

Supreme Court of Pennsylvania

Court of Common Pleas Civil Cover Sheet

BUCKS

County

For Prothonotary Use Only

Docket No:

Case Number: 2014-01208
Receipt: 2014-22-00737
Code: 531
Patricia Bachtie - Bucks Co Prothonotary
B09
Judge: 33
Filing: 10476591
2/24/2014 12:25:18 PM

The information collected on this form is used solely for court administration purposes. This form does not supplement or replace the filing and service of pleadings or other papers as required by law or rules of court.

SECTION A

Commencement of Action:

- ☒ Complaint ☐ Writ of Summons ☐ Petition
☐ Transfer from Another Jurisdiction ☐ Declaration of Taking

Lead Plaintiff's Name:

FIRST STUDENT, INC.

Lead Defendant's Name:

BRISTOL TOWNSHIP SCHOOL DISTRICT

Are money damages requested? ☒ Yes ☐ No

Dollar Amount Requested: ☐ within arbitration limits
(check one) ☒ outside arbitration limits

Is this a Class Action Suit? ☐ Yes ☒ No

Is this an MDJ Appeal? ☐ Yes ☒ No

Name of Plaintiff/Appellant's Attorney: ROSS G. CURRIE, ESQ.

☐ Check here if you have no attorney (are a Self-Represented [Pro Se] Litigant)

Nature of the Case: Place an "X" to the left of the ONE case category that most accurately describes your **PRIMARY CASE**. If you are making more than one type of claim, check the one that you consider most important.

TORT (do not include Mass Tort)

- ☐ Intentional
☐ Malicious Prosecution
☐ Motor Vehicle
☐ Nuisance
☐ Premises Liability
☐ Product Liability (does not include mass tort)
☐ Slander/Libel/ Defamation
☐ Other:

CONTRACT (do not include Judgments)

- ☐ Buyer Plaintiff
☐ Debt Collection: Credit Card
☐ Debt Collection: Other
☐ Employment Dispute: Discrimination
☐ Employment Dispute: Other
☒ Other:
Breach of contract for services rendered

CIVIL APPEALS

- Administrative Agencies
☐ Board of Assessment
☐ Board of Elections
☐ Dept. of Transportation
☐ Statutory Appeal: Other
☐ Zoning Board
☐ Other:

MASS TORT

- ☐ Asbestos
☐ Tobacco
☐ Toxic Tort - DES
☐ Toxic Tort - Implant
☐ Toxic Waste
☐ Other:

REAL PROPERTY

- ☐ Ejectment
☐ Eminent Domain/Condemnation
☐ Ground Rent
☐ Landlord/Tenant Dispute
☐ Mortgage Foreclosure: Residential
☐ Mortgage Foreclosure: Commercial
☐ Partition
☐ Quiet Title
☐ Other:

MISCELLANEOUS

- ☐ Common Law/Statutory Arbitration
☐ Declaratory Judgment
☐ Mandamus
☐ Non-Domestic Relations Restraining Order
☐ Quo Warranto
☐ Replevin
☐ Other:

PROFESSIONAL LIABILITY

- ☐ Dental
☐ Legal
☐ Medical
☐ Other Professional:

DINSMORE & SHOHL LLP

By: ROSS G. CURRIE, ESQ.

I.D. # 206085

1200 Liberty Ridge Drive, Suite 310

Wayne, PA 19087

(610) 408-6020 phone

(610) 408-6021 fax

ross.currie@dinsmore.com

Attorney for Plaintiff,

First Student, Inc.

FIRST STUDENT, INC.,

Plaintiff,

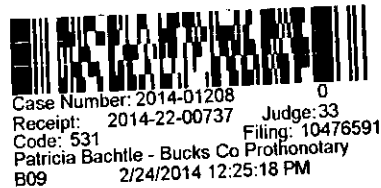
v.

BRISTOL TOWNSHIP SCHOOL DISTRICT,

Defendant.

COURT OF COMMON PLEAS OF
BUCKS COUNTY, PENNSYLVANIA

No. _



NOTICE TO DEFEND

You have been sued in Court. If you wish to defend against the claims set forth in the following pages, you must take action within (20) twenty days after this Complaint and Notice are served, by entering a written appearance personally or by an attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so, the case may proceed without you and a judgment may be entered against you by the Court without further notice for any money claimed or for any other claim or relief requested by the plaintiff. You may lose money or property rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF
YOU DO NOT HAVE A LAWYER OR CANNOT AFFORD ONE, GO TO OR
TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU
CAN GET HELP. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION
ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO
PROVIDE YOU WITH INFORMATION ABOUT PERSONS AT A REDUCED FEE OR NO
FEE.

Bucks County Bar Association
135 East State Street, P.O. Box 300
Doylestown, PA 18901
(215) 348-9413 or 1-(800)-273-2929

DINSMORE & SHOHL LLP

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Attorney for Plaintiff,

First Student, Inc.

FIRST STUDENT, INC.,

Plaintiff,

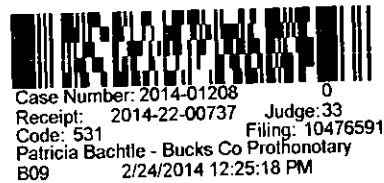
v.

BRISTOL TOWNSHIP SCHOOL DISTRICT,

Defendant.

COURT OF COMMON PLEAS OF
BUCKS COUNTY, PENNSYLVANIA

No. -



COMPLAINT

NOW COMES the Plaintiff, First Student, Inc., by and through its attorneys, Ross G. Currie, Esquire and Dinsmore & Shohl LLP, and alleges as follows:

PARTIES

1. Plaintiff First Student, Inc. ("First Student") is a Delaware corporation with its principal place of business in Cincinnati, Ohio.

2. Defendant Bristol Township School District ("BTSD") is a political subdivision of the Commonwealth of Pennsylvania, organized and operating as a school district, with its principal offices in Levittown, Bucks County, Pennsylvania.

BACKGROUND

A. The Agreement Between the Parties

3. First Student entered into a School Bus Transportation Services Agreement with BTSD dated August 25, 2009 (the "Agreement"). The Agreement is attached hereto as Exhibit A and incorporated by reference.

4. Section 26 of the Agreement provides that any dispute under the Agreement requiring judicial intervention or adjudication shall be brought in the Court of Common Pleas of Bucks County, Pennsylvania.

5. The term of the Agreement (the "Term") was retroactive to July 1, 2008 through June 30, 2013. First Student and/or a predecessor company has provided services to BTSD since 2003.

6. Pursuant to Section 2 of the Agreement, First Student agreed to provide certain pupil transportation services to BTSD, defined in the Agreement as "Transportation." Section 2 further defines the scope of services First Student agreed to provide.

7. In exchange for the Transportation and services described above, BTSD agreed to pay First Student as set forth in Section 3 of the Agreement. Section 3 provides, among other things, that First Student shall invoice BTSD monthly for services rendered, and that BTSD shall pay First Student on the day immediately following BTSD's next regularly scheduled monthly meeting or, if no meeting is held, the third Thursday of each month from October through June of each school year.

8. Pursuant to Section 21 of the Agreement, Section 3 survives termination of the Agreement.

B. BTSD's Failure to Pay All Amounts Owed Under the Agreement

9. During the Term of the Agreement, First Student provided the Transportation and services described above and otherwise complied in all material respects with the Agreement.

10. On a monthly basis, in compliance with Section 3 of the Agreement, First Student invoiced BTSD for actual Transportation and services provided.

11. The Agreement requires BTSD to pay the invoices First Student submitted, in full, when due.

12. BTSD initially failed to pay invoices from March through June 2013 when due, totaling \$1,879,971.79 (the "Outstanding Invoices"). In addition to the due date set forth in the Agreement, First Student marked the Outstanding Invoices as due to be paid within 30 days.

13. First Student repeatedly demanded payment of the Outstanding Invoices. BTSD then paid First Student the sum of \$1,000,000.00 by check dated November 15, 2013, leaving an unpaid principal balance of \$879,971.79. BTSD did not direct its payment to specific invoices; instead, it issued a lump sum payment for an arbitrary amount less than what it owes.

14. Since receiving the November 15, 2013 payment, First Student has continued to demand payment of the unpaid principal balance on the Outstanding Invoices, but BTSD refuses to pay the amount which remains due and owing.

**COUNT I:
BREACH OF CONTRACT**

15. First Student restates and incorporates the allegations set forth above as if fully rewritten herein.

16. At all times relevant hereto, First Student fulfilled its material obligations under the Agreement, and further provided the Transportation and services set forth on the Outstanding Invoices in compliance with the Agreement.

17. BTSD's failure to pay First Student the total amount of the Outstanding Invoices is a material breach of the terms and conditions of the Agreement.

18. As a direct and proximate result of BTSD's breach of the Agreement, First Student has been damaged in the amount of \$879,971.79 or such other amount as the Court determines, together with such accruing pre- and post-judgment interest as allowed by law.

WHEREFORE, First Student demands judgment against BTSD for monetary damages in the amount of \$879,971.79 or such other amount as the Court determines, together with interest and costs, and such other relief as the Court deems appropriate.

COUNT II:
UNJUST ENRICHMENT

19. First Student restates and incorporates the allegations set forth above as if fully rewritten herein.

20. In the alternative to Count I, BTSD has been unjustly enriched by receiving Transportation and services from First Student for which it has not fully compensated First Student.

21. It would be inequitable for BTSD to retain the benefit of the Transportation and services provided by First Student without fully compensating First Student in the amount of \$879,971.79 or such other amount as the Court determines, together with such accruing pre- and post-judgment interest as allowed by law.

WHEREFORE, First Student demands judgment against BTSD for monetary damages in the amount of \$879,971.79 or such other amount as the Court determines, together with interest and costs, and such other relief as the Court deems appropriate.

Respectfully submitted,

DINSMORE & SHOHL LLP

Dated: February 21, 2014

By:

A handwritten signature in black ink, appearing to read "R. G. Currie", is written over a horizontal line.

ROSS G. CURRIE, ESQ.

I.D. # 206085

1200 Liberty Ridge Drive, Suite 310

Wayne, PA 19087

(610) 408-6020 phone

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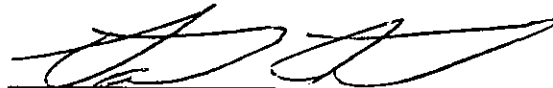
ross.currie@dinsmore.com

VERIFICATION

I, David Armitt, am Senior Vice President of Plaintiff First Student, Inc., and am authorized to give this Verification on its behalf. I hereby verify that the statements made in the foregoing Complaint are true and correct to the best of my personal knowledge, information and belief. This Verification is given subject to the penalties of 18 Pa. C.S. § 4904, relating to unsworn falsification to authorities.

Date: _____

2/17/14

A handwritten signature in black ink, appearing to read 'DAVID ARMITT', written over a horizontal line.

DAVID ARMITT

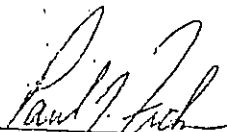
20515

BRISTOL TOWNSHIP SCHOOL DISTRICT
Contracted Pupil Transportation Services

July 1, 2008 – June 30, 2013
(Five Year Proposal)

RESPONSE FORM

Company Name First Student
Address 400 Oakbrook Drive
Suite 2300
Greensburg, PA 15601


Authorized Signature

Region Vice President
Title

(724) 837-3766
Telephone

SCHOOL BUS TRANSPORTATION SERVICES AGREEMENT

THIS AGREEMENT is made and entered into as of the 25th day of August 2009, by and between the **BRISTOL TOWNSHIP SCHOOL DISTRICT**, with principal offices at 6401 Mill Creek Road, Levittown, Pennsylvania 19057-4014, (hereinafter called "District"), and **FIRST STUDENT, INC.**, hereinafter called "Contractor", with its national headquarters at 600 Vine Street, Suite 1400, Cincinnati, Ohio 45202, and local business offices located at 424 S. Woods Mill Rd, #345, St. Louis, Mo 63017.

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 be effective immediately with terms retroactive to July 1, 2008 and shall continue through June 30, 2013.

SECTION 2: SCOPE OF SERVICES REQUIRED

- 2.1 It shall be the intention of the District to subcontract for the transportation of public, parochial, private and special education school students on each school day as established by their respective calendars. Contractor will be responsible for providing Bus Drivers and equipment, for managing the Bus Drivers, and furnishing the required number of Bus Drivers and equipment to transport students to and from school on a daily basis and for curricular activities. The District reserves the right to contract with other transportation services, (i.e., Intermediate Unit transportation for special students) and to contract for individual trips with other private contractors.
- 2.2 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 Exhibit A ("Transportation").
- 2.3 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. If the number of buses required by District for Transportation shall increase or decrease by greater than 10% in any 6 month period during the term of this Agreement, including any extensions or renewals hereof, Contractor and District shall in good faith renegotiate the rate of compensation to cover changes in overhead or any other costs.

SECTION 3: COMPENSATION AND BILLING

- 3.1 In consideration for services rendered hereunder, District shall pay to Contractor all sums due and owing and calculated in accordance with the rates set forth in Exhibit A, as may be adjusted from time to time as provided herein. The District agrees to pay the Contractor on a monthly basis for ten (10) months a year at one-tenth (1/10) the yearly base service cost, adjusted for additional Bus routes and Monitors, plus additional transportation services requested by the District for athletic, activity and field trips. The Contractor will invoice the District monthly for services rendered in accordance with District procedures. The Contractor will submit its invoice for services rendered to the District on or before the first (1st) day of the month following the month for which services were rendered. Payment will be made by the District on the day immediately following the regularly scheduled monthly meeting by the Bristol Township School District Board of School Directors, or if no meeting is held, the third Tuesday of each month from October through June of each school year.

SECTION 4: ESCALATION

- 4.1 In the event of unusual circumstances, such as changes in state or federal taxes, laws or specifications, increased insurance or surety premiums or any other condition which causes any of the 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. Should the parties be unable to reach agreement on renegotiations of escalated costs, either party may terminate the contract within thirty (30) days written notice.

SECTION 5: FUEL

- 5.1 The District will furnish the fuel (gas and/or diesel) necessary to provide the services outlined in this Agreement, at its own cost. The Contractor shall provide the tanks necessary for this fuel. Contractor will own tanks and provide indemnification to the District for any claims arising out of or relating to the use of the tanks.

- 5.2 The District will require monitoring of fuel usage and miles per gallon calculations.

SECTION 6: ROUTES AND SCHEDULES

- 6.1 Bus routes and bus stops shall be provided to the Contractor by the District and may be modified at the sole discretion of the District. Contractor shall not deviate from the designated route except by prior written consent of the District or in the case of any emergency, which shall be reported promptly thereafter to the District.
- 6.2 The District, in consultation with the Contractor, shall design the bus routes, including all stops along the way. However, the Contractor and Superintendent may agree to alter, modify or amend the bus routes and/or stops along the way, to change or add bus routes, establish new bus routes, and change times scheduled for pick-up and deliveries in order to meet changing conditions. Rules and regulations for details incidental to the operation of bus routes, bus stops and other attendant matters which may arise shall be mutually agreed upon.
- 6.3 Scheduling of routes shall be completed in a timely manner. Contractor will act in an advisory capacity to the District in preparation of the routes.
- 6.4 Contractor shall require the Bus Drivers to adhere to routes and time schedules as established. Drivers who discover cause for route or time adjustment will report same to the Contractor, which will take the matter up with the District.
- 6.5 Contractor shall be available for periodic conference with the District to discuss changes in the routes and schedules.
- 6.6 District reserves the right to revise any and all routes to suit the education program at any time subject to revision of rates and charges mutually agreed to by the District and Contractor. 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. 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, that 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 the District with alternative designations by written notice.
- 6.7 Contractor will be required to provide Buses to the District in the event of a community disaster evacuation. Drivers employed by Contractor are permitted to

provide their services for this purpose if so willing. The District agrees to indemnify and hold harmless Contractor and its employees from all suits and actions of every nature brought against it or arising from the provision of emergency transportation services under this paragraph. The District agrees to be responsible for any damage sustained to the Buses used for this purpose. District agrees to maintain insurance policies providing coverage for property damage or bodily injury arising from transportation services provided in the event of a community disaster evacuation.

- 6.8 Contractor shall assist the District in any determination of whether routes should be canceled due to inclement weather. To this end, Contractor shall remain available to the District for consultation on a daily basis. District shall have the sole responsibility of altering, delaying or canceling Bus service during inclement weather. Contractor agrees to abide by the decision of the District and operate on the assigned schedules and routes.

SECTION 7: RECORDS AND REPORTS

- 7.1 Contractor shall provide within 15 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 the 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. However, Contractor shall provide reasonable assistance to District in order for District to complete and file necessary reports to governmental bodies.
- 7.3 Contractor shall immediately notify the Superintendent of Schools, or his or her designated representative, by telephone and confirmed in writing within 24 hours, of the occurrence of any incident involving student riders, or a traffic violation or 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 The Contractor agrees to and shall indemnify, hold harmless and defend District, its officers, directors, employees and agents, from and against any and all claims,

demands and causes of action and all liability for loss, damage or expense which said indemnified parties may suffer or for which they may be held liable for reasons of injury, including death, to any person or damage to any property arising out of or relating to Contractor's performance of services under this Agreement or caused by the breach of this Agreement by Contractor or failure of Contractor to perform its obligation under 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.

SECTION 9: INSURANCE

- 9.1 Contractor shall, at its expense, procure and keep in force during the entire term of this Agreement, Commercial General Liability, Excess Liability, Contractual Liability, and Automobile Liability Insurance to protect Contractor, its drivers and other personnel. Contractor shall provide Commercial General Liability limits of not less than the following: Bodily Injury \$1,000,000.00 per person; \$5,000,000.00 per occurrence; Property Damage \$1,000,000.00 per occurrence; Excess Liability limits of not less than \$5,000,000.00; Contractual Liability limits of not less than \$1,000,000.00; and Automobile Liability limits of not less than \$1,000,000.00 per person; Bodily Injury \$5,000,000.00 per occurrence. In addition to the limits listed above, Contractor shall also maintain uninsured/underinsured motorist coverage and medical payments coverage to the extent required by law. 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 on all such insurance policies, and reference to the hold harmless and indemnification provisions in this contract, 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 sixty (60) 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 the Contractor and the District. 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. All insurance policies shall provide that no coverage shall be canceled or materially alerted except by sixty (60) days written notice to Contractor and District.
- 9.2 Contractor, as a condition for the execution of this Agreement and during the Term hereof, shall accept and comply with the provisions of the Workman's Compensation Act of 1915 (Act approved June 2, 1915, P.L. 735) and the amendments thereto, as applicable in all cases of the employment of labor thereunder, or file with the District a Certificate of Exemption from Insurance and further submit immediately to the District proof of this compliance with the terms of said Workman's Compensation Act of 1915, as required by the Act approved

July 18, 1917, P.L. 1083. The insurance shall provide that it cannot be cancelled or materially altered without sixty (60) days' prior written notice to the District. Contractor shall further provide District with certificates evidencing such insurance.

- 9.3 Contractor shall provide evidence of the insurance to the District on the signing of this Agreement, and thereafter, on an annual basis, but in no event later than July 30th of each and every year during the Term of this Agreement. Furthermore, any change by Contractor in its insurance, which affects coverage available to the District under this Agreement including, but not limited to, a change of insurance carriers, shall be brought to the District's attention by written notice within thirty (30) days after said change is made.
- 9.4 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 \$1,000,000.00.

SECTION 10: PERFORMANCE BOND

- 10.1 Contractor shall provide the District with a performance bond with surety as set forth in Section 10.3 below in the amount of One Million (\$1,000,000.00) Dollars within fifteen (15) days after execution of this Agreement. Such bond shall be renewed each year during the Term of this Agreement.
- 10.2 Claim(s) against the performance bond can be asserted if at any time during the Term of this Agreement, the Contractor any of its agents or representatives fail to perform a material obligation of this Agreement or fail to furnish safe and adequate equipment or personnel or otherwise fail to substantially comply with the terms and conditions of this Agreement, including indemnity obligations of the Contractor, after the District has provided the Contractor with a reasonable opportunity to correct any service or other deficiency under this Agreement.
- 10.3 Surety for the performance bond under this Agreement shall be a surety designated as an authorized surety in the most recent edition of Circular 570 issued by the Financial Management Service of the U.S. Department of Treasury and authorized to issue performance bonds in the Commonwealth.

SECTION 11: FAILURE OF OPERATION

- 11.1 When the Contractor fails to complete any route or any portion of any routes, the amount of payment appropriate for said route or part of said route shall be deducted, on a pro rata basis, from the daily rate for the vehicle or vehicles involved. Any extra cost incurred by the School District in securing substitute service shall be charged to the account of Contractor. Penalties under this section

shall be imposed in the exercise of reasonable discretion by the School District, after consultation and discussion with the parties.

- 11.2 This section will not be invoked when weather conditions or circumstances exists over which the Contractor or the bus driver has no control. Safety of students must at all times take precedence over all other things including, but not limited to, the time schedule.
- 11.3 If the Contractor fails to perform services as required, the Contractor shall be liable to the School District for all costs and damages incurred by the School District as a result of non-service. The School District reserves the right to take whatever actions are required to restore service and the Contractor shall be liable for all costs incurred by the School District.
- 11.4 The Contractor will be responsible for the cost of hiring replacement bus drivers necessitated by labor strife, of whatever kind, to fulfill the conditions of this agreement. Contractor and replacement bus drivers will be held to the same standards and conditions as set forth herein.

SECTION 12: SAFETY PROGRAM

- 12.1 Contractor shall implement a student safe riding practices program. Contractor must provide a yearly Bus safety program at all schools. Said program will be completed by December 1st of each school year.
- 12.2 Contractor shall establish a schedule of Bus Driver safety programs to assess current employees and future training needs.
- 12.3 Contractor shall conduct monthly safety meetings for Bus Drivers.
- 12.4 Contractor shall require all Bus Drivers to comply with the following safety precautions:
 - (a) All traffic regulations must be observed at all times;
 - (b) Each Driver is expected to remain with his/her Bus at all times whether at a school building or on the route;
 - (c) It shall be the duty of each Driver to operate his/her Bus at the reasonable rate of speed at all times in conformity with the traffic ordinances and regulations governing the use of Buses and motor vehicles;
 - (d) Each Driver shall use all care to guard the children, prevent undue crowding and maintain order in his/her Bus at all times. Any child refusing to obey the Driver shall be reported on the Bus Conduct form provided by the District;
 - (e) All children riding on the Buses must be driven to their designated stops; and
 - (f) Absolutely no use of tobacco, drugs or alcoholic beverages in the Buses or

- on District property is permitted.
- (g) No vehicles shall be fueled while student are on board.
 - (h) No unauthorized personnel or riders shall be allowed on any vehicle being used in the performance of this Agreement unless agreed upon in advance by the parties.

12.5 Each bus must have the "Child Check" system or an equivalent in place. Additionally, each vehicle will contain all required safety equipment.

12.6 Contractors shall install a video recording box capable for receiving a video camera on each bus. Contractors will provide a video camera to be installed in the video boxes according to a ratio of at least one camera for every ten (10) school buses, to be placed on selected buses at the discretion of the District and/or Contractor. Contractor shall retain ownership of the video monitoring equipment and will be responsible for supplying all videotape, repair and replacement of the equipment. In addition, Contractor and District will develop and update as necessary guidelines and procedures for handling, reviewing and disclosure of videotapes and the information they may contain.

12.5 Contractor's employees shall not be required to perform any medical functions for passengers.

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; provided, however, that District shall have the right to request Contractor to remove from service to the District any employee who, in District's sole discretion, is deemed unsuitable for the performance of transportation services for District; and provided, further, that District shall make such request in writing, state the reasons therefore, that such request does not violate applicable laws against discrimination.
- 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 Meet all regulations of the Bureau of Driver Licensing of the Pennsylvania Department of Transportation, and the U.S. Government with regard to application, age, fitness, competence, conduct, licensing, physical examination, and continuing eligibility at Contractor's expense.
- 14.4.3 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 at the Contractor's expense.
- 14.4.4 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.
- 14.4.5 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.

- 14.4.6 Both regular and substitute drivers shall be assigned as consistently as possible to the same bus runs for the purposes of route familiarization and pupil control. It is the express desire of the District that rate of driver turnover is minimal.
- 14.4.7 Drivers shall carry a valid certificate issued by a Pennsylvania licensed physician indicating that they have passed the prescribed physical examination, a valid Pennsylvania Commercial Driver's License (CDL) with a "P" endorsement, and a valid Pennsylvania School Bus Driver "S" Endorsement Card. Drivers shall abstain from the use of intoxicating beverages on days when they operate the vehicle, they shall abstain from the use of tobacco and drugs, they shall refrain from the use of profane or indecent language and they shall be responsible for maintaining proper discipline on the bus. No driver shall work for the Contractor for more hours per day than are permitted by State laws and regulations. Any State driver schooling and training is to be completed as required at the Contractor's expense. All employees of the Contractor must comply with Child Protective Service Law Act 34 of 1986 and revised 1990 requiring a criminal history records check.
- 14.5 Contractor must furnish the proper documentation with regard to the history of their workers. This requires Contractor to furnish information as required by Section 111 of the Public School Code and Act 151 which provides, among other things, that a Criminal History Information Record Search 34, Department of Public Welfare Background Check 151 and Federal (FBI) Criminal History Report must be obtained for each employee who will have direct contact with school children, showing that such employees have not been convicted of certain crimes and other mandated documents. It is the Contractors responsibility to obtain all required documents and to update the aforementioned information on a regular basis to insure all documentation is active.

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.

- 15.3 Drivers assigned to transport disabled and/or special education students shall be given special training concerning the techniques of handling such children. District and Contractor shall reach agreement on processes and procedures in place concerning disabled and/or special education students regarding the following: pick-up/drop-off; discipline; medical information; and driver responsibility for lifting. When the Contractor is required to place aids on buses or vans transporting disabled students and other vehicles as designated by the District, this additional cost will be negotiated with the Contractor.

SECTION 16: EQUIPMENT

- 16.1 All school buses and all other vehicles 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. Furthermore, all school buses shall pass annual State required inspection, as well as pass inspection by the Pennsylvania State Police during the month of August. All other vehicles shall pass annual State required inspection, in addition to meeting the standard of the Bureau of Traffic Safety. The Contractor shall secure and maintain in force such licenses and permits as are required by law.
- 16.2 Contractor shall be required to provide an adequate number of buses for special services necessitated by athletic, band and field trips. This does not include replacement vehicles for breakdowns and maintenance. These are the responsibility of the Contractor.
- 16.3 Contractor agrees to provide vehicle maintenance on all buses and vans utilized under the Agreement at its own cost.
- 16.4 No school bus supplied by Contractor will exceed ten (10) model years of age and spare vehicles more than twelve (12) years of age at the start of any school year, unless approved in writing by District. The average fleet age is not to exceed seven (7) years. Contractor agrees that if District has just cause and requests removal of a bus from its fleet, said bus will be removed. District shall make all such requests in writing to Contractor, and Contractor shall have a reasonable opportunity to review and respond to concerns advanced by District.
- 16.5 District retains the right to inspect the school buses, all other vehicles, and vehicle maintenance records at all reasonable times by all reasonable means to insure safety compliance.

- 16.6 Contractor agrees to use bus sizes that will provide the greatest State reimbursement and the most economy for the District.
- 16.7 Contractor agrees that each bus shall have a unique number painted on it but not bear the District's name.
- 16.8 Contractor will be required to provide spare buses in the amount of ten percent (10%) of the regular bus fleet for special services necessitated by:
1. Activity trips
 2. Buses loaded in excess of their rated capacity
 3. Mechanical breakdown
 4. Vehicles that are inoperable due to an accident
 5. Vehicles that are being maintained on a preventative maintenance program
 6. Vehicles that fail to meet Pennsylvania Department of Transportation requirements.
 7. Any unsafe condition or situation for providing school transportation services.
- 16.9 The prices included with this Agreement do not include modifications to vehicles or routes required if seat belts were included in the equipment provided for students under this Agreement. If District or any government agency shall at some time in the future specify or request that Contractor provide lap & shoulder style seat belts for use in vehicles providing Transportation under this Agreement, the parties shall negotiate in good faith, to mutual agreement, on alternative pricing and availability of vehicles to service District under this Agreement. In the event that District or any governmental agency imposes additional 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 contract or immediate installation is required for continuing operation of the vehicles, Contractor and District shall negotiate in good faith concerning price increases applicable to such equipment installation.
- 16.10 Contractor agrees that all vehicles shall be equipped with two-way radios. All purchase price and maintenance costs for two-way radios shall be borne by the Contractor. Contractor agrees to perform an inspection of all radios prior to the start of and throughout the school year to ensure proper performance.

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 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 the Contractor will, in the event the contractor determines that a pupil poses a danger to himself/herself or other passengers, cooperate to provide a safe transportation environment prior to the 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 the District, which consent shall not be unreasonably withheld or delayed. However, the 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. If at the end of such 30-day default notice period, the party notified has not remedied the purported violation or is not in the process of remedying the purported violation, the non-defaulting party may terminate this Agreement as follows: on the first business day following the last day of the 30-day default notice period, the non-defaulting party shall give the defaulting party 15 days' notice of termination. If the non-defaulting party does not provide this 15-day notice of termination, the default notice shall be deemed rescinded.

SECTION 20: FAILURE OF OPERATION

- 20.1 When Contractor fails to complete any route or any portion of any route, the amount of payment appropriate for said route or part of said route shall be deducted, on a

pro-rata basis, from the daily rate for the vehicle or vehicles involved. Any extra costs incurred by the District in securing substitute service shall be charged to the account of the Contractor. Penalties under this section shall be imposed in the exercise of reasonable discretion by the District, after consultation and discussion by the parties. District must inform Contractor within 14 days of its intent to assess penalties for such event, and must bill for such penalties within 31 days of its assessment. Failure to either timely notify or bill Contractor shall relieve Contractor of its obligation to pay liquidated damages for the particular event.

- 20.2 This section will not be invoked when weather conditions or circumstances exist over which the Contractor or the driver has no control. Safety of students must at all times take precedence over all other things, including but not limited to the time schedule.
- 20.3 If Contractor fails to perform services as required, Contractor shall be liable to District for all costs and damages incurred by District as a result of non-service. District reserves the right to take whatever action is required to restore service and the Contractor shall be liable for all reasonable costs incurred by the District.
- 20.4 Contractor will be responsible for the costs of hiring replacement drivers necessitated by labor strife, of whatever kind, to fulfill the conditions of the Agreement. Contractor and replacement drivers will be held to the same standards and conditions as set forth herein.

SECTION 21: SURVIVAL

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

SECTION 22: STATUS OF CONTRACTOR

- 22.1 In the interpretation of this Agreement and the relations between Contractor and District, Contractor shall be construed as being an independent contractor employed to provide transportation services only. Contractor and its employees shall not be authorized or empowered to bind the District in any way. 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. Contractor and its employees shall have no claim against the District hereunder for vacation pay, sick leave, retirement benefits, social security, workers' compensation, health or disability benefits, unemployment insurance benefits, or employee benefits of any kind, nor can the Contractor and/or its employees be considered an employee for purposes of any claims arising under applicable federal law and the Commonwealth of

Pennsylvania Employment Discrimination Laws, including but not limited to Title VII, FMLA, ADA, ADEA, or PHRA.

SECTION 23: SEVERABILITY

- 23.1 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 24: EXTENSION AND MODIFICATION

- 24.1 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 25: NOTICE TO PARTIES

- 25.1 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:

Bristol Township School District
6401 Mill Creek Road
Levittown, Pennsylvania, 19057
c/o Gerald Barcik, School District Business Manager

Notices to Contractor shall be addressed to:

Randy S. Williams, Sr.
Regional Operations Manager
Eastern Pennsylvania Region
First Student
3130 Route 100
Macungie, PA 18062

With a copy to:

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

- 25.2 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 26: DISPUTE RESOLUTION

- 26.1 Any dispute or proceeding requiring judicial intervention or adjudication shall be conducted exclusively by the Court of Common Pleas of Bucks County, Pennsylvania and the Appellate Courts of the Commonwealth of Pennsylvania and District and Contractor herewith consent to said exclusive jurisdiction and exclusive venue and any and all legal proceedings involving directly or indirectly any matter arising out of or relating to this Agreement.

SECTION 27: ENTIRE AGREEMENT

- 27.1 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 28: COMPLIANCE WITH THE LAW

- 28.1 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 29: PLACE OF CONTRACT/CONTROLLING LAW

- 29.1 This Agreement shall be governed by the regulations of the Secretary of the Pennsylvania Department of Education, the laws of the Commonwealth of Pennsylvania, U.S. Federal Government, the rules and regulations of the District, Public School Code of 1949 (24 P.S. 1-102-27-2702), and regulations adopted by the Bureau of Motor Vehicles of the Department of Transportation of the Commonwealth.

SECTION 30: AUTHORITY

- 30.1 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.

September 15, 2009

August 25, 2009

First Student, Inc.

By: [Signature]
Title: Region Vice President

Attest:

By: Julie Christensen
Title: Exec. Asst.

Bristol Township School District

By: [Signature]
Title: President

Attest:

By: Maryann Wagner
Title: Secretary