

## AMENDMENT TO TRANSPORTATION AGREEMENT

This **AMENDMENT TO CONTRACT FOR TRANSPORTATION SERVICES** (the "Amendment") is entered into as of the 3<sup>rd</sup> day of June, 2020 by and between the **DARIEN BOARD OF EDUCATION** (the "Board") and **FIRST STUDENT, INC.** (the "Contractor").

### RECITALS

**WHEREAS**, the Board and the Contractor are parties to that certain Transportation Agreement dated March 20, 2018, (the "Contract") whereby the Contractor agrees to provide certain transportation services ("Transportation Services") to the Board; and

**WHEREAS**, the term of the Contract commenced on July 1, 2018 and continues through June 30, 2023 (the "Term"); and

**WHEREAS**, on March 10, 2020, Connecticut Governor Ned Lamont issued a declaration of public health and civil preparedness emergencies, proclaiming a state of emergency throughout the State of Connecticut as a result of the coronavirus disease 2019 (COVID-19) pandemic; and

**WHEREAS**, on March 14, 2020, Governor Lamont issued Executive Order No. 7C, which states, in relevant part, "To promote and secure the safety and protection of children in schools related to the risks of COVID-19, all public school classes will be cancelled for all students effective Tuesday, March 17, 2020 until March 31, 2020, unless extended beyond that date" and encourages private schools and other non-public schools to follow the same schedule; and

**WHEREAS**, on March 24, 2020 and April 10, 2020, Governor Lamont issued Executive Order 7L and 7X, respectively, which extended the closure of schools through at least May 20, 2020, and on May 5, 2020, Governor Lamont ordered school closed for the remainder of the 2019-2020 school year; and

**WHEREAS**, all schools operated by the Board and all nonpublic schools to which services are provided under the Contract were closed beginning on March 12, 2020 due to the COVID-19 pandemic and will remain closed until it is safe to re-open the schools (the "School Closure Period"); and

**WHEREAS**, on March 27, 2020, President Trump enacted the Coronavirus Aid, Relief, and Economic Security (CARES) Act, which provides, in relevant part: "A local educational agency, State, institution of higher education, or other entity that receives funds under the 'Education Stabilization Fund', shall to the greatest extent practicable, continue to pay its employees and contractors during the period of any disruptions or closures related to coronavirus"; and

**WHEREAS**, on March 31, 2020, Governor Lamont issued Executive Order No. 7R ("Executive Order 7R"), which cited to the CARES Act and which states, in relevant part, "[t]o the extent that a board of education...determines that a contract related to student transportation...requires amendment to more accurately reflect the actual costs incurred during

the duration of the public health and civil preparedness emergencies, all parties shall promptly negotiate amendments to such contracts.”; and

**WHEREAS**, on April 14, 2020, the State Department of Education issued a guidance memo concerning Executive Order 7R in which the State Department of Education stated that Executive Order 7R should be read consistent with the language in the CARES Act and that Boards of Education should “compensate their...contractors during this period of disruption, *to the greatest extent practicable.*”

**NOW, THEREFORE**, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Board and the Contractor agree as follows:

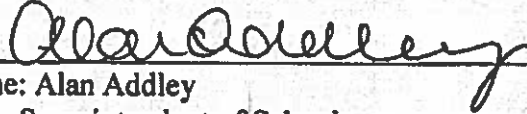
- 1) **Purpose of Amendment.** The Board and the Contractor each agree that the purpose of this Amendment is to comply with the CARES Act and Executive Order 7R and therefore, by amending the terms of the Contract to provide payment from the Board to the Contractor as set forth herein, which the Parties agree constitutes payment to the greatest extent practicable under the specific circumstances, ensure that the Contractor will be able to promptly and with short notice, resume services when the School Closure Period has ended. As a condition of acceptance of funding by the Board pursuant to this Amendment, the Contractor agrees that it will take all necessary steps to ensure continuity of service, including the rehiring of any laid off or inactive employees necessary to deliver home-to-school transportation services and the replacement of any necessary employees who do not wish to return to active status, so that the Contractor is able to fully perform its obligations under the Contract upon the end of the School Closure Period. Provided the Board continues to provide payment as set forth in this Amendment, the Contractor shall attest to its continued ability to deliver home-to-school service after the School Closure Period with the submission of each invoice during the School Closure Period under this Amendment. The Contractor shall promptly notify the Board if it becomes aware of any issue that is reasonably likely to impair its ability to deliver home-to-school service after the School Closure Period.
- 2) All terms in the Contract dated March 20, 2018 will remain in effect, except for the following provisions:
  - a) Page 1, Paragraph I: The term of the contract shall be extended by one additional year and will thus terminate on June 30, 2024 (“Term”).
  - b) Pages 32-33, Exhibit B: The rates identified in Exhibit B shall be replaced with the rates identified in Exhibit A of this Amendment. In consideration for forgoing the rate increase for the 2020-2021 School Year, the Board agrees to pay 100% of Contractor’s invoices for 2019-2020 School Year during the School Closure Period, including \$55,000 in extracurricular charter (based off of the March-June 2019 billing).
- 3) Additional provisions.
  - a) **Renegotiation.** Should the School Closure Period extend beyond the final day of the 2019-2020 school year, the Parties shall negotiate, in good faith, a successor amendment to this Amendment.

- b) Invoices. The Contractor shall submit monthly invoices to the Board, in accordance with the Contract ("Invoices"). During the School Closure Period, all Invoices sent to the Board shall be accompanied by an attestation substantially in the form attached hereto as Exhibit B.
- c) Maintenance of Records. At all times during the Term, and for the contractual period for document retention required by the underlying Contract, the Contractor shall maintain detailed records supporting all invoiced items on each Invoice and shall submit such records promptly to the Board upon the Board's request for the same.
- d) No Other Payments Due. The Contractor hereby acknowledges that during the Term the Board shall owe the Contractor only those amounts described herein. The Contractor hereby waives any and all rights to payments during the Term except as specified under the Amendment.
- e) FOIA. The Board is a "public agency" for purposes of the Connecticut Freedom of Information Act ("FOIA") and must comply with the requirements thereof. As such, documents received by the Board may be subject to disclosure under the FOIA, unless such documents are exempt from disclosure.
- f) Governing Law. This Amendment shall be governed by the laws of the State of Connecticut without giving effect to its choice of law principals.
- g) Miscellaneous.
  - i. This Amendment may be executed and delivered in any number of counterparts, each of which shall constitute an original, but all of which when taken together shall constitute but one and the same Amendment. The parties further acknowledge that this Amendment may be executed by electronic signature, which shall be considered as an original signature for all purposes and shall have the same force and effect as an original signature. Without limitation "electronic signature" shall include faxed versions of an original signature, electronically scanned and transmitted versions (e.g., via pdf) of an original signature, or signature via DocuSign or other similar electronic signature program.
  - ii. The provisions of this Amendment shall be binding upon and inure to the benefit of the Parties hereto and their respective permitted successors and assigns.
  - iii. Each term and condition, article, paragraph and subparagraph of this Amendment and any portion thereof, will be considered severable. If, for any reason, any portion of this Amendment is determined to be invalid, contrary to or in conflict with any applicable present or future law, rule or regulation in a final ruling issued by any court, agency or tribunal with valid jurisdiction, that ruling will not impair the operation of or have any other effect upon, any other

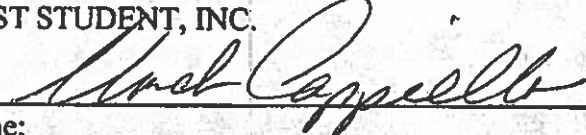
reason, any portion of this Amendment is determined to be invalid, contrary to or in conflict with any applicable present or future law, rule or regulation in a final ruling issued by any court, agency or tribunal with valid jurisdiction, that ruling will not impair the operation of or have any other effect upon, any other portions of this Amendment; all of which will remain binding on the Parties and continue to be given full force and effect.

IN WITNESS WHEREOF, the Parties hereto have executed this Amendment as of the date set forth above.

DARIEN BOARD OF EDUCATION

By:   
Name: Alan Addley  
Title: Superintendent of Schools

FIRST STUDENT, INC.

By:   
Name:  
Title: Area General Manager