

**NON-EXCLUSIVE SERVICES AGREEMENT
BETWEEN TEMECULA COMMUNITY SERVICES DISTRICT AND
FIRST STUDENT CHARTER dba FIRST STUDENT INC.
TRANSPORTATION SERVICES**

THIS AGREEMENT is made and effective as of **May 10, 2022** between the Temecula Community Services District, a community services district (hereinafter referred to as "City"), and **First Student Charter dba First Student, Inc., a Corporation**, (hereinafter referred to as "Vendor"). In consideration of the mutual covenants and conditions set forth herein, the parties agree as follows:

1. TERM

This Agreement shall commence on **May 10, 2022**, and shall remain and continue in effect until tasks described herein are completed, but in no event later than **December 31, 2024** unless sooner terminated pursuant to the provisions of this Agreement.

The City may, upon mutual agreement, extend the contract for **two (2) additional one (1) year terms**. In no event shall the contract be extended beyond **December 31, 2026**.

If Agreement is extended beyond the original term, the Agreement price shall be adjusted at the beginning of each fiscal year in accordance with the changes in the Consumer Price Index (CPI) for all Urban Consumers for the Riverside-San Bernardino-Ontario Core Based Statistical Area using the most recently published month annual percentage change.

2. SERVICES

Vendor shall perform the services and tasks described and set forth in Exhibit A, attached hereto and incorporated herein as though set forth in full. Vendor shall complete the tasks in according to the schedule of services which is also set forth in Exhibit A.

Vendor recognizes and agrees that this Agreement is for the purpose of establishing a contractual relationship between the City and the Vendor for the non-exclusive procurement of services outlined on Exhibit A, attached hereto and incorporated herein as though set forth in full. The Vendor understands this Agreement is non-exclusive and the City reserves the right to purchase similar services from other Vendors.

3. PERFORMANCE

Vendor shall faithfully and competently exercise the ordinary skill and competence of members of their profession. Vendor shall employ all generally accepted standards and practices utilized by persons engaged in providing similar services as are required of Vendor hereunder in meeting its obligations under this Agreement.

4. PAYMENT

a. The City agrees to pay Vendor in accordance with the payment rates and terms and the schedule of payment as set forth in Exhibit B, Payment Rates and Schedule,

attached hereto and incorporated herein by this reference as though set forth in full, based upon actual time spent on the above tasks. Any terms in Exhibit B, other than the payment rates and schedule of payment, are null and void. This amount shall not exceed **One Hundred and Seventy-Five Thousand Dollars and No Cents (\$175,000) for the total term of this agreement.**

b. Vendor shall not be compensated for any services rendered in connection with its performance of this Agreement which are in addition to those set forth herein, unless such additional services are authorized in advance and in writing by the Director of Community Services. Vendor shall be compensated for any additional services in the amounts and in the manner as agreed to by Director of Community Service and Vendor at the time City's written authorization is given to Vendor for the performance of said services. The not to exceed payment amount listed herein is an estimated expenditure and this Agreement does not guarantee Vendor this amount in purchases.

c. Vendor will submit invoices after services are performed. Payment shall be made within thirty (30) days of receipt of each invoice as to all non-disputed fees. If the City disputes any of Vendor's fees, it shall give written notice to Vendor within thirty (30) days of receipt of an invoice of any disputed fees set forth on the invoice. For all reimbursements authorized by this Agreement, Vendor shall provide receipts on all reimbursable expenses in excess of Fifty Dollars (\$50) in such form as approved by the Director of Finance.

5. NON-ASSIGNABILITY

The Vendor shall not assign the performance of this Agreement, nor any part thereof, nor any monies due hereunder, without prior written consent of the City.

6. INDEPENDENT CONTRACTOR

The Vendor is and shall at all times remain as to the City a wholly independent contractor. The personnel performing the Work under this Agreement on behalf of the Vendor shall at all times be under Vendor's exclusive direction and control.

7. LEGAL RESPONSIBILITIES

The Vendor shall keep itself informed of State and Federal laws and regulations which in any manner affect those employed by it or in any way affect the performance of its service pursuant to this Agreement. The Vendor shall at all times observe and comply with all such laws and regulations. The City, and its officers and employees, shall not be liable at law or in equity occasioned by failure of the Vendor to comply with this section.

8. LICENSES

At all times during the term of this Agreement, Vendor shall have in full force and effect, all licenses required of it by law for the performance of services described in this Agreement.

9. INDEMNIFICATION

Vendor agrees to defend, indemnify, protect, and hold harmless, the City of Temecula, Temecula Community Services District, and/or the Successor Agency to the Temecula Redevelopment Agency, and its officers, officials, employees, agents, and volunteers, from and against any and all claims, demands, losses, defense costs or expenses, actions, liability or damages of any kind and nature which the City of Temecula, Temecula Community Services

District, and/or the Successor Agency to the Temecula Redevelopment Agency, its officers, agents, employees, and volunteers may sustain or incur or which may be imposed upon them for injury to or death of persons, or damage to property arising out of Vendor's negligent or wrongful acts or omissions arising out of or in any way related to the Work or the Vendor's performance or non-performance of this Agreement, excepting only liability out of the sole negligence of the City of Temecula, Temecula Community Services District, and/or the Successor Agency to the Temecula Redevelopment Agency.

10. INSURANCE REQUIREMENTS

Vendor shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the performance of the work hereunder by the Vendor, its agents, representatives, or employees.

a. Minimum Scope of Insurance. Coverage shall be at least as broad as:

1) Insurance Services Office Commercial General Liability form No. CG 00 01 11 85 or 88.

2) Insurance Services Office Business Auto Coverage form CA 00 01 06 92 covering Automobile Liability, code 1 (any auto). If the Vendor owns no automobiles, a non-owned auto endorsement to the General Liability policy described above is acceptable.

3) Worker's Compensation insurance as required by the State of California and Employer's Liability Insurance. If the Vendor has no employees while performing under this Agreement, worker's compensation insurance is not required, but Vendor shall execute a declaration that it has no employees.

a. Minimum Limits of Insurance. Vendor shall maintain limits no less than:

1) General Liability: Five Million (\$5,000,000) per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.

2) Automobile Liability: Five Million (\$5,000,000) per accident for bodily injury and property damage.

3) Worker's Compensation as required by the State of California; Employer's Liability: One Million Dollars (\$1,000,000) per accident for bodily injury or disease.

b. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions shall not exceed Twenty Five Thousand Dollars and No Cents (\$25,000).

c. Other Insurance Provisions. The general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1) The City of Temecula, the Temecula Community Services District, the Successor Agency to the Temecula Redevelopment Agency, their officers, officials, employees and volunteers are to be covered as insured's, as respects: liability arising out of activities performed by or on behalf of the Vendor; products and completed operations of the Vendor; premises owned, occupied or used by the Vendor; or automobiles owned, leased, hired or borrowed by the Vendor. The coverage shall contain no special limitations on the scope of protection afforded to the City of Temecula, the Temecula Community Services District, the

Successor Agency to the Temecula Redevelopment Agency, their officers, officials, employees or volunteers.

2) For any claims related to this project, the Vendor's insurance coverage shall be primary insurance as respects the City of Temecula, the Temecula Community Services District, the Successor Agency to the Temecula Redevelopment Agency, their officers, officials, employees and volunteers. Any insurance or self-insured maintained by the City of Temecula, Temecula Community Services District, and/or the Successor Agency to the Temecula Redevelopment Agency, its officers, officials, employees or volunteers shall be excess of the Vendor's insurance and shall not contribute with it.

3) Any failure to comply with reporting or other provisions of the policies including breaches of warranties shall not affect coverage provided to the City of Temecula, the Temecula Community Services District, and the Successor Agency to the Successor Agency to the Temecula Redevelopment Agency, their officers, officials, employees or volunteers.

4) The Vendor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

5) Each insurance policy required by this agreement shall be endorsed to state in substantial conformance to the following: If the policy will be canceled before the expiration date the insurer will notify in writing to the City of such cancellation not less than thirty (30) days' prior to the cancellation effective date.

6) If insurance coverage is canceled or, reduced in coverage or in limits the Vendor shall within two (2) business days of notice from insurer phone, fax, and/or notify the City via certified mail, return receipt requested of the changes to or cancellation of the policy.

d. Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best rating of A-:VII or better, unless otherwise acceptable to the City. Self insurance shall not be considered to comply with these insurance requirements.

e. Verification of Coverage. Vendor shall furnish the City with original endorsements effecting coverage required by this clause. The endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. The endorsements are to be on forms provided by the City. All endorsements are to be received and approved by the City before work commences. As an alternative to the City's forms, the Vendor's insurer may provide complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications.

11. TERMINATION OR SUSPENSION

This Agreement may be terminated or suspended at any time, for any reason, with or without cause at the sole and exclusive discretion of the Director of Community Services, without default or breach of this Agreement by the City.

12. NOTICES

Any notices which either party may desire to give to the other party under this Agreement must be in writing and may be given either by (i) personal service, (ii) delivery by a reputable document delivery service, such as but not limited to, Federal Express, that provides a receipt showing date and time of delivery, or (iii) mailing in the United States Mail, certified mail, postage prepaid, return receipt requested, addressed to the address of the party as set forth below or at any other address as that party may later designate by Notice. Notice shall be effective upon

delivery to the addresses specified below or on the third business day following deposit with the document delivery service or United States Mail as provided above.

Mailing Address: City of Temecula
Attn: General Manager
41000 Main Street
Temecula, CA 92590

To Vendor: First Student Charter dba First Student, Inc.
Attn: Caesar Perez
13200 Crossroads Pkwy N Ste 450
City of Industry, CA 91746

13. SEVERABILITY

If any provision of this Agreement is held invalid or unenforceable by any court of final jurisdiction, it is the intent of the parties that all other provisions of this Agreement be construed to remain fully valid, enforceable, and binding on the parties.

14. GOVERNING LAW

This Agreement shall be construed in accordance with, and governed by, the laws of the State of California as applied to contracts that are executed and performed entirely in California. The City and Vendor understand and agree that the laws of the State of California shall govern the rights, obligations, duties, and liabilities of the parties to this Agreement and also govern the interpretation of this Agreement. Any litigation concerning this Agreement shall take place in the municipal, superior, or federal district court with geographic jurisdiction over the City of Temecula. In the event such litigation is filed by one party against the other to enforce its rights under this Agreement, the prevailing party, as determined by the court's judgment, shall be entitled to reasonable attorney fees and litigation expenses for the relief granted.

15. PROHIBITED INTEREST

No officer, or employee of the City of Temecula that has participated in the development of this agreement or its approval shall have any financial interest, direct or indirect, in this Agreement, the proceeds thereof, the Vendor, or Vendor's sub-contractors for this project, during his/her tenure or for one year thereafter. The Vendor hereby warrants and represents to the City that no officer or employee of the City of Temecula that has participated in the development of this agreement or its approval has any interest, whether contractual, non-contractual, financial or otherwise, in this transaction, the proceeds thereof, or in the business of the Vendor or Vendor's sub-contractors on this project. Vendor further agrees to notify the City in the event any such interest is discovered whether or not such interest is prohibited by law or this Agreement.

16. ENTIRE AGREEMENT

This Agreement contains the entire understanding between the parties relating to the obligations of the parties described in this Agreement. All prior or contemporaneous agreements, understandings, representations and statements, oral or written, are merged into this Agreement and shall be of no further force or effect. Each party is entering into this Agreement based solely upon the representations set forth herein and upon each party's own independent investigation of any and all facts such party deems material.

17. AUTHORITY TO EXECUTE THIS AGREEMENT

The person or persons executing this Agreement on behalf of the Vendor warrants and represents that he or she has the authority to execute this Agreement on behalf of the Vendor and has the authority to bind the Vendor to the performance of its obligation hereunder. The Director of Community Services authorized to enter into an amendment on behalf of the City to make the following non-substantive modifications to the agreement: (a) name changes; (b) extension of time; (c) non-monetary changes in scope of work; (d) agreement termination.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year first above written.

TEMECULA COMMUNITY SERVICES DISTRICT

FIRST STUDENT CHARTER dba FIRST STUDENT, INC.

(Two Signatures of corporate officers required unless corporate documents authorize only one person to sign the agreement on behalf of the corporation.)

By: _____

James Stewart, TCSD President

By: _____



Tim Colleran, Vice President Charter Sales & Operations

ATTEST:

By: _____

Randi Johl, Secretary

By: _____



Caesar Perez, Charter Operations

APPROVED AS TO FORM:

By: _____

Peter M. Thorson, General Counsel

VENDOR

First Student Charter dba First Student, Inc.

Attn: Caesar Perez

13200 Crossroads Pkwy N., Ste 450

City of Industry, CA 91746

(800) 309-1421

cesar.perez2@firstgroup.com

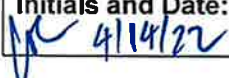
City Purchasing Mgr.
Initials and Date:
 4/14/22

EXHIBIT A

Scope of Work / Outline Of Order or Service Procedure

Vendor recognizes and agrees that this Agreement is for the purpose of establishing a contractual relationship between the **Temecula Community Services District** and the Vendor, for the purchase of goods or services. The procedure for ordering goods or requesting services is set forth as follows:

1. The Director of Community Services or her designee shall submit to Vendor a written "Request for Order/Services". The Request for Order/Services shall include a description of the items to be purchased or the services to be completed, the time for delivery or completion of the services, and the plans and specifications for goods and equipment, if any.

2. Within five (5) business days of the date of the Request for Order/Services, Vendor shall respond in writing to the Request for Order/Services and advise the Director of Community Services or her designee whether the goods are available or services can be performed, along with the cost and estimated delivery or start of services.

3. In the event an emergency or service is required, the Director of Community Services or her designee may transmit the Request for Order/Services orally to the Vendor. As soon as practical following the emergency, the Vendor and City designee shall in good faith confirm in writing the scope of the emergency order submitted or services undertaken.

4. Upon acceptance of the Vendor's response by the Director of Community Services or her designee the Vendor shall proceed with the order or begin services. The acceptance of the goods and/or performance of the services shall be pursuant to the terms of this Agreement.

Services Include but may not be limited to:

- Miscellaneous bus transportation needs throughout the fiscal years for programmed City programs, excursions, or events;
- Bs needs may vary depending on the event for 12 passenger vans to 55 passenger busses;
- Quotes will be received for each excursion based on the number of riders and the destination.

EXHIBIT B

PAYMENT RATES AND SCHEDULE

Quotes shall be provided as requested by City staff for each service requested. Cost of services shall be as quoted, but in no event shall the total Agreement amount exceed \$175,000 as outlined in Section 4 of this Agreement. The not to exceed payment amount listed herein is an estimated expenditure and this Agreement does not guarantee Vendor this amount in purchases.