

## **LICENSE AGREEMENT FOR BUS OPERATION (YEAR 3 OF 5)**

This License Agreement (“Agreement”) is entered into this **1st day of July, 2021**, by and between the **ALVORD UNIFIED SCHOOL DISTRICT**, a school district organized and existing under the laws of the State of California (the “District”) and **First Student, Inc.**, (“Contractor”). The District and Contractor are sometimes collectively referred to as the “Parties” in this Agreement.

### **RECITALS**

- A. The District entered into a contract with First Student, Inc. (the Contractor) for the provision of transportation and bussing services for the District dated July 1, 2019 (“Bus Contract”).
- B. Pursuant to the Bus Contract, the Contractor requires a suitable facility to maintain, store and operate the buses which will be used by the Contractor to provide the services required under the Bus Contract.
- C. The District currently owns the Bus Yard site and facilities located at 10365 Keller Avenue, Riverside, CA 92505 (the “Bus Yard Site”).
- D. The District is willing to provide the Contractor with a license to access and use the Bus Yard Site for the maintenance and operation of the buses needed for the Contractor’s performance under the Bus Contract, pursuant to the terms and conditions of this Agreement.
- E. This Agreement memorializes the rights and obligations of the District and Contractor with regard to the Contractor’s use of the Bus Yard Site.

### **AGREEMENT**

**NOW, THEREFORE**, in consideration of the terms, conditions and mutual covenants contained herein, the sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. **License to Bus Yard Site.** Subject to the provisions of this Agreement, the District hereby grants the Contractor, its contractors, agents and employees a nonexclusive license for access to, from, on, over, and through the portion of the Bus Yard Site and facilities, which includes approximately 52,050 square feet (see Exhibit A), for the purpose of providing the transportation/bussing services contemplated by the Bus Contract, including but not limited to maintenance, storage, and operation of the buses; provided, however, that this Agreement, and the license granted hereby, shall not interfere with the District’s access to the Bus Yard Site as necessary for District purposes. The District may exercise its right to access the Bus Yard Site at any time without notice to the Contractor.

2. **License Fee.** The Contractor shall pay the District a monthly License Fee of **\$13,261.25** (Thirteen Thousand Two Hundred Sixty One Dollars Twenty Five Cents) per month for the 2021-2022 school year, in advance prior to the first day of each month for the license to

access and use the License Area and Bus Yard Site as described herein. **There will be a 3.0% rate increase every school year from 2020 through 2024. The fee schedule will be as follows:**

- a. Year 2 – July 1, 2020 through June 30, 2021: \$154,500.00 annually or \$12,875 per month.
- b. Year 3 – July 1, 2021 through June 30, 2022: \$159,135.00 annually or \$13,261.25 per month.
- c. Year 4 – July 1, 2022 through June 30, 2023: \$163,909 annually or \$13,659.00 per month.
- d. Year 5 – July 1, 2023 through June 30, 2024: \$168,826 annually or \$14,069.00 per month.

3. **Term.** This Agreement and license shall continue in effect for a period of one (1) year, beginning July 1, 2021, and ending June 30, 2022, or as long as the Bus Contract remains in effect and may be renewed annually, for up to two (2) years upon mutual agreement of the parties; provided, however, that the District may terminate this Agreement at any time by providing thirty (30) days written notice to the Contractor in accordance with Section 12 below.

4. **Property Maintenance.** The Contractor shall maintain the License Area in a neat and orderly condition at all times, and shall perform regular trash pickup and debris removal on the Bus Yard Site, for the duration of this Agreement.

5. **Indemnification.** The Contractor agrees to protect, save, defend, indemnify and hold harmless, with legal counsel of the District's choosing, the District, its governing board and officers from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury, in law or equity, to property or persons, including wrongful death (collectively "Claims"), in any manner arising out of or incident to any act, omission, negligence or misconduct of the Contractor, its directors, employees, agents and volunteers, or of any third parties connection to Contractor's use of the Bus Yard Site, regardless of whether or not the Contractor or any of its agents (whether authorized or unauthorized) has allowed such third parties to use or be on the Bus Yard Site, and including without limitation the payment of reasonable attorneys fees and other related costs and expenses. The Contractor shall reimburse the District, its governing board, officials, employees, agents and volunteers, for any and all legal expenses and costs incurred by each of them in connection with any Claims subject to indemnification by the Contractor, or in enforcing the indemnity herein provided. The Contractor's indemnification obligations shall not be restricted by the amount of insurance proceeds, if any, received by any indemnitee. The Contractor's indemnification obligations shall survive any termination of this Agreement or revocation of the license. The sole limitation on the Contractor's indemnity obligation above is for Claims, attorneys' fees and costs arising due to the sole negligence or willful misconduct of the District, its governing board, officers, employees, agents or volunteers.

5. **Fuel Charges.** As part of the license, Contractor shall be entitled to use the fueling station located on the Bus Yard Site. The Contractor shall reimburse the District for all fuel used by the Contractor at the rate established by the District.

6. **Insurance.** The Contractor, at its their sole cost and expense, shall procure and maintain a general liability insurance policy which shall cover bodily injury (including death) and property damage liability, owned and non-owned equipment, and blanket contractual liability for the Bus Yard Site, subject to review and approval by the District. Such policies shall name the District as an additional insured.

7. **“As Is” Condition.** The Contractor accepts this license subject to the “As Is,” “Where Is” condition of the Bus Yard Site and subject to any condition that may exist, without any representation or warranty by the District. The Contractor acknowledges and agrees that the District makes no representations or warranties, express or implied, as to the Bus Yard Site. The Contractor has conducted all inspections of the Bus Yard Site to its full and complete satisfaction and acknowledges that it will be using the Bus Yard Site with full knowledge of any and all conditions of the Bus Yard Site. The Contractor hereby assumes the risk that certain conditions may exist on the Bus Yard Site and hereby releases the District of and from any and all claims, actions, demands, rights, damages, costs or expenses that might arise out of or in connection with any such condition of the Bus Yard Site.

8. **Environmental Warranty.** The Contractor, and its contractors, agents and employees, shall not use, generate, manufacture, produce, or release, on, under, about or adjacent to the Bus Yard Site any hazardous substance except in compliance with all applicable environmental laws. The Contractor shall give prompt written notice to the District in accordance with Section 12 herein of any proceeding or investigation by any federal, state or local governmental authority with respect to the presence of any hazardous substance on the Bus Yard Site or the migration thereof from or to any other property adjacent to, or in the vicinity of the Bus Yard Site, of all claims made or threatened by any third party against the District or the Bus Yard Site relating to any loss or injury resulting from any hazardous substance, and of any discovery of any occurrence or hazardous condition on any property adjoining or in the vicinity of the Bus Yard Site.

9. **Entire Agreement/Modification.** This Agreement contains the entire agreement of the Parties with respect to a license to use the Bus Yard Site, and supersedes all prior negotiations, understandings or agreements as to a license to use the Bus Yard Site. The terms and conditions of this Agreement may be altered, modified or amended only by written agreement signed by both Parties.

10. **Governing Law.** This Agreement shall be governed by the laws of the State of California. Venue shall be in **Riverside** County.

11. **Counterparts.** This Agreement may be executed in counterparts, each of which shall constitute an original.

12. **Severability.** The invalidity of any portion of this Agreement shall not affect the validity of the remaining portions, which remaining portions shall remain in full force and effect.

13. **Title to Bus Yard Site.** The Parties agree that fee title to all Bus Yard Site shall at all times remain fully vested in the District. Contractor shall not file, record, nor permit the recording or filing of, any lien, including any mechanics or other lien(s), claim(s) or encumbrance(s) of any nature with respect to this license or any portion of the Bus Yard Site, nor shall the Contractor use or permit to be used any portion of the Bus Yard Site, or this license, to be used as security for any transaction of any kind. The Contractor shall immediately remove any lien(s), claim(s) or encumbrance(s) of any kind, including any security obligation of any nature, which the Contractor may cause or permit to be filed or recorded against any portion of the Bus Yard Site. The Contractor's failure to keep the Bus Yard Site free of any and all liens, claims and encumbrances of any nature, including any security obligation, shall constitute a breach of this Agreement entitling the District to immediately revoke this license and institute proceedings in law or in equity against the Contractor. Notwithstanding the foregoing, the Contractor's obligation to remove liens, claims, encumbrances or security obligations pursuant to this Section 18 shall survive any revocation of this license. If the Contractor fails to promptly remove any lien(s), claim(s), encumbrance(s) or security obligation(s) caused or permitted by the Contractor to be filed or recorded against the Bus Yard Site and any judgment is entered thereon or thereunder, the Contractor shall immediately pay that judgment. Should the Contractor fail, neglect, or refuse to promptly remove any lien or claim or to immediately pay any judgment, the District shall have the right, but not the obligation, to pay any amount required to release any such liens or claims, or to defend any action brought on the liens or claims and to pay any judgment entered on the liens or claims; and the Contractor shall be liable to the District for all costs, damages, reasonable attorneys' fees, and any amounts expended in defending any proceedings or in the payment of any of said liens or claims or any judgment obtained therefor. District may invoice the Contractor for any costs incurred by the Contractor's failure to abide by any of its obligations pursuant to this Section 18, and the Contractor shall pay such invoice within no more than thirty (30) calendar days. The Contractor's obligation to indemnify the District pursuant to Section 6 of this Agreement is expressly incorporated by reference into this Section 18.

14. **Counterparts.** This Agreement may be executed in duplicate counterparts, each of which shall be deemed an original.

15. **No Waiver.** No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a party shall give the other party any contractual rights by custom, estoppel, or otherwise.

16. **Exhibits and Recitals.** All Exhibits and Recitals contained herein and attached hereto are material parts of this Agreement and are incorporated as if fully set forth herein by this reference.

**IN WITNESS WHEREOF**, the parties hereto have executed this Agreement as of the day and year first written above.

**ALVORD UNIFIED SCHOOL DISTRICT**

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

Name: Kevin Emenaker

Title: Executive Director, Administrative Svcs.

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

**FIRST STUDENT**

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

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

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

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

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