

## **SCHOOL BUS TRANSPORTATION SERVICES AGREEMENT**

THIS AGREEMENT ("Agreement") is made and entered into as of the first day of August, 2018 by and between Raytown C2 School District, with principal offices at 6608 Raytown Rd, Raytown, MO 64133, (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 6207 NW Bell Rd, Parkville, MO 64152 (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 August 1, 2018 and shall continue through July 31, 2019. This Agreement may be extended by mutual written agreement for two (2) additional one year periods, the negotiation process for each extension including the negotiation of new economic terms, to occur on or before April 1st of the preceding school year. For purposes of this Agreement, the term "Contract Year" shall mean each one-year period commencing on August 1<sup>st</sup> 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 the following order of precedence: (1) Contractor's Proposal and (2) the Bid Specifications.
- 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 under this RFP ( "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 this RFP, Contractor shall be permitted to adjust rates commensurately to cover increases or decreases in cost structure associated with such changes by District.

- 2.3 In the event Contractor agrees to any Schedule Readjustments, Contractor shall be afforded a period of thirty (30) days following implementation of such changes during which time no liquidated damages may be assessed with respect to scheduled drop-off times or availability of buses on routes, while Contractor makes operational adjustments to meet School District requirements.
- 2.4 District represents, warrants and covenants that from and after the effective date of this Agreement, District will use Contractor as District's sole and exclusive provider for all of District's home-to-school and Charter Transportation at rates [agreeable by the parties OR as set forth in Exhibit \_\_\_]. "Charter Transportation" shall mean the outsourced transportation of any and all persons to be transported for field trips, excursions, extracurricular, athletic, creative or academic activities, or any similar purpose.
- 2.5 District must notify Contractor in writing within forty-eight (48) hours of an incident its intent to assess liquidated damages. Contractor shall have thirty (30) days following such notice to cure the incident prior to the assessment of liquidated damages. District must bill Contractor for such liquidated damage within sixty (60) days of the incident if the violation has not been remedied. Failure to either timely notify or bill Contractor shall relieve Contractor of its obligation to pay liquidated damages for the particular incident.

### 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.

Contractor will submit to District a bi-weekly statement of its services rendered during the prior two-week period. 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.

In the event that District fails to make a payment on any sums due hereunder, and such sums remain unpaid for 20 days following receipt of the invoice by District, Contractor shall be entitled to: a) charge interest on unpaid amounts at the rate of 1.5% per month or the maximum statutory amount, whichever is greater; and/or b) terminate service under this Agreement until all amounts due have been paid in full. In the event of repeated delinquency by District, Contractor shall have the right to request a deposit or payment bond from District before resuming service. Contractor shall be entitled to, without limitation, court costs, litigation expenses and attorneys' fees incurred in any attempt to collect unpaid amounts due under this Agreement.

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 \_\_\_.
- 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), increased insurance or surety premiums 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 shall be permitted to pass through the cost of incremental labor and travel and expense costs. A driver shortage shall mean less than 90% of the drivers needed meet the District's service requirements.

#### SECTION 5: FUEL

- 5.1 Contractor shall purchase at its own cost, [including/excluding taxes], all fuel required for the operation of buses hereunder. Fuel prices are assumed at \$ \_\_\_\_ per gallon. Should Contractor's cost of fuel exceed \$ \_\_\_\_ per gallon [including/excluding taxes], District will reimburse Contractor the excess cost. Contractor will provide documentation substantiating its fuel costs upon written request of District.

## SECTION 6: ROUTES AND SCHEDULES

- 6.1 Contractor shall be primarily responsible for planning all routes, stops and schedules. Contractor shall furnish District a complete route map on or before the first day of enrollment of each school year.
- 6.2 District shall furnish Contractor with a list of student names and addresses not later than 30 days prior to the start of each school year, from which Contractor will construct a complete route map on or before the first day of enrollment of each school year. Contractor shall use the route information provided by District to calculate the approximate time of pick up and drop off for each stop. Contractor shall then provide a list of such times to District. District shall inform parents and families of these times.
- 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 assist in republication of 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 30 business days 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 agrees to indemnify, hold harmless and defend District, its governing board, officers, employees and agents from and against every claim or demand which may be made by any person, firm, or corporation, or any other entity arising from or caused by Contractor's gross negligence 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, student-upon-student violence; routing; or Contractor's good faith adherence to District's policies, procedures or directives.

#### 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; 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.

- 9.2 District will, at its own expense, procure and keep in force general liability insurance as is customary in the business and at limits of not less than \$2,000,000.00.

#### 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, picketing, strike, labor dispute, labor shortages, 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.
- 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 sole discretion, 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 provided further that such request does not violate applicable local, state or federal laws, rules or regulations. Unless prohibited by law, District shall indemnify, defend, and hold Contractor harmless from and against all claims, expenses, or liabilities by or to a removed Contractor employee arising from the removal of that employee based on the District's request.
- 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 The prices included with this Agreement do not include modifications to vehicles if seat belts or GPS or other equipment (collectively, "equipment") were included in the equipment provided for students under this Agreement. If District or any government agency shall at some time in the future mandate that Contractor provide GPS or seat belts for use in vehicles, the parties shall negotiate in good faith alternative pricing and availability of vehicles to service District under this Agreement. 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. Contractor agrees to perform an inspection of all radios prior to the start of the school year to ensure proper performance.
- 16.4 District may direct Contractor to perform additional tasks under this Agreement. Contractor may perform such assignments in accordance with an agreed upon schedule and level of effort. Labor costs associated with such assignments shall be invoiced to District at a cost of \$\_\_\_\_\_ per hour regular time and \$\_\_\_\_\_ per hour for overtime. Parts and supplies and any services performed by other than Contractor shall be invoiced to District [at cost/plus markup].

#### 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 February 1 prior to the end of any Contract Year for services to be rendered in the following Contract Year. As the Contractor will make reasonable efforts to offset costs in the event of a termination, the District shall reimburse the Contractor in full for costs incurred by Contractor as the result of such early termination, including, but not limited to, retrofit and redeployment of vehicles, contract close-out costs, facility/property related expenses associated with closure of property and sale as appropriate, and fueling infrastructure related costs, and all other associated termination costs.
- 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 hereof 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:

Notices to Contractor shall be addressed to:

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. In the absence of an agreement on a mediator, each party shall select a temporary mediator and those mediators shall jointly select the permanent 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 Missouri, without regard to conflicts of law principles.

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.

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

Attest: \_\_\_\_\_

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

\_\_\_\_\_  
District

By:   
Title: ASSOC SUP

Attest: \_\_\_\_\_

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