



The State of New Hampshire
Department of Environmental Services



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Robert R. Scott, Commissioner

August 4, 2021

His Excellency, Governor Christopher T. Sununu
 and the Honorable Council
 State House
 Concord, New Hampshire 03301

REQUESTED ACTION

Authorize the Department of Environmental Services to amend a Diesel Emissions Reduction Act (DERA) State Clean Diesel grant (PO# 1079918) to First Student, Inc. (VC# 177801-B001), Cincinnati, OH, by extending the completion date to September 30, 2022 from March 31, 2022, effective upon Governor & Council approval through September 30, 2022. No additional funding is involved in this time extension. The original grant was approved by G&C on June 2, 2021, Item #94. 45% federal DERA funds, 55% Volkswagen Trust funds.

EXPLANATION

We are requesting approval of this no-cost grant amendment in order to provide First Student, Inc. additional time to complete the agreed upon project to replace thirteen (13) engine model year 2004 to 2007 school buses. Extension of the completion date to September 30, 2022 will allow First Student, Inc. the time necessary to procure the new buses, whose availability has been negatively impacted due to manufacturer building and supply delays.

To date, no funds of the \$289,468 DERA grant have been spent. In the event that grant funds become no longer available, General funds will not be requested to support this program. This amendment has been approved by the Office of the Attorney General as to form, substance and execution.

We respectfully request your approval of this item.


 Robert R. Scott, Commissioner

AMENDMENT No. 1

Grant Number: 00A00175-2020-004
Project Title: NH Clean Diesel Program Agreement with
First Student, Inc. – School Bus Replacement Project
Subgrant Program for Diesel Emissions Reduction Projects
Federal Award Identification Number (FAIN): 00A00175
(Awarded September 21, 2020)
CFDA Number and Name: 66.040, State Clean Diesel Grant Program

This Agreement (hereinafter called the Amendment) dated this 9th day of August, 2021 is by and between the New Hampshire Department of Environmental Services (NHDES) and First Student, Inc. (hereinafter referred to as the Grantee), 600 Vine St. Suite 1400, Cincinnati, OH 45202.

WHEREAS, pursuant to an Agreement (hereinafter called the Agreement) approved by the Governor and Council on June 2, 2021, the Grantee agreed to undertake the replacement of 13 school buses upon the terms and conditions specified in the Agreement and in consideration of payment by NHDES of a certain sum as specified therein; and

WHEREAS, the Grantee and NHDES have agreed to amend the Agreement in certain respects;

NOW THEREFORE, in consideration of the foregoing, and the covenants and conditions contained in the Agreement and set forth herein, the parties hereto do hereby agree as follows:

1. Amendment and Modification of Agreement: The Agreement is hereby amended as follows:

(A) The Completion Date as set forth in sub-paragraph 1.6 of the Agreement shall be changed from March 31, 2022 to September 30, 2022.

2. Effective Date of Amendment: This Amendment shall take effect upon the date of approval of this Amendment by the Governor and Executive Council of the State of New Hampshire.
3. Continuance of Agreement: Except as specifically amended and modified by the terms and conditions of this Amendment, the Agreement, and the obligations of the parties thereunder, shall remain in full force and effect in accordance with the terms and conditions set forth therein.

IN WITNESS WHEREOF, the parties have hereunto set their hands as of the day and year first above written.

FIRST STUDENT, INC.

By *Brian Beechem*
(Signature of Certifying Officer)
Brian Beechem
Asst. Secretary

Notarization

State of Ohio

County of Hamilton

On July 27, 2021, before me, Andrew Pugh
Date Name of Notary or Justice of the Peace

the undersigned officer, personally appeared Brian Beechem, who
Printed Name of Certifying Officer

acknowledged him/herself to be the Asst. Secretary, of First Student, Inc.
Office/Position Name of Company

and that she/he, being authorized to do so, executed the foregoing instrument for the purposes therein contained.

In witness hereof, I hereunto set my hand and official seal.

Andrew Pugh
Notary Public or Justice of the Peace

Commission Expires: 5-20-24
Affix seal ANDREW WESLEY PUGH
Notary Public, State of Ohio
My Commission Expires 05-20-2024



THE STATE OF NEW HAMPSHIRE
Department of Environmental Services

By: *Robert R. Scott*
Robert R. Scott, Commissioner

Approved by Attorney General this 16th day of August 2021, as to form, substance and execution.

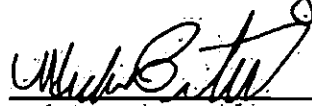
OFFICE OF ATTORNEY GENERAL
Robert R. Scott

Certificate of Authority

I, Michael Petrucci, Secretary of First Student, Inc. do
Printed Name of Certifying Officer Title Name of Company

hereby certify that Brian Beechem is authorized to execute any documents
Printed Name of Person Authorized to sign
that may be necessary to enter into a contract with the State of New Hampshire.

In witness whereof, I have hereunto set my hand as the Secretary,
Office/Position of Certifying Officer
of First Student, Inc., this 27th day of July, 2021.
Name of Company



Signature of Certifying Officer

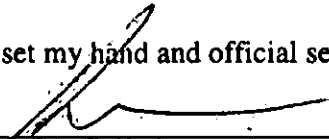
Notarization

State of Ohio
County of Hamilton.

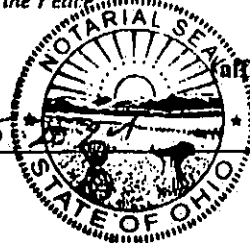
On 7-22-21, before me, Andrew Pugh,
Date Name of Notary or Justice of the Peace

the undersigned officer, personally appeared Michael Petrucci, who
Printed Name of Certifying Officer
acknowledged him/herself to be the Secretary, of First Student, Inc.,
Office/Position Name of Company
and that she/he, being authorized to do so, executed the foregoing instrument for the
purposes therein contained.

In witness hereof, I hereunto set my hand and official seal.


Notary Public or Justice of the Peace

Commission Expires: _____



(affix seal)
ANDREW WESLEY PUGH
Notary Public, State of Ohio
My Commission Expires 05-20-2024



CERTIFICATE OF LIABILITY INSURANCE

DATE(MM/DD/YYYY)
03/18/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Aon Risk Services Northeast, Inc. c/o Aon Client Services 4 Overlook Point Lincolnshire IL 60069 USA	CONTACT NAME: PHONE (A/C. No. Ext.): (866) 283-7122 FAX (A/C. No.): (800) 363-0105		
	E-MAIL ADDRESS:		
INSURED First Student Inc 600 Vine Street Suite 1400 Cincinnati OH 45202 USA	INSURER(S) AFFORDING COVERAGE		NAIC #
	INSURER A: National Union Fire Ins Co of Pittsburgh		19445
	INSURER B: AIU Insurance Company		19399
	INSURER C: New Hampshire Insurance Company		23841
	INSURER D: AIG Specialty Insurance Company		26883
	INSURER E: ACE Property & Casualty Insurance Co.		20699
INSURER F:			

COVERAGES **CERTIFICATE NUMBER:** 570086419945 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS. Limits shown are as requested

INSR ITR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input checked="" type="checkbox"/> LOC OTHER:			GL3629890	04/01/2021	10/01/2021	EACH OCCURRENCE \$10,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$5,000,000 MED EXP (Any one person) Excluded PERSONAL & ADV INJURY \$10,000,000 GENERAL AGGREGATE \$10,000,000 PRODUCTS - COMP/OP AGG \$10,000,000
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY			CA1921809 AOS CA1921808 VA CA1921810 MA	04/01/2021 04/01/2021 04/01/2021	10/01/2021 10/01/2021 10/01/2021	COMBINED SINGLE LIMIT (Ea accident) \$10,000,000 BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)
E	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION			XEUG71795093002 SIR applies per policy terms & conditions	04/01/2021	04/01/2022	EACH OCCURRENCE \$15,000,000 AGGREGATE \$15,000,000
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR / PARTNER / EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		Y/N N	WC014649551 WC014649548 WC014649547 WC014649549	04/01/2021 04/01/2021 04/01/2021 04/01/2021	10/01/2021 10/01/2021 10/01/2021 10/01/2021	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH EL EACH ACCIDENT \$5,000,000 EL DISEASE-EA EMPLOYEE \$5,000,000 EL DISEASE-POLICY LIMIT \$5,000,000
A	EXCESS WC			XWC6583124 SIR applies per policy terms & conditions	04/01/2021	10/01/2021	EL Each Accident \$5,000,000 EL Disease - Policy \$5,000,000 EL Disease - Ea Emp \$5,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
 Certificate Holder Includes: New Hampshire Department of Environmental Services (NHDES), Grants Manager - Air Resources Division, Attn: Jessica Wilcox, Coordinator, Granite State Clean Cities Coalition (GSCCC). Sexual Abuse and Molestation Coverage is included under the General Liability policy. New Hampshire Department of Environmental Services (NHDES), RBS Asset Finance, Inc. and its successors and assigns are included as Additional Insured in accordance with the policy provisions of the General Liability and Automobile Liability policies. General Liability and Automobile Liability policies evidenced herein is Primary and Non-Contributory to other insurance available to Additional Insured, but only in accordance with the policy's provisions. A Waiver of Subrogation is granted in favor of Certificate Holder in accordance with the policy provisions of the

CERTIFICATE HOLDER

CANCELLATION

New Hampshire Department of Environmental Services (NHDES) Attn: Jessica Wilcox 29 Hazen Drive PO Box 95 Concord NH 03302-0095 USA	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE <i>Aon Risk Services Northeast Inc</i>

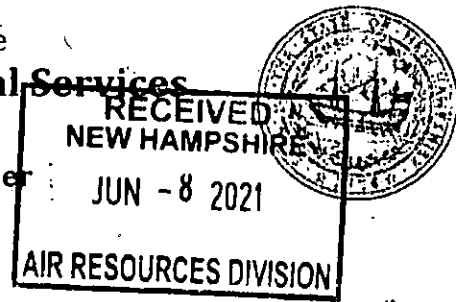
Holder Identifier: 570086419945 Certificate No.: 570086419945



The State of New Hampshire
Department of Environmental Services

Robert R. Scott, Commissioner

May 3, 2021



His Excellency, Governor Christopher T. Sununu
and the Honorable Council
State House
Concord, New Hampshire 03301

APPROVED G & C

DATE 2 June 2021
ITEM # 94

REQUESTED ACTION

Authorize the Department of Environmental Services (NHDES) to enter into a grant agreement with First Student, Inc., Cincinnati, Ohio (VC# 177801-B001) in the amount of \$289,468.00 for partial funding of diesel school bus replacements, effective upon Governor and Council approval through March 31, 2022. 45% Federal Funds, 55% VW Settlement Funds.

Funding is available in the account as follows:

03-44-44-443010-2278-072-500572
Dept. of Environmental Services, DERA Funds, Grants Federal

FY 2021
\$289,468.00

EXPLANATION

Under the Diesel Emission Reduction Act (DERA) the U.S. Environmental Protection Agency (EPA) provides funding to states for projects that reduce harmful emissions produced by older diesel engines, including replacement of vehicles. The new vehicles must meet more stringent emissions standards. Utilizing federal EPA funds, matched with funding from New Hampshire's Volkswagen Environmental Mitigation Trust Fund, NHDES had \$750,000 available for grants.

A request for proposal (RFP) was conducted from November 17, 2020 through January 19, 2021. Nine entities applied for funding. Three proposals were approved for funding (see Attachment A for the scoring results), one of which was withdrawn. First Student requested partial funding to replace thirteen (13) engine model year 2006 to 2007 school buses. The 13 buses have an average age of just over 15 years, an average of 174,243 miles of operation and are listed as being in fair condition. They operate in a cold weather environment and are typically operated in a dual startup/shutdown mode (a morning run and an afternoon run) each operating day which increases wear and tear on the engine. School buses are also typically inactive for extended periods of time thus mileage is typically accrued over shorter operating times. The characteristics of the 13 school buses are shown in Figure 1.

His Excellency, Governor Christopher T. Sununu
and the Honorable Council

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The DERA program has mandatory minimum cost share requirements for a vehicle replacement project of 75 percent. NHDES will provide a grant of the lesser of \$289,468.00 or 25 percent of the total replacement cost (estimated \$1,157,871.00) to First Student, Inc. for the replacement of 13 school buses.

This agreement has been approved as to form, substance, and execution by the Office of the Attorney General. In the event that Federal funds become no longer available General funds will not be requested to support this program.

We respectfully request your approval.

A handwritten signature in black ink, appearing to read "Robert R. Scott", written over a horizontal line.

Robert R. Scott
Commissioner

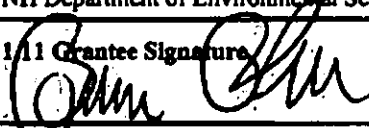

Subject: First Student, Inc. School Bus Replacement Project

GRANT AGREEMENT

The State of New Hampshire and the Grantee hereby mutually agree as follows:

GENERAL PROVISIONS

1. IDENTIFICATIONS

1.1 State Agency Name NH Department of Environmental Services		1.2 State Agency Address 29 Hazen Drive, Concord, NH 03302-0095	
1.3 Grantee Name: First Student, Inc.		1.4 Grantee Address 600 Vine St. Suite 1400, Cincinnati, OH 45202	
1.5 Effective Date Upon G&C approval	1.6 Completion Date 3/31/2022	1.7 Audit Date N/A	1.8 Grant Limitation \$289,468.00
1.9 Grant Officer for State Agency Jessica Wilcox, Transportation Program Specialist NH Department of Environmental Services		1.10 State Agency Telephone Number (603) 271-6751	
1.11 Grantee Signature 		1.12 Name & Title of Grantee Signor Brian Beechem, Asst. Secretary	
1.13 Acknowledgment: State of <u>Ohio</u> , County of <u>Hamilton</u> On <u>04/02/2021</u> , before the undersigned officer, personally appeared the person identified in block 1.12., or satisfactorily proven to be the person whose name is signed in block 1.11., and acknowledged that s/he executed this document in the capacity indicated in block 1.12.			
1.13.1 Signature of Notary Public or Justice of the Peace  My Commission Expires <u>1/1</u>			
1.13.2 Name & Title of Notary Public or Justice of the Peace Michael Petrucci, Notary Public			
1.14 State Agency Signature(s)		1.15 Name/Title of State Agency Signor(s) Robert R. Scott, Commissioner	
1.16 Approval by Attorney General's Office (Form, Substance and Execution) By: _____ Attorney, On: / /			
1.17 Approval by the Governor and Council By: _____ On: / /			

Initials 

Contractor

Date 4/2/2021

2. **SCOPE OF WORK.** In exchange for grant funds provided by the state of New Hampshire, acting through the agency identified in block 1.1 (hereinafter referred to as "the State"), pursuant to RSA 21-O, the Grantee identified in block 1.3 (hereinafter referred to as "the Grantee"), shall perform that work identified and more particularly described in the scope of work attached hereto as EXHIBIT A (the scope of work being referred to as "the Project").

3. **AREA COVERED.** Except as otherwise specifically provided for herein, the Grantee shall perform the Project in, and with respect to, the state of New Hampshire.

4. **EFFECTIVE DATE; COMPLETION OF PROJECT.**

4.1 This Agreement, and all obligations of the parties hereunder, shall become effective on the date in block 1.5 or on the date of approval of this Agreement by the Governor and Council of the State of New Hampshire whichever is later (hereinafter referred to as "the Effective Date").

4.2 Except as otherwise specifically provided for herein, the Project, including all reports required by this Agreement, shall be completed in ITS entirety prior to the date in block 1.6 (hereinafter referred to as "the Completion Date").

5. **GRANT AMOUNT; LIMITATION ON AMOUNT; VOUCHERS; PAYMENT.**

5.1 The Grant Amount is identified and more particularly described in EXHIBIT B, attached hereto.

5.2 The manner of, and schedule of payment shall be as set forth in EXHIBIT B.

5.3 In accordance with the provisions set forth in EXHIBIT B, and in consideration of the satisfactory performance of the Project, as determined by the State, and as limited by subparagraph 5.5 of these general provisions, the State shall pay the Grantee the Grant Amount. The State shall withhold from the amount otherwise payable to the Grantee under this subparagraph 5.3 those sums required, or permitted, to be withheld pursuant to N.H. RSA 80:7 through 7-c.

5.4 The payment by the State of the Grant amount shall be the only, and the complete, compensation to the Grantee for all expenses, of whatever nature, incurred by the Grantee in the performance hereof, and shall be the only, and the complete, compensation to the Grantee for the Project. The State shall have no liabilities to the Grantee other than the Grant Amount.

5.5 Notwithstanding anything in this Agreement to the contrary, and notwithstanding unexpected circumstances, in no event shall the total of all payments authorized, or actually made, hereunder exceed the Grant limitation set forth in block 1.8 of these general provisions.

6. **COMPLIANCE BY GRANTEE WITH LAWS AND REGULATIONS.**

In connection with the performance of the Project, the Grantee shall comply with all statutes, laws, regulations, and orders of federal, state, county, or municipal authorities which shall impose any obligations or duty upon the Grantee, including the acquisition of any and all necessary permits.

7. **RECORDS AND ACCOUNTS.**

7.1 Between the Effective Date and the date seven (7) years after the Completion Date the Grantee shall keep detailed accounts of all expenses incurred in connection with the Project, including, but not limited to, costs of administration, transportation, insurance, telephone calls, and clerical materials and services. Such accounts shall be supported by receipts, invoices, bills and other similar documents.

7.2 Between the Effective Date and the date seven (7) years after the Completion Date, at any time during the Grantee's normal business hours, and as often as the State shall demand, the Grantee shall make available to the State all records pertaining to matters covered by this Agreement. The Grantee shall permit the State to audit, examine, and reproduce such records, and to make audits of all contracts, invoices, materials, payrolls, records or personnel, data (as that term is hereinafter defined), and other information relating to all matters covered by this Agreement. As used in this paragraph, "Grantee" includes all persons, natural or fictional,

affiliated with, controlled by, or under common ownership with, the entity identified as the Grantee in block 1.3 of these general provisions.

8. **PERSONNEL.**

8.1 The Grantee shall, at its own expense, provide all personnel necessary to perform the Project. The Grantee warrants that all personnel engaged in the Project shall be qualified to perform such Project, and shall be properly licensed and authorized to perform such Project under all applicable laws.

8.2 The Grantee shall not hire, and it shall not permit any subcontractor, subgrantee, or other person, firm or corporation with whom it is engaged in a combined effort to perform such Project, to hire any person who has a contractual relationship with the State, or who is a State officer or employee, elected or appointed.

8.3 The Grant officer shall be the representative of the State hereunder. In the event of any dispute hereunder, the interpretation of this Agreement by the Grant Officer, and his/her decision on any dispute, shall be final.

9. **DATA; RETENTION OF DATA; ACCESS.**

9.1 As used in this Agreement, the word "data" shall mean all information and things developed or obtained during the performance of, or acquired or developed or obtained during the performance of, or acquired or developed by reason of, this Agreement, including, but not limited to, all studies, reports, files, formulae, surveys, maps, charts, sound recordings, video recordings, pictorial reproductions, drawings, analyses, graphic representations, computer programs, computer printouts, notes, letters, memoranda, papers, and documents, all whether finished or unfinished.

9.2 Between the Effective Date and the Completion Date the Grantee shall grant to the State, or any person designated by it, unrestricted access to all data for examination, duplication, publication, translation, sale, disposal, or for any other purpose whatsoever.

9.3 No data shall be subject to copyright in the United States or any other country by anyone other than the State.

9.4 On and after the Effective Date all data, and any property which has been received from the State or purchased with funds provided for that purpose under this Agreement, shall be the property of the State, and shall be returned to the State upon demand or upon termination of this Agreement for any reason, whichever shall first occur.

9.5 The State, and anyone it shall designate, shall have unrestricted authority to publish, disclose, distribute and otherwise use, in whole or in part, all data.

10. **CONDITIONAL NATURE OF AGREEMENT.**

Notwithstanding anything in this Agreement to the contrary, all obligations of the State hereunder, including without limitation, the continuance of payments hereunder, are contingent upon the availability or continued appropriation of funds, and in no event shall the State be liable for any payments hereunder in excess of such available or appropriated funds. In the event of a reduction or termination of those funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate this Agreement immediately upon giving the Grantee notice of such termination.

11. **EVENT OF DEFAULT; REMEDIES.**

11.1 Any one or more of the following acts or omissions of the Grantee shall constitute an event of default hereunder (hereinafter referred to as "Events of Default"):

11.1.1 failure to perform the Project satisfactorily or on schedule; or

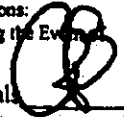
11.1.2 failure to submit any report required hereunder; or

11.1.3 failure to maintain, or permit access to, the records required hereunder; or

11.1.4 failure to perform any of the other covenants and conditions of this Agreement.

11.2 Upon the occurrence of any Event of Default, the State may take any one, or more, or all, of the following actions:

11.2.1 give the Grantee a written notice specifying the Event of


4/2/2021

Default and requiring it to be remedied within, in the absence of a greater or lesser specification of time, thirty (30) days from the date of the notice; and if the Event of Default is not timely remedied, terminate this Agreement, effective two (2) days after giving the Grantee notice of termination; and

11.2.2 give the Grantee a written notice specifying the Event of Default and suspending all payments to be made under this Agreement and ordering that the portion of the Grant Amount which would otherwise accrue to the grantee during the period from the date of such notice until such time as the State determines that the Grantee has cured the Event of Default shall never be paid to the Grantee; and

11.2.3 set off against any other obligation the State may owe to the Grantee any damages the State suffers by reason of any Event of Default; and

11.2.4 treat the agreement as breached and pursue any of its remedies at law or in equity, or both.

12. TERMINATION.

12.1 In the event of any early termination of this Agreement for any reason other than the completion of the Project, the Grantee shall deliver to the Grant Officer, not later than fifteen (15) days after the date of termination, a report (hereinafter referred to as the "Termination Report") describing in detail all Project Work performed, and the Grant Amount earned, to and including the date of termination.

12.2 In the event of Termination under paragraphs 10 or 12.4 of these general provisions, the approval of such a Termination Report by the State shall entitle the Grantee to receive that portion of the Grant amount earned to and including the date of termination.

12.3 In the event of Termination under paragraphs 10 or 12.4 of these general provisions, the approval of such a Termination Report by the State shall in no event relieve the Grantee from any and all liability for damages sustained or incurred by the State as a result of the Grantee's breach of its obligations hereunder.

12.4 Notwithstanding anything in this Agreement to the contrary, either the State or except where notice default has been given to the Grantee hereunder, the Grantee, may terminate this Agreement without cause upon thirty (30) days written notice.

13. CONFLICT OF INTEREST. No officer, member or employee of the Grantee and no representative, officer of employee of the State of New Hampshire or of the governing body of the locality or localities in which the Project is to be performed, who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of such Project, shall participate in any decision relating to this Agreement which affects his or her personal interests or the interest of any corporation, partnership, or association in which he or she is directly or indirectly interested, nor shall he or she have any personal or pecuniary interest, direct or indirect, in this Agreement or the proceeds thereof.

14. GRANTEE'S RELATION TO THE STATE. In the performance of this Agreement, the Grantee, its employees, and any subcontractor or subgrantee of the Grantee are in all respects independent contractors, and are neither agents nor employees of the State. Neither the Grantee nor any of its officers, employees, agents, members, subcontractors or subgrantees, shall have authority to bind the State nor are they entitled to any of the benefits, worker's compensation or emoluments provided by the State to its employees.

15. ASSIGNMENT AND SUBCONTRACTS. The Grantee shall not assign, or otherwise transfer any interest in this Agreement without the prior written consent of the State. None of the Project Work shall be subcontracted or subgranted by the Grantee other than as set forth in Exhibit A without the prior written consent of the State.

16. INDEMNIFICATION. The Grantee shall defend, indemnify and hold harmless the State, its officers and employees, from and against any and all losses suffered by the State, its officers and employees, and any and all claims, liabilities or penalties asserted against the State, its officers and employees, by or on behalf of any

person, on account of, based on, resulting from, arising out of (or which may be claimed to arise out of) the acts or omissions of the Grantee of Subcontractor, or subgrantee or other agent of the Grantee. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the State, which immunity is hereby reserved to the State. This covenant shall survive the termination of this agreement.

17. INSURANCE AND BOND.

17.1 The Grantee shall, at its sole expense, obtain and maintain in force, or shall require any subcontractor, subgrantee or assignee performing Project work to obtain and maintain in force, both for the benefit of the State, the following insurance:

17.1.1 statutory worker's compensation and employees liability insurance for all employees engaged in the performance of the Project, and

17.1.2 comprehensive public liability insurance against all claims of bodily injuries, death or property damage, in amounts not less than \$2,000,000 for bodily injury or death any one incident, and \$500,000 for property damage in any one incident; and

17.2 The policies described in subparagraph 17.1 of this paragraph shall be the standard form employed in the State of New Hampshire, issued by underwriters acceptable to the State, and authorized to do business in the State of New Hampshire. Each policy shall contain a clause prohibiting cancellation or modification of the policy earlier than ten (10) days after written notice has been received by the State.

18. WAIVER OF BREACH. No failure by the State to enforce any provisions hereof after any Event of Default shall be deemed a waiver of its rights with regard to that Event, or any subsequent Event. No express waiver of any Event of Default shall be deemed a waiver of any provisions hereof. No such failure or waiver shall be deemed a waiver of the right of the State to enforce each and all of the provisions hereof upon any further or other default on the part of the Grantee.

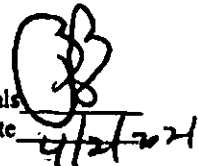
19. NOTICE. Any notice by a party hereto to the other party shall be deemed to have been duly delivered or given at the time of mailing by certified mail, postage prepaid, in a United States Post Office addressed to the parties at the addresses first above given.

20. AMENDMENT. This agreement may be amended, waived or discharged only by an instrument in writing signed by the parties hereto and only after approval of such amendment, waiver or discharge by the Governor and Council of the State of New Hampshire.

21. CONSTRUCTION OF AGREEMENT AND TERMS. This Agreement shall be construed in accordance with the law of the State of New Hampshire, and is binding upon and inures to the benefit of the parties and their respective successors and assignees. The captions and contents of the "subject" blank are used only as a matter of convenience, and are not to be considered a part of this Agreement or to be used in determining the intent of the parties hereto.

22. THIRD PARTIES. The parties hereto do not intend to benefit any third parties and this Agreement shall not be construed to confer any such benefit.

23. ENTIRE AGREEMENT. This Agreement, which may be executed in a number of counterparts, each of which shall be deemed an original, constitutes the entire agreement and understanding between the parties, and supersedes all prior agreements and understandings relating hereto.

Handwritten initials and date: 4/2/22

**EXHIBIT A
PROJECT SCOPE OF WORK**

Grant Number: 00A00175-2020-004
Project Title: NH Clean Diesel Program Agreement with
First Student, Inc. – School Bus Replacement Project
Subgrant Program for Diesel Emissions Reduction Projects
Federal Award Identification Number (FAIN): 00A00175
(Awarded September 21, 2020)
CFDA Number and Name: 66.040, State Clean Diesel Grant Program

This Scope of Services describes activities that have been agreed to between the New Hampshire Department of Environmental Services (NHDES) and First Student, Inc. (Vendor Code #177801-B001) for school buses that operate in Nashua, NH to reduce diesel emissions in the State using funds available via the New Hampshire State Clean Diesel Grant Program funded by the U.S. Environmental Protection Agency (EPA).


The project activities will be carried out in Nashua, NH by the First Student, Inc. (hereinafter referred to as First Student), 600 Vine St. Suite 1400, Cincinnati, OH 45202.

This agreement will become effective upon approval by Governor and Council. The project completion date is March 31, 2022, with additional reporting requirements through 2027.

NHDES and First Student will undertake under this Agreement the replacement of 13 school buses.

For the purposes of this Agreement, NHDES and First Student agree to the requirements to the following:

1. NHDES shall assign the appropriate staff to coordinate this project with First Student.
2. First Student shall purchase school buses as replacements for school buses identified in the attached list.
3. The replacement school buses will be powered by MY 2021 or newer EPA certified heavy-duty diesel engines.
4. The replacement buses must be of the same vehicle class as the original buses and operate in the same manner over similar routes as the replaced buses, unless otherwise approved by the EPA.
5. NHDES shall reimburse First Student 25 percent of the eligible expenses, or \$289,468.00 whichever is less.
6. Eligible expenses under this grant include the cost of the school buses only.


Date 4/2/2021

7. Other expenses including, but not limited to "optional" components or "add-ons" to the vehicle, vehicle registration, scrapping of replaced vehicle, engineering, project management, and personnel costs are not eligible expenses.
8. First Student shall provide NHDES with the following information on each bus to be replaced prior to purchasing the new vehicle:
 - a. Annual miles driven
 - b. Annual fuel use and fuel type
 - c. Annual idling hours
 - d. Vehicle Identification Number (VIN)
 - e. Engine Model Year
 - f. Gross Vehicle Weight Rating (GVWR)
 - g. Vehicle Class
 - h. Engine Manufacturer
 - i. Engine Serial Number
 - j. Engine Family Number
 - k. Description of routes or typical use
9. The replaced buses shall be taken out of service no later than 15 days following the placement into service of the replacement vehicles.
10. The replaced buses will be scrapped within 90 days from the date each replacement is put into service.
11. First Student shall use the replacement buses in normal service for a period of no less than five (5) years. In the event that First Student sells or surpluses any replacement bus within five years of the effective date of this contract First Student shall follow the guidelines set forth in Title 2 Code of Federal Regulations, Subtitle A, Section 200.313, and shall reimburse the State of New Hampshire in accordance with the depreciation table below.

Project: First Student School Bus Replacement Grant

	Percent Value Remaining	Total Grant per Bus	Value to be Returned to NHDES
Year 1 value	20	\$22,266.77	\$4,453.35
Year 2 value	16	\$22,266.77	\$3,562.68
Year 3 value	12.8	\$22,266.77	\$2,850.15
Year 4 value	10.2	\$22,266.77	\$2,271.21
Year 5 value	7.6	\$22,266.77	\$1,692.27

Note: Depreciation of grant is calculated based on a total grant of \$289,468.00 for 13 vehicles.

12. First Student shall:
 - a. Register the replacement school buses in accordance with New Hampshire law;
 - b. Maintain the replacement school buses in accordance with manufacturer recommendations;
 - c. Not make modifications of the emission controls system on the replacement school buses or engines; and,

Grantee initials

Date

BB
4/2/2021

- d. Make the school buses and related documents (including maintenance records) available for follow-up inspection for five years from date of grant approval, if requested by EPA or NHDES.
13. First Student shall scrap the school buses being replaced or render them permanently disabled. NHDES shall be allowed the opportunity to witness the destruction of the engines and the chassis with a two week (minimum) advance notice of the event. The replaced school buses may be permanently disabled by:
 - a. Creating a minimum 3" diameter hole completely through the engine block; and
 - b. Cutting the chassis rail in half.
14. First Student shall supply documentation confirming the scrappage requirements have been met for the school buses. The documentation must be signed by the authorized representative listed on the grant application form or other duly authorized representative. The documentation must include:
 - a. The date the school buses were scrapped;
 - b. The engine model year, engine family name, engine serial number, and VIN for the school buses;
 - c. The name and contact information for the entity that scrapped the school buses, if other than the grantee; and
 - d. Photographic images of the following for each of the school buses:
 - i. Side profile of the school bus;
 - ii. Vehicle Identification Number (VIN);
 - iii. The engine tag that includes the engine serial number and engine family number (if available);
 - iv. Chassis rail cut in half;
 - v. Engine block prior to destruction; and
 - vi. Engine block after destruction.

Scrappage may be completed by First Student or by a salvage yard or similar service, provided all scrappage requirements have been met and all necessary documentation provided.

15. First Student shall submit **Quarterly Project Status Reports** to NHDES within 15 days after the end of each calendar quarter, beginning the Effective Date of the Agreement for a period of two years following vehicle acquisition. Quarterly Project Status Reports shall include sufficient information for NHDES to estimate the emissions reductions attributable to the school bus replacements, including:
 - a. The amount of fuel used during the preceding quarter;
 - b. The number of miles each vehicle was used in the preceding quarter; and
 - c. The estimated amount of idling experienced in the preceding quarter.
16. First Student shall submit **Annual Project Status Reports** to NHDES by January 15th of each year, beginning one year from the last quarterly report, for a period of three years including, but not limited to:
 - a. The amount of fuel used during the preceding year;
 - b. The number of miles each vehicle was used in the preceding year; and
 - c. The estimated amount of idling the vehicle experienced in the preceding year.

17. First Student shall not use grant funds for any costs not specified in this Exhibit A, Scope of Services. First Student shall complete all activities, reports, and work products specified herein.
18. This Agreement may be terminated for good cause by any one of the parties or for convenience if all parties agree, with the provision for orderly termination of the project. Termination of the Agreement shall not occur until thirty (30) days after a "notice of termination" has been received by the other party. Said notice shall specify the cause for termination.
19. Should First Student terminate this Agreement for other than good cause prior to completion of all obligations specified in Exhibit A, First Student will reimburse the State of New Hampshire for any funds received.

Grantee initial 
Date 4/2/2021

**EXHIBIT B
PAYMENT SCHEDULE**

- 1) Payments under this agreement are not to exceed \$289,468.00 or 25 percent of eligible project costs, whichever is less.
- 2) NHDES will reimburse First Student for eligible expenses provided First Student is in compliance with all recordkeeping and reporting requirements in Exhibit A.
- 3) Invoices may be submitted for reimbursement upon payment and shall include the following:
 - a) Payment request on First Student letterhead with the following information for each replacement vehicle and each replaced vehicle:
 - i) Vehicle Identification Number (VIN);
 - ii) Engine and vehicle model year;
 - iii) Engine and vehicle manufacturer;
 - iv) Engine serial number;
 - v) Engine family number;
 - vi) Vehicle's class;
 - vii) Fuel type; and
 - viii) Cost of vehicle replacement.
 - b) A copy of all vendor invoices;
 - c) A copy of cancelled checks or other documents verifying payment;
 - d) A copy of the new school bus registrations;
 - e) Proof of scrappage as per Exhibit A; Sections 13-14; and
 - f) Contact information for any questions related to reimbursement requests.
- 4) NHDES will process complete invoices within 30 days of receipt.
- 5) Invoices must be submitted by March 31, 2022. Requests submitted after this date may be denied.
- 6) All obligations of NHDES and the State of New Hampshire are contingent upon availability and continued appropriation of funds for the services.



Date 4/2/2021

**EXHIBIT C
SPECIAL REQUIREMENTS**

Federal Funds paid under this agreement are from a Grant/Contract/Cooperative Agreement to the State from United States Environmental Protection Agency, New Hampshire State Clean Diesel Grant Program under CFDA # 66.040. All applicable requirements, regulations, provisions, terms and conditions of this Federal Grant/Contract/Cooperative Agreement are hereby adopted in full force and effect to the relationship between this Department and the grantee. Additionally, the Grantee shall comply with the terms of the Federal Funding Accountability and Transparency Act (FFATA) by providing DES with their Data Universal Numbering System (DUNS) number.

Grantee initials

Date


4/21/2021

Certificate of Authority

I, Michael Petrucci, Secretary of First Student, Inc. do
Printed Name of Certifying Officer Title Name of Company

hereby certify that Brian Beechem is authorized to execute any documents
Printed Name of Person Authorized to sign
that may be necessary to enter into a contract with the State of New Hampshire.

In witness whereof, I have hereunto set my hand as the Secretary
Office/Position of Certifying Officer
of First Student, Inc., this 6th day of April, 2021
Name of Company



Signature of Certifying Officer

Notarization

State of Ohio
County of Hamilton
On 4/6/2021, before me, Andrew Pugh
Date Name of Notary or Justice of the Peace

the undersigned officer, personally appeared Michael Petrucci, who
Printed Name of Certifying Officer
acknowledged him/herself to be the Secretary, of First Student, Inc.
Office/Position Name of Company
and that she/he, being authorized to do so, executed the foregoing instrument for the
purposes therein contained.

In witness hereof, I hereunto set my hand and official seal.



Notary Public or Justice of the Peace

Commission Expires: _____



ANDREW WESLEY PUGH
Notary Public, State of Ohio
My Commission Expires 05-20-2024

State of New Hampshire

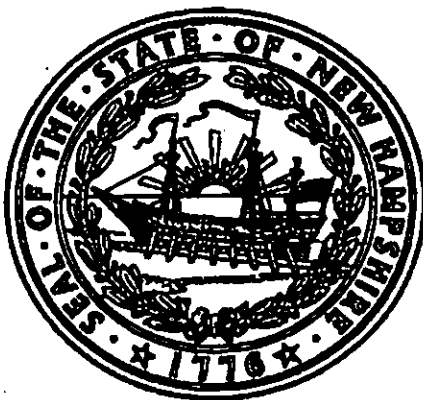
Department of State

CERTIFICATE

I, William M. Gardner, Secretary of State of the State of New Hampshire, do hereby certify that FIRST STUDENT, INC. is a Delaware Profit Corporation registered to transact business in New Hampshire on May 15, 1990. I further certify that all fees and documents required by the Secretary of State's office have been received and is in good standing as far as this office is concerned.

Business ID: 150792

Certificate Number: 0005337826



IN TESTIMONY WHEREOF,

I hereto set my hand and cause to be affixed
the Seal of the State of New Hampshire,
this 2nd day of April A.D. 2021.

A handwritten signature in black ink, appearing to read "William M. Gardner".

William M. Gardner
Secretary of State