Inc., with its national headquarters at 600 Vine Street, Suite 1400, Cincinnati, Ohio 45202-5755 and local business offices for purposes of this Agreement located at 2501 Dodds Ave Chattanooga, TN 37407 (hereinafter called "Contractor").

### **WITNESSETH**

WHEREAS, District has selected Contractor to provide the pupil transportation services described herein; and

WHEREAS, Contractor desires to provide such transportation services,

NOW, THEREFORE, in consideration of the covenants hereinafter contained, the parties agree as follows:

#### **SECTION 1: TERM**

- 1.1 The term of this Agreement shall commence July 1, 2019 and shall continue through June 30, 2022. This Agreement may be extended by mutual written agreement for 1 (one) additional one-year period, the negotiation process for each extension including the negotiation of new economic terms, to occur on or before February 1st of the preceding school year. For purposes of this Agreement, the term "Contract Year" shall mean each one-year period commencing on February 1 during the term of this Agreement.

#### **SECTION 2: SCOPE OF SERVICES REQUIRED**

- 2.1 Contractor shall, during the term of this Agreement, supply and maintain such school buses (in quantity and capacity) and personnel as are required to fulfill District's needs for transportation services as described in the Bid Specifications and Contractor's Proposal. In the event of a conflict between these documents and the provisions of this Agreement, this Agreement will control. Otherwise, the terms of the Bid Specifications and Contractor's Proposal shall govern the parties' relationship, in that order of precedence.
- 2.2 District and Contractor will consult on a regular basis concerning the Transportation requirements of District. In the event of increases or decreases in the number of students requiring Transportation, or in routes or schedules, the number of buses and the number of spare buses will be adjusted accordingly. District may increase or decrease services to be provided by Contractor ("Schedule Readjustments"). However, where Schedule Readjustments impact by 5% or more the service levels or equipment levels required of Contractor under the assumed routes, schedules, days of service, hours or miles, or vehicle requirements contained in the RFP, Contractor shall be permitted to adjust rates commensurately to cover increases or decreases in cost structure associated with such changes by District.

### SECTION 3: COMPENSATION AND BILLING

- 3.1 In consideration for services rendered hereunder, District shall pay to Contractor all undisputed sums due and owing in accordance with the rates set forth in Exhibit A, as may be adjusted from time to time as provided herein.
- 3.2 Contractor will submit to District monthly statements of its services rendered during the prior month. After verification of the statement, District shall pay the full amount due to Contractor on or before the 10th business day following the date on which the statement has been submitted.
- 3.3 In the event the Contractor should fail to adhere to a material expectation of the District including, but not limited to, timely pick-up of passengers, late arrival to school, late departure from school, failure to have sufficient drivers to serve the District's routes, etc., then the District may impose liquidated damages as set forth in Exhibit B.
- 3.4 In the event that any statement amount is disputed by District, District shall deliver written notice specifying the disputed amount to Contractor within 5 days of receipt of the statement by District. In the absence of District timely providing said written notice, District waives any right to dispute said statement in the future. District shall pay all amounts not disputed to Contractor on or before the 10th business day following the date on which the statement has been submitted.

### SECTION 4: ESCALATION

- 4.1 District and Contractor recognize that certain of Contractor's costs are subject to change during the term of this Agreement. As such, District and Contractor have negotiated escalation amounts set forth in Exhibit A.
- 4.2 In the event of unusual circumstances, such as changes in state or federal taxes, laws or specifications (to include but not be limited to any requirements that seat belts be installed in vehicles), or any other condition which causes any of Contractor's operating costs hereunder to increase at a rate in excess of any negotiated escalation, then the parties shall determine a reasonable and just amount to cover such increase, and rates of Contractor compensation set forth in Exhibit A shall be adjusted to reflect such increase.
- 4.3 In the event of a driver shortage, Contractor and District shall meet and negotiate in good faith to reasonably compensate Contractor for the increase in unavoidable labor costs. A driver shortage shall mean that the Contractor is able to employ less than 60% of the drivers needed to meet the District's service requirements.

### SECTION 5: FUEL

- 5.1 Contractor shall purchase at its own cost, including taxes, all fuel required for the operation of buses hereunder.

- 5.2 The Base Fuel Price for the first year of the contract is assumed at \$ 2.25 per gallon for diesel and gasoline per the U.S. Department of Energy Information spot prices for the Gulf Coast for each month during the contract period.
53. Should the average cost per gallon differ from the “Base Fuel Cost” by more than \$0.10 cents per gallon plus or minus, the Proposer shall adjust to reflect the actual cost of fuel by providing an invoice adjustment for the change in cost. The amount to be either credited or invoiced for shall be based on an average of 6.5 miles per gallon and based on the loaded route miles as established each year by the Hamilton County Schools Transportation Department.

## SECTION 6: ROUTES AND SCHEDULES

- 6.1 District shall be primarily responsible for planning all routes, stops and schedules.
- 6.2 Contractor shall provide District assistance as requested during route development.
- 6.3 District reserves the right to establish the routes and schedules to be followed and to make changes therein from time to time. District shall notify Contractor whenever changes are necessary in routes or time schedules, and Contractor shall make a reasonable effort to adjust its operations to incorporate such changes within five (5) business days after notice is received from District. District shall waive its right to assess any liquidated damage or penalty in accordance with Section 2.3. In the event District changes routes or schedules once service has begun or been published, District will republish changes or other notification to those patrons whose service has been changed. Contractor shall consult with District as to stops or portions of routes that Contractor considers to be a safety concern due to traffic patterns or configurations. In the event any stop or portion of a route remains unchanged by District after such discussions, and Contractor believes such stop or route presents an unacceptable safety risk to Contractor’s property or students, Contractor may reject the stop or route portion and provide District with alternative designations by written notice.

## SECTION 7: RECORDS AND REPORTS

- 7.1 Contractor shall provide within 72 hours of any request, those reports and records which may be reasonably requested by District pertaining to students, routes, stops, mileage audits and other information having to do with daily operations. In reviewing Contractor’s records, District shall protect the confidentiality of Contractor’s proprietary or confidential information included in the data provided.
- 7.2 Contractor shall maintain such records and submit such reports, as are deemed necessary by District and as negotiated between Contractor and District from time to time. All reports required by District shall be submitted on forms mutually agreed upon by both parties. Contractor will not be responsible for filing on behalf of District any state or regulatory reports concerning ridership or reimbursement.
- 7.3 Contractor shall immediately notify the Superintendent of Schools, or his or her designated representative, by telephone and confirmed as soon as practicable in writing, of the occurrence of any incident involving student riders, or an accident

reportable by law that involves a vehicle with passengers that is being used to provide transportation services pursuant to this Agreement. Written notification shall contain a full and complete statement of all relative facts including police case number when available.

## SECTION 8: INDEMNIFICATION

- 8.1 CONTRACTOR shall protect, defend, hold harmless and fully indemnify Hamilton County Board of Education, Hamilton County Department of Education, and/or its Officers, Agents, and Employees from every claim or demand which may be made by reason of any injury to person or damage to property caused by, in whole or in part, or arising out of or related to, any act or omission, willful misconduct, or default of the CONTRACTOR or of any person, firm, or corporation directly or indirectly employed by CONTRACTOR, in connection with its performance under the Agreement and irrespective of any allegation of fault against Hamilton County Board of Education, Hamilton County Department of Education, and/or its Officers, Agents, and Employees.
- 8.2 CONTRACTOR at its own expense and risk shall defend any legal proceeding that may be brought against the Hamilton County Board of Education, Hamilton County Department of Education, and/or its Officers, Agents, and Employees on any such claim or demand, and satisfy any judgment that may be rendered against the Hamilton County Board of Education, Hamilton County Department of Education, and/or its Officers, Agents, and Employees therein. In the event that any such proceeding is brought against the Hamilton County Board of Education, Hamilton County Department of Education, and/or its Officers, Agents, and Employees on any such claim or demand, CONTRACTOR shall have the right to select and employ counsel to defend such persons and entities and shall have the right to settle any claims when CONTRACTOR, in its sole discretion, deems such a settlement advisable. Hamilton County Board of Education, Hamilton County Department of Education, and/or its Officers, Agents, and Employees shall cooperate in all reasonable manners in the defense of such claims.
- 8.3 CONTRACTOR shall endeavor to secure a dismissal of any such proceeding against Hamilton County Board of Education, Hamilton County Department of Education, and/or its Officers, Agents, and Employees, promptly upon receipt of any claim or demand and shall substitute CONTRACTOR as a party defendant.

## SECTION 9: INSURANCE

- 9.1 Contractor shall, at its expense, procure and keep in force during the entire term of this Agreement for claims arising under this Agreement, General Liability and Automobile Liability Insurance to protect Contractor, its drivers and other personnel. Contractor shall provide General Liability limits of not less than \$10,000,000.00 each occurrence and aggregate bodily injury and property damage and \$10,000,000.00 Personal Injury each occurrence and aggregate; Automobile Liability limits of not less than \$10,000,000.00 combined single limit for bodily injury and damage to property for all owned, hired and non-owned autos.

- 9.2 Upon request, Contractor agrees to provide to District a certificate of insurance evidencing such coverage and designating District as an additional insured as its interest may appear for both the General and Automobile Liability programs, such certificate to be provided by July 1st of each Contract Year, or on renewal of such policies. All insurance policies shall provide that no coverage shall be canceled except by thirty (30) days' written notice to Contractor and District. Insurer shall maintain a minimum A.M. Best's & Company rating of A or Contractor shall obtain insurance from a company mutually agreed upon between Contractor and District. Upon request, Contractor shall provide District with a certificate of insurance as evidence of having statutory workers' compensation coverage at levels and in forms required by the laws in which Contractor shall operate for this Agreement.

#### SECTION 10: FORCE MAJEURE

- 10.1 In the event Contractor is unable to provide the transportation services as specified in this Agreement because of any act of God, civil disturbance, fire, riot, war, terrorism, governmental action or any other condition or cause beyond Contractor's control, District shall excuse Contractor from performance under this Agreement.

#### SECTION 11: SCHOOL CLOSINGS OR CHANGES IN SCHEDULE

- 11.1 Whenever (a) inclement weather or impassability of roads occurs, (b) school is canceled or delayed, (c) the school day is scheduled for other than regular start or end times, or (d) school is dismissed early for any reason, District shall notify Contractor not later than 5:00 a.m. on the day of such cancellation or delay or not later than two (2) hours before early dismissal or the cancellation of Supplemental Transportation. District shall pay Contractor the full daily rate per bus for days when District fails to notify Contractor by 5:00 a.m. of school cancellation.
- 11.2 Notwithstanding the foregoing, in the event of circumstances in the operation of any school which necessitate early dismissal for student health or safety reasons, the Contractor and District shall cooperate to facilitate orderly transportation of students in the most efficient manner possible in light of the circumstances presented.

#### SECTION 12: SAFETY PROGRAM

- 12.1 Contractor shall be responsible for implementing, maintaining, and reviewing annually a comprehensive pupil transportation safety program compliant with FMCSA requirements.
- 12.2 Contractor's employees shall not be required to perform any medical functions for passengers, including but not limited to administering EpiPen.

#### SECTION 13: MANAGEMENT PERSONNEL

- 13.1 Contractor shall employ management personnel who shall be responsible for the efficient operation of the transportation services furnished hereunder and who shall be Contractor's liaison to District. Contractor will designate a crisis management contact person for emergency contact with District. Prior to the start of the school

year, Contractor shall inform District of the name(s), contact telephone number(s) and address(es) of such management personnel.

- 13.2 District shall employ management personnel who shall be responsible for coordination of the student transportation requirements of District to be furnished under this Agreement and who shall be District's liaison to Contractor. District will designate a crisis management contact person for emergency contact with Contractor. Prior to the start of the school year, District shall inform Contractor of the name(s), contact telephone number(s) and address(es) of such management personnel.

#### SECTION 14: OPERATIONS PERSONNEL/DRIVERS

- 14.1 Contractor shall employ a sufficient number of qualified drivers and support personnel to assure District of continuous, reliable, safe, and on time service.
- 14.2 Contractor shall take reasonable steps to prevent its employees from exposing any pupil to impropriety of word or conduct. Contractor shall not knowingly permit its drivers to smoke on the bus, to drink any intoxicating beverage, or to be under the influence of drugs or alcohol while operating any bus.
- 14.3 Contractor shall be responsible for hiring and discharging personnel employed by Contractor to perform its obligations hereunder. However, District shall have the right to request Contractor to remove from service to District any employee who, in District's judgment, is deemed unsuitable for the performance of transportation services for District; provided that District shall make such request in writing, state the reasons therefore and include any supporting documentation; and further provided that such request does not violate applicable local, state or federal laws, rules or regulations; and still further provided that any employment decisions regarding any such personnel shall be the Contractor's.
- 14.4 Contractor shall provide qualified driver/trainers and qualified drivers, trained and licensed in accordance applicable laws and the rules and regulations of District. Not less than sixty (60) days prior to the start of any school year, District shall advise Contractor of District's requirements for training or qualification for drivers or driver/trainers. Contractor will, to the extent such requirements do not conflict with state or federal laws, implement such requirements into its hiring and training programs for drivers servicing District's students. Contractor agrees that each driver shall:
- 14.4.1 Possess a valid license or permit issued by this State authorizing such person to operate a school bus.
- 14.4.2 Be certified by a duly licensed medical practitioner as medically qualified and free of medical or physical conditions, which, absent reasonable accommodation, would limit safe operation of a school bus. The physical examination shall be conducted prior to employment and periodically thereafter.

14.4.3 Possess a satisfactory driving record and criminal history record, after review of such records prior to employment and periodically thereafter to the extent permitted or available by law.

14.4.4 Prior to employment and from time-to-time thereafter, to the extent permitted by law, undergo such tests as may reveal, within a reasonable degree of medical or scientific certainty, the presence or absence of drugs or controlled substances in the body and such tests as may clinically reveal alcoholism or alcohol abuse. Negative findings for such tests shall be a condition of employment.

14.4.5 Meet any other criteria required by law or by District's policies, rules or regulations.

## SECTION 15: TRAINING REQUIREMENTS

15.1 Contractor shall provide thorough instruction to drivers in compliance with state and federal safety and operations guidelines and regulations. The District shall have the right to review course content.

15.2 Prior to the start of the school year, Contractor will provide time at one of its driver orientation sessions so that District administrators may address drivers assigned to work under this Agreement on matters relating to the expectations for student conduct and to familiarize drivers with members of the school administration. Such orientation will be at a time and place mutually agreed upon by Contractor and District. District may not distribute materials to drivers without Contractor approval.

## SECTION 16: EQUIPMENT

16.1 All school buses supplied by Contractor in performance of this Agreement shall meet or exceed the standards established by the applicable laws and regulations. Contractor shall maintain the school buses used to provide transportation services under this Agreement in accordance with law and accepted industry maintenance standards.

16.2 In the event that District or any governmental agency imposes equipment requirements other than those set forth above on Contractor's vehicles during the term of this Agreement, which are specific requirements for the operation of this Agreement or immediate installation is required for continuing operation of the vehicles, Contractor and District in good faith shall negotiate price increases applicable to such equipment requirement. If the parties do not reach agreement regarding applicable price increases, either party may terminate this contract upon not less than 60 days prior written notice to the other party.

16.3 Contractor agrees that all vehicles shall be equipped with two-way radios on the State P-25 network. Contractor agrees to perform an inspection of all radios prior to the start of the school year to ensure proper performance.

16.4 Contractor agrees that all vehicles shall be equipped with mounted and active digital camera systems and ignition-activated dual infrared cameras. Each vehicle

will have a minimum of 6 cameras arranged as follows: one pointed down the aisle of the bus; one pointed down the stairs of the bus; one mounted in the back of the bus to view the back seats; one pointed at the driver; one mounted on or near the stop sign focusing on vehicles passing the bus when the stop sign is deployed; and one pointed out from the front of the bus. Daily, the Contractor will randomly view route recordings of not less than 5% of daily routes. All digital recordings will be maintained for not less than 30 days and may be viewed by District personnel on demand.

#### SECTION 17: PUPIL DISCIPLINE/VANDALISM

- 17.1 The ultimate responsibility and authority to suspend or expel any pupil from transportation services hereunder shall rest with District. Contractor's drivers are responsible only for such discipline as is required to properly and safely operate Contractor's buses. Each driver shall handle all disciplinary matters in strict accordance with District policy. In no case will a driver eject a pupil from a bus for misbehavior except in the event of an extreme emergency endangering the safety of other pupils or driver and then only after radio notice to Contractor's terminal and to the pupil's building or school principal. In all cases of disciplinary ejection, the bus shall remain at the approximate area of student discharge until authorities arrive on site and authorize it to proceed on route. All discipline problems shall be reported in writing by the next school day following completion of the route. The District and Contractor will, in the event Contractor determines that a pupil poses a danger to himself/herself or other passengers, cooperate to provide a safe transportation environment prior to Contractor being required to transport such pupil. Further procedures and regulations for the administration of discipline shall be established cooperatively between District and Contractor.
- 17.2 Vandalism, damage to Contractor's equipment or facilities shall be the responsibility of Contractor. District shall give Contractor reasonable assistance in obtaining restitution for damaged equipment or facilities where damage is determined to be caused by District students or personnel. Contractor may, with the written concurrence by District, refuse to provide a pupil with transportation services until vandalism damages caused by such pupil are paid.

#### SECTION 18: ASSIGNMENT

- 18.1 This Agreement shall not be assigned by the parties hereto, without the written consent of District, which consent shall not be unreasonably withheld or delayed. However, Contractor may assign this Agreement if the assignment is made to a parent, subsidiary, related or affiliated company.

#### SECTION 19: TERMINATION

- 19.1 If either party violates any of the covenants or duties imposed upon it by this Agreement, such violation shall entitle the other party to terminate this Agreement in accordance with the following procedure: The non-defaulting party shall give the offending party thirty (30) days' written notice of default and the opportunity to remedy the violation or take steps to remedy the violation. If at the end of such 30-day default notice period, the party notified has not remedied the purported violation or taken

steps to do so, the non-defaulting party may terminate this Agreement as follows: within ten (10) business days following the last day of the 30-day default notice period, the non-defaulting party shall give the defaulting party not less than (fifteen) 15 business days' notice of termination. If the non-defaulting party does not provide the notice of termination within ten (10) business days, the default notice shall be deemed rescinded.

19.2 District has the ability to cancel this Agreement effective at the end of any Contract Year on the failure of the state legislature or other applicable governmental entity to provide adequate funding to allow District to provide transportation services to students within District. In the event District shall elect to terminate this Agreement due to state legislative funding deficiencies, District shall give written notice to Contractor on or before June 1 prior to the end of any Contract Year for services to be rendered in the following Contract Year.

19.3 Either party may terminate this Agreement for convenience upon not less than one hundred and eighty (180) days prior written notice to the other party.

#### SECTION 20: SURVIVAL

20.1 The mutual obligations described in Compensation and Billing, and Indemnification shall survive the termination or expiration of the Agreement.

#### SECTION 21: STATUS OF CONTRACTOR

21.1 Contractor shall be an independent contractor employed by the District to provide transportation services only. Neither Contractor nor any of its employees shall be held or deemed in any way to be an agent, employee or official of District. Contractor shall be responsible for and hold District harmless from any liability for unemployment taxes or contributions, payroll taxes or other federal or state employment taxes.

#### SECTION 22: SEVERABILITY

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

#### SECTION 23: EXTENSION AND MODIFICATION

23.1 Contractor and District may extend or otherwise modify the terms of this Agreement in whole or in part as circumstances may justify by mutual written agreement executed by the duly authorized representatives of the parties.

SECTION 24: NOTICE TO PARTIES

24.1 All notices to be given by the parties to this Agreement shall be in writing and served by depositing same in the United States mail, postage prepaid, registered or certified mail.

Notices to District shall be addressed to:

DAVID EAVES, TRANSPORTATION DIRECTOR  
Hamilton County Department of Education  
3074 Hickory Valley Road  
Chattanooga, Tennessee 37421

Notices to Contractor shall be addressed to:

First Student Location Manager  
2501 Dodds Ave  
Chattanooga, TN 37407

With a copy to:

FirstGroup America  
600 Vine Street, Suite 1400  
Cincinnati, OH 45202  
Attention: General Counsel

24.2 District or Contractor may change its address of record for receipt of official notice by giving the other written notice of such change and any necessary mailing instructions.

SECTION 25: ENTIRE AGREEMENT

25.1 This Agreement sets forth the entire agreement between District and Contractor concerning the subject matter hereof. There are no representations, either oral or written, between District and Contractor other than those contained in this Agreement.

SECTION 26: COMPLIANCE WITH THE LAW

26.1 Notwithstanding any contrary provision in this Agreement, Contractor shall comply with federal, state and local laws, rules and regulations in providing transportation services described herein.

SECTION 27: DISPUTE RESOLUTION

27.1 The parties shall negotiate in good faith in an attempt to resolve any dispute that may arise under this Agreement. Disputes that cannot be resolved by negotiation shall be submitted to mediation using a mutually agreed upon mediator. If mediation is not successful, the parties may pursue their remedies as they choose. Nothing in this Agreement shall be deemed to prevent the parties from agreeing in the future to submit a dispute to arbitration.

SECTION 28: PLACE OF CONTRACT/CONTROLLING LAW

28.1 This Agreement shall be governed by the laws of the State of Tennessee, without regard to conflicts of law principles, and the state courts of Hamilton County, Tennessee, shall be the exclusive venue for any litigation arising out of or related to this Agreement.

SECTION 29: AUTHORITY

29.1 Both parties warrant that they are properly authorized to enter into this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed the Agreement the day and year first hereinabove written.

\_\_\_\_\_  
First Student, Inc.

\_\_\_\_\_  
Hamilton County Board of Education

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

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

Attest:

Attest:

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

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

Date: \_\_\_\_\_

Date: \_\_\_\_\_

EXHIBIT A

Rate Structure

VEHICLE TYPE	NUMBER OF DAYS PER YEAR	COST PER BUS PER DAY			
		2019-2020	2020-2021	2021-2022	2022-2023
<b>SCHOOL YEARS</b>					
Vehicle Type:					
<b>Regular Transportation - Bus Types:</b>	<b>Approx. 176</b>				
84 Passenger		\$403.65	\$415.76	\$428.23	\$441.08
<b>Bus Aides:</b>	<b>Approx. 176</b>	\$17.09	\$17.60	\$18.13	\$18.67
<b>Special Education Transportation Bus Types:</b>	<b>Approx. 176</b>				
Type A with Wheel Chair		\$403.65	\$415.76	\$428.23	\$441.08
<b>Bus Aides:</b>	<b>Approx. 176</b>	\$17.09	\$17.60	\$18.13	\$18.67
<b>Misc. Transportation Programs</b>					
<b>Summer School</b>	<b>26</b>	\$213.69	\$220.10	\$226.70	\$233.50
<b>Saturday School</b>	<b>0</b>	\$84.06	\$86.58	\$89.18	\$91.86
<b>After School</b>	<b>50</b>	\$84.06	\$86.58	\$89.18	\$91.86
<b>Noon Day</b>	<b>135</b>	\$84.06	\$86.58	\$89.18	\$91.86
<b>Sports/Activity Trips - Cost per mile</b>		\$0.00	\$0.00	\$0.00	\$0.00
<b>Sports/Activity Trips - Cost per hour</b>		\$45.70	\$47.07	\$48.48	\$49.93
<b>Sports/Activity Trips - Minimum charge per trip</b>		\$91.40	\$94.14	\$96.96	\$99.86

Bus Aide Rates listed above are hourly.

## EXHIBIT B

### Performance Infractions and Liquidated Damages

- A. The HCDE will impose liquidated damages for performance infractions of the contracted services. Such damages may not be imposed for situations beyond the control of the Contractor, e.g., accidents, traffic conditions, unforeseeable street closings, impassable streets, and delays due to extremely poor weather. Assessment of damages in no way limits the right of the HCDE to institute termination proceedings. The HCDE reserves the right to terminate the Agreement if the Contractor fails to comply, or repeatedly fails to comply, with the terms and conditions of the contract and/or specifications.
- B. The decision to impose any damages rests with HCDE and will be based on an investigation of each incident. The Contractor will be notified in writing of performance infractions and provided an opportunity to respond. The Contractor must provide a written response by the tenth (10<sup>th</sup>) business day of written notification from the HCDE. Assessed penalties will be credited against the next invoice from the contractor following the completed investigation.
- C. The following infractions and damages are effective on the first (1<sup>st</sup>) student transport date of each school year:

Driver transporting student(s) prior to return of background check results	\$500 per day per bus
Employing driver personnel with unsatisfactory background history	\$1000 per day per bus
Student left on unattended bus	\$1000 per incident
Driver not possessing a current CDL	\$1000 per incident
Failure to comply with vehicle operation laws (including failure to wear seat belt, verifiable speeding and failure to stop at railroad crossings)	\$500 per incident
Failure to provide up to date drivers' list	\$500 per incident
Failure to provide Monthly Summary Report	\$250 per incident
Failure to provide Daily Bus Reports	\$150 per day
Failure to Conduct Annual Customer Satisfaction Survey	\$500
Failure to inspect and maintain vehicle	\$1000 per incident
Driver improperly uniformed	\$150 per day
Failure to adhere to approved route	\$1000 per incident
Route required to be doubled due to the absence of the regular driver and non-availability of a sub driver	= cost of incident bus type per day
Route late to school in the morning, by the following definition: A late bus is defined as a bus that is shown on GPS to have arrived at the school and open its doors to let off passengers less than ten minutes before the designated school start time	= cost of incident bus type per day

Route late in dropping off students for pm routes. A late bus is defined as a bus that is shown on GPS to have dropped off students at assigned stop in excess of 15 minutes from designated drop off time.	= cost of incident bus type per day
Number of students riding bus exceeds safe capacity per manufacturer's specifications	\$150 per day per bus
Failure to pick up or deliver a student with disabilities	\$150 penalty per incident
Bus which is late because of a need to refuel, or because it runs out of fuel in route	\$150 per incident
Early departure of a bus from a scheduled stop	\$100 per incident
Driver misses a stop on a route or fails to pick up student	\$100 per incident
Failure of a driver to keep an up-to-date route sheet on board and on file with Contractor	\$100 per day
Bus without a two-way radio as required or a two-way radio not in proper working condition for any reason for three (3) working days	\$100 per incident
Failure by dispatcher to immediately notify the District of an accident	\$1000 per incident
Failure to clean bus interior and exterior after two days' notice	\$100 per incident
Improper usage of cell phone in the operation of a school bus as defined by TCS (Tennessee Code Annotated)	\$1000 per incident
Failure to stop and use proper procedures at a railroad crossing as defined by TCA (Tennessee Code Annotated)	\$1000 per incident
School possesses documentation which indicates confirmation of a field trip was received but no bus(es) arrived. Students were unable to attend the event	\$500 per bus per incident

*\*Note: The HCDE Transportation Director and the Contractor company General Manager will meet weekly to review GPS data for each bus arrival at each school that week. The HCDE Transportation Director will create a form that lists all late buses and enclose a hard copy of the GPS screen shot validating the late bus, and both the HCDE Transportation Director and the Contractor company General Manager will sign the weekly form. Buses judged by the HCDE Transportation Director and the Contractor company General Manager to be late due to situations beyond the control of the contractor will not be assessed the fine. The form will be submitted to the HCDE Finance Department, and the payment to the Contractor will be decremented accordingly.*

## Lease Agreement

This Lease Agreement is made and executed on the 25<sup>th</sup> day of April, 2019, by and between First Student, Inc., referred to as "Contractor," and the Hamilton County Board of Education, referred to as "District."

WHEREAS, the Contractor and the District have entered into an agreement entitled SCHOOL BUS TRANSPORTATION SERVICES AGREEMENT pursuant to which the Contractor will provide the District with certain transportation services; and

WHEREAS, the District owns certain transportation facilities throughout the county that would enable the Contractor to perform its duties for the District more efficiently and effectively; and

WHEREAS, the Contractor and the District desire to establish guidelines for the Contractor's use of this District owned property; so therefore

PREMISES CONSIDERED in furtherance of the separately executed SCHOOL BUS TRANSPORTATION SERVICES AGREEMENT, the Contractor and the District hereby agree as follows:

1. Term: For the duration of the SCHOOL BUS TRANSPORTATION SERVICES AGREEMENT between the Contractor and the District, the Contractor shall be entitled to lease from the District the property described in Sections 3.1, 3.2 and 3.3; provided, however, that any event that shall operate to terminate the underlying Agreement shall also operate to terminate this Lease and that any default of the Contractor's obligations arising from the underlying Agreement shall also constitute a default of this separate Lease.
2. Consideration: In consideration for the services the Contractor renders to the District pursuant to the terms of the underlying Agreement, plus an additional \$1.00 in rent per school year, the Contractor shall be entitled to lease the Facilities described herein.
3. Facilities: The transportation Facilities that are subject to the terms of this Lease are located in three (3) separate locations. At each location, the Contractor shall have the right to use available bus yard space to park buses and available office space for the use of the Contractor's supervisory personnel. If, at any point during the term of the underlying Agreement, the Contractor finds existing space at any Facility to be inadequate, the Contractor shall request the District to provide it with additional space. Upon such a request, the District shall use its best efforts to accommodate

the Contractor's request, provided, however, that the Contractor shall, at its sole expense, provide fencing, paving, and installation of any necessary portable buildings.

- 3.1 The Dodds Avenue Facility, located at 2501 Dodds Avenue Chattanooga, TN 37407, houses centralized operations and maintenance. It consists of a 13,000 square foot administrative office and garage services building plus an additional portable building that serves as a driver-trainer facility. The site also includes a 10,000 square foot bus parking area.
- 3.2 The Hickory Valley Road Facility, located at 3074 Hickory Valley Road, Chattanooga, TN, consists of a 450 square foot dispatcher office and a 6,556 square foot parking area.
- 3.3 A third Facility to be agreed upon by the Contractor and the District with sufficient space for at least a 1,800 square foot office and a 5,000 square foot parking area.

The facilities described in Sections 3.1, 3.2 and 3.3 shall be collectively referred to as "Facilities".

4. Maintenance and Repair:

- 4.1 The Contractor will be responsible for routine maintenance and repair of all Facilities to the District's reasonable satisfaction, including, but not limited to painting, cleaning and waste disposal. District shall be responsible for all capital repair and replacement of all the exterior and structural elements of the Facilities.
- 4.2 The Contractor will also be responsible for the maintenance of any and all shop and office equipment that the District provides.
- 4.3 The Contractor is responsible for all damage to the Facilities caused by the Contractor, including realty, buildings, and fixtures, and additionally responsible for damage to any of the District's equipment, excluding normal wear and tear.
- 4.4 The Contractor specifically assumes the responsibility of properly disposing of all used oil, fuel, and other environmental waste whether hazardous or semi-hazardous in nature; provided, however, that the Contractor is not responsible for any Environmental Conditions that existed prior to its occupancy of the Facilities; and still further provided that this exclusion does not

apply to any previous use of the Facilities by the Contractor.

4.4.1 As used in this Section 4.4, the term “Environmental Conditions” means conditions where hazardous materials (as defined under applicable federal, state or local laws) are present to the extent that any reporting, remediation or other action is required under any such federal, state or local laws. References to “laws” hereunder includes all regulations, guidelines and other requirements thereunder, as amended and supplemented from time to time.

4.4.2 The Contractor may conduct, at its own expense, a Phase I and, if necessary, a Phase II Environmental Site Assessment of the Facilities before moving in, during the term and/or within a reasonable time thereafter.

5. Use and Alteration of Facilities:

5.1 The Contractor has the right to use the designated Facilities in any manner consistent with its obligation to provide transportation services to the District; provided, however, that the District reserves the right to designate to the Contractor reasonable restrictions on the use of the Facilities, which shall not interfere with the Contractor’s operations or increase operating costs for the Contractor; and further provided that the Contractor shall first obtain prior written approval from the Superintendent or his designee before altering or modifying any of the Facilities, including the realty, buildings, fixtures or equipment.

5.2 The Contractor understands and agrees any fixture that it may install becomes the property of the District upon its installation and may not be removed without the express, written consent of the Superintendent or his designee.

6. Unlawful or Dangerous Activity: The Contractor shall neither use nor occupy the Facilities referenced in paragraphs 3.1,3.2, or 3.3 for any unlawful, disreputable, or ultra-hazardous purpose or activity nor operate or conduct their business in a manner constituting a nuisance of any kind. The Contractor shall immediately, on discovery of any unlawful, disreputable, or ultra-hazardous use, take action to halt such activity.

7. Utilities: The Contractor will be responsible for any utilities arising out of its use of the leased Facilities, including electricity, water, and sewage.

Additionally, the Contractor will be responsible for installation, upkeep, maintenance, and fees related to long distance and computer data lines. The District will continue to maintain existing local telephone service for use of the Contractor.

8. Expenses Incurred by the District: The Contractor agrees to bear the costs for cleanup of the Facilities, supplying utilities, and stocking the Facilities with supplies. Recognizing, however, that from time to time it may be more expedient for the District to assume these obligations to ensure the efficient operation of the transportation services, the Contractor agrees to request these services when necessary and to credit the District or reimburse the District as may be appropriate.
9. Use of Leased Facilities by District Personnel: The Contractor agrees to allow District to staff its transportation personnel on the leased Facilities and to occupy such space as the District may designate. Furthermore, the Contractor agrees that it will not charge the District for the use of the leased Facilities by the District's personnel and that the Contractor shall not be entitled to a credit for any utility usage attributable to the District's personnel.
10. Taxes: The Contractor shall pay all applicable taxes arising from its use of the Facilities and equipment under this lease, including personal property taxes and real property taxes. The Contractor shall pay all of the mentioned taxes before any fine, penalty, interest, or cost may be added for nonpayment, and shall furnish to the District, on request, official receipts, or other satisfactory proof evidencing such payment.
11. Insurance: The Contractor agrees to insure the leased Facilities against any loss, including the realty, buildings, fixtures, and equipment, in an amount satisfactory to the District's Risk Management Office and to name the District as an additional insured party under the terms of its insurance policy.
12. Fueling: The Contractor is allowed to wet hose fuel the buses.
13. Agreement to Protect, Defend and Indemnify: The Contractor agrees to protect, defend, to hold harmless, and to fully indemnify the District from and against any and all claims arising from or in any way related to the Contractor's use of the leased Facilities whether any such claims arise in whole or in part out of the Contractors use or occupancy of the leased Facilities.



WITNESS WHEREOF, we have set our hands this \_\_\_ day of \_\_\_\_\_, 2019.

First Student, Inc.

Hamilton County Board of Education

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

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

Name: \_\_\_\_\_

Name: \_\_\_\_\_

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

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

Date: \_\_\_\_\_

Date: \_\_\_\_\_