



# SAN MATEO-FOSTER CITY SCHOOL DISTRICT

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AGREEMENT FOR SERVICES  
BETWEEN THE SAN MATEO-FOSTER CITY SCHOOL DISTRICT  
AND  
NEWTON-THE CHILDREN'S LEARNING CENTER, INC.

This agreement ("Agreement") by and between the San Mateo-Foster City School District, a local educational agency organized and existing under the laws of the State of California (the "District") and NEWTON CENTER, a California nonprofit public benefit corporation organized and existing under the laws of the State of California ("Newton") is made effective as of this 22 day of October, 2020 ("Effective Date"). The District and Newton are collectively referred to herein as the "Parties," and each is individually referred to, from time to time, as a "Party."

## RECITALS

**WHEREAS**, the District and Newton both desire to provide a safe space for children who are enrolled as students within the District to go during what would ordinarily be regular school hours while the District is unable to conduct regular, in person instruction, owing to State and local directives imposed as a result of the COVID-19 pandemic, in order for such students to receive in-person child supervision and limited instruction, targeted support services, and/or facilitation of distance learning in small group environments (referred to herein as "Services" or "Learning Hubs"); and

**WHEREAS**, Newton currently provides distance learning support to some District students on an independent basis, through a contract with Newton-The Children's Learning Center, Inc. ("TCLC"); and

**WHEREAS**, the Parties both wish to allow Newton to operate Community Learning Hubs on District premises on a temporary basis while such services are needed, owing to the ongoing COVID-19 pandemic and the resulting inability to conduct regular, in-person instruction; and

**WHEREAS**, the Parties acknowledge that the COVID-19 pandemic has given rise to a dynamic and evolving situation that requires unusual levels of flexibility; and

**WHEREAS**, on August 25, 2020, the California Department of Public Health ("CDPH") issued Guidance for Small Cohorts/Groups of Children and Youth ("CDPH Guidance"), which allows, under specified conditions, for small groups of children to participate in certain activities (such as distance learning hubs, recreation programs, before and after school programs, youth groups, and day camps), in controlled, supervised and indoor environments operated by, among others, local educational agencies and childcare providers; and

**WHEREAS**, the District and Newton have each concluded that the above-referenced CDPH guidance allows for the operation of Learning Hubs, as contemplated by Newton, and the Parties wish to formalize and clarify expectations as Newton provides operational services ("Services") for such Learning Hubs on the District's premises during the term of this Agreement.



## SAN MATEO-FOSTER CITY SCHOOL DISTRICT

**NOW THEREFORE**, in consideration of the covenants and agreements hereinafter set forth, and for other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

- I. **SERVICES.** In consideration of the payments hereinafter set forth, Newton shall provide services for the District in accordance with the terms, conditions, and specifications set forth herein:

Newton agrees to provide all programming and staffing necessary for distance learning support and supervision at District Learning Hubs for District students. Newton shall provide such services every week day during the Term of this Agreement for a total of five (5) Learning Hub classrooms, in accordance with the schedule attached hereto as Exhibit A.

Newton will staff the Learning Hubs with:

- A fully qualified school-aged childcare director with 15 Early Childhood Education (ECE) units and at least three years of experience working in a childcare facility.
- A total of two instructors for each Learning Hub room.
- At least one instructor in each Learning Hub room who is child/adolescent CPR and First Aid Certified and has completed at least three ECE units in Healthy, Safety & Nutrition, and
- At least one instructor in each Learning Hub room who is qualified and licensed as a school-aged teacher per Title 22 of the California Code of Regulations.

- II. **TERM OF AGREEMENT.** The term of this Agreement (“Term”) is from October 26, 2020 through December 18, 2020.

- III. **DISTRICT OBLIGATIONS.** District agrees to:

- Invite District students to participate and register in the Learning Hub program.
- Ensure that all registered students have the necessary technological devices to engage in distance learning.
- Ensure that all registered students have headphones equipped w/microphones
- Ensure that all registered students have adequate internet access.
- Conduct daily cleaning and maintenance in accordance with the District’s COVID-19 related cleaning protocol.
- Conduct deep cleaning in the event of a confirmed or suspected case of COVID-19 exposure among the staff or students participating at the Learning Hub.
- Provide soap, hand sanitizer, paper towels, toileting supplies, and cleaning supplies in the standard amount and frequency.
- Ensure that Learning Hub classrooms are equipped with one (1) desk and two (2) chairs for each child.
- Provide Newton with a School Administrator's Letter, Copy of Fire Clearance, and Site Map.



## SAN MATEO-FOSTER CITY SCHOOL DISTRICT

- IV. **NEWTON OBLIGATIONS.** Newton agrees to:
- Ensure that all instructors who will be present at the Learning Hubs are fingerprinted, in compliance with California Education Code Section 45125.1, using Livescan technology.
  - Ensure that all instructors who will be present at the Learning Hubs have completed a three-hour mandated reporter training and basic pest management training for a school setting.
  - Prepare online registration and open registration.
  - Ensure that online registration collects parents/guardian contact information, emergency contact, child medical information, waivers and releases.
  - Distribute a parent handbook to parents.
  - Host a Parent Zoom Q&A.
  - Set up contactless check-in and check-out through an app, including daily COVID-19 health questionnaire.
  - Conduct daily visual COVID-19 symptom check and take daily temperature of each student and staff member.
- V. **PAYMENT.** Newton shall submit a monthly invoice detailing the services performed during the billing period at the end of each month. Newton is responsible for complying with all state and federal tax requirements, and they are Newton's sole responsibility. The District shall make payment on all invoices within thirty (30) days of receiving such invoice.
- VI. **FACILITIES USE.** The District grants Newton use of facilities set forth in Exhibit B during Newton's hours of operations. Newton shall not make any modifications to the facilities, shall maintain the facilities in the condition in which they were found, and shall be liable for any damage caused therein as a result of its use of said facilities. Newton may make minor non-permanent modifications to the space with approval from the District's site designee.
- VII. **HEALTH AND SAFETY.** Parties agree to adhere to district, county, and state health and safety requirements for both students and staff. Newton will implement and oversee their actions to ensure health and safety, including, but not limited to: Performing daily screening of staff and students for COVID-19 symptoms, including temperature checks before they enter the facility, requiring and enforcing facial coverings to be worn by staff and students when entering and while in the facility, and the requiring of students and staff to maintain a minimum 6-foot distance who are not part of the same household or living unit.
- VIII. **NON-DISCRIMINATION.** The Parties shall not discriminate against any person rendering or receiving services pursuant to this Agreement, on the basis of race, color, age, marital status, national origin, sex, creed, sexual orientation, or physical or mental disability, including HIV disease, as provided by State and Federal Law.
- IX. **COMPLIANCE WITH STATE, FEDERAL, AND LOCAL LAWS, REGULATIONS, AND ORDINANCES:** Newton and all subcontractors shall ensure compliance with all state, federal and local



## SAN MATEO-FOSTER CITY SCHOOL DISTRICT

laws or rules applicable to performance of the services required under this agreement, and shall execute all necessary certifications of compliance therewith.

- X. **RELATIONSHIP OF THE PARTIES:** Newton agrees and understands that the work/services performed under this Agreement are performed as an Independent Contractor and not as an employee of the District and that Newton and Newton staff acquire none of the rights, privileges, powers or advantages of District employees.
- XI. **INSURANCE:** Newton or its subcontractors shall take out and maintain during the term of this Agreement such bodily injury liability and property damage liability insurance as shall protect Newton and all of its employees, contractors, officers, directors, and agents while performing work covered by this Agreement from any and all claims for damages for bodily injury, including accidental death, as well as any and all claims for property damage which may arise from Newton's or its subcontractors' operations under this Agreement, whether such operations be by Newton, a subcontractor, or anyone directly or indirectly employed by either of them, or by an agent of either of them. Such insurance shall be combined single limit bodily injury and property damage for each occurrence. Liability limits for Comprehensive General Liability insurance shall be at least \$1 million per claim per occurrence/\$2 million aggregate.
- XII. **WORKERS' COMPENSATION.** Newton shall ensure that adequate workers' compensation coverage has been provided by Newton or any subcontractor, as the case may be, for Newton employees and any employees of any subcontractor performing work under this Agreement, and such coverage will be the only such coverage applicable to such employees.
- XIII. **WAIVER.** No delay or omission by either party in exercising any right under this Agreement shall operate as a waiver of that or any other right or prevent a similar subsequent act from constituting a violation of the Agreement.
- XIV. **INDEMNIFICATION.**
- a. By Newton. To the fullest extent permitted by law, Newton agrees to indemnify and defend the District and its employees and agents from any and all claims, damages, and liability in any way occasioned by or arising out of the negligence of Newton and/or its contractors/employees/officers/agents in the performance of this Agreement, including any sanctions, penalties, or claims of damages resulting from Newton's failure to comply with any law, regulation, or ordinance, including but not limited to those listed in this Agreement.
  - b. By the District. To the fullest extent permitted by law, the District agrees to indemnify and defend Newton and its directors, officers, employees, subcontractors, and agents from any and all claims, damages, and liability in any way occasioned by or arising out of the negligence of the District and/or its contractors, employees, officers, or agents in the performance of this Agreement, including any sanctions, penalties, or claims of damages resulting from the District's failure to comply with any law, regulation, or ordinance, including but not limited to those listed in this Agreement.



## SAN MATEO-FOSTER CITY SCHOOL DISTRICT

- c. COVID-19. Each party agrees to indemnify and defend the other and its employees, contractors, and agents from any and all claims, damages, liability, and causes of action whatsoever, directly or indirectly arising out of or related to the indemnifying party's negligence leading to any loss, damage, or injury, including death, related to COVID-19 that may be sustained by any individual performing or receiving services under this Agreement, or of any contact of such individual, during the Term of this Agreement.
- XV. **USE OF SUBCONTRACTORS/ASSIGNMENT**. While Newton may use subcontractors, neither Newton nor District may assign this contract to another, including the rights, duties, or obligations under this Agreement, either in whole or in part, without the prior written consent of the other.
- XVI. **SEVERABILITY**. If any provision of this Agreement is held to be illegal, invalid, or unenforceable under present or future laws effective during the term hereof, such provision shall be fully severable. This Agreement shall be construed and enforced as if such illegal, invalid, or unenforceable provision had never been a part of the Agreement, and the remaining provisions shall remain in full force and effect unaffected by such severance, provided that the severed provision(s) are not material to the overall purpose and operation of this Agreement.
- XVII. **ENTIRE AGREEMENT**. This Agreement contains all the terms and conditions agreed upon by the parties regarding the subject matter of this Agreement and supersedes any prior agreements, oral or written, and all other communications between the parties relating to such subject matter, unless modified in a writing executed by both parties.
- XVIII. **TERMINATION**. Either party may at any time terminate this Agreement upon thirty (30) days' prior written notice. For purposes of this section, notice of termination may be delivered via email. District shall compensate Newton for services provided through the date of termination. In addition, either party may immediately terminate this agreement for cause should the other party breach any material part of this Agreement. In the event that District terminates for Newton's breach, District may secure the required services from another contractor. If the cost to District exceeds the cost of providing the services pursuant to this Agreement, Newton shall pay the additional cost, provided that such additional costs are reasonable.
- XIX. **NOTICES**. All notices provided for in this Agreement shall be in writing, duly signed by the party giving such notice, and shall be delivered, telecopied or mailed by first class mail or email, as follows:

To Newton:

Celine Tamir, CEO  
63 Bovet Road #511, San Mateo CA 94402  
[celine@newtoncenter.org](mailto:celine@newtoncenter.org)



## SAN MATEO-FOSTER CITY SCHOOL DISTRICT

To the District:

Sue Wieser  
1170 Chess Drive Foster City, CA 94404  
swieser@smfcsd.net

XX. **GOVERNING LAW.** This Agreement is governed by and shall be construed in accordance with the laws of the State of California. Any lawsuit concerning or arising out of this Agreement must be filed in the County of San Mateo or in the United States District Court for the Northern District of California.

IN WITNESS WHEREOF, the duly authorized representatives of the Parties have executed this Agreement as of the Effective Date.

### SAN MATEO-FOSTER CITY SCHOOL DISTRICT

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

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

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

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

### NEWTON CENTER

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

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

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

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