

**AGREEMENT  
BETWEEN  
Milpitas Unified School District  
AND  
The YMCA of Silicon Valley**

**AFTER SCHOOL EDUCATION AND SAFETY PROGRAMS  
FOR SCHOOL YEAR 2019-2020**

This Agreement is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2019 by and between the **MILPITAS UNIFIED SCHOOL DISTRICT**, a Local Education Agency (LEA) and **The YMCA of Silicon Valley**, a California nonprofit public benefit corporation ("CONTRACTOR").

**RECITALS**

- A. LEA is the recipient of the After School Education and Safety Program ("State Grant or "ASES Program") from the State of California Department of Education ("State").
- B. CONTRACTOR has the necessary professional expertise and skill to provide education, literacy, arts, nutrition, recreation and enrichment components of the after school program in accordance with the State Grant.
- C. CONTRACTOR has the necessary professional expertise and skill to provide grant administrative services in accordance with the State Grant.
- D. LEA and CONTRACTOR desire to enter into an Agreement to set forth CONTRACTOR'S responsibilities with respect to administration of the LEA's State Grant.
- E. CONTRACTOR is subject to the terms and conditions of this Agreement and the LEA's agreements with the State for the State Grant.
- F. LEA's, Coordinator, Learning & Development, is charged with the administration of this Agreement.

In view of the above, the parties agree as follows:

**SECTION 1. TERM OF AGREEMENT.**

The term of this Agreement shall commence on **July 1, 2019** ("Commencement Date") and shall expire on **June 30, 2020**, unless extended or sooner terminated in accordance with the terms of this Agreement. Regardless of the date of execution of this Agreement, this Agreement is effective as of the Commencement Date.

**SECTION 2. STATE GRANT REQUIREMENTS.**

CONTRACTOR acknowledges and agrees that funding for the ASES Program is subject to the requirements and restrictions of the State Grants. CONTRACTOR shall abide by the terms of the State Grant(s), copy(ies) of which is (are) attached as Appendix 1. CONTRACTOR also acknowledges and agrees that the State may issue additional requirements related to the expenditure of the State Grant, or funding of the State Grant or the operation the program. CONTRACTOR agrees to abide by such additional requirements.

**SECTION 3. LEA'S REIMBURSEMENT TO CONTRACTOR.**

CONTRACTOR acknowledges that LEA will receive State Grant funds to operate the program. LEA will reimburse CONTRACTOR for approved expenses from State Grant funds in an amount up to and not to exceed \$ 225,872.00 according to the schedule set forth in EXHIBIT B, entitled "REIMBURSEMENT AND REPORTING SCHEDULE" and as set forth in EXHIBIT C, entitled "SITE BUDGET BREAKDOWN" and "ADMINISTRATIVE BUDGET BREAKDOWN."

#### **SECTION 4. MATCHING CONTRIBUTION.**

As a condition to LEA'S grant of the amounts set forth herein, LEA shall obtain matching funds and/or in-kind services to support the operation of the program at a ratio of 33% of the contracted amount for this site funded under the State Grant as specified under this section. LEA matching funds may include in-kind facility costs up to 25% of the total local contribution.

#### **SECTION 5. FUNDING RESTRICTIONS.**

CONTRACTOR acknowledges that reimbursement of approved expenses is contingent upon receipt of the direct grant allocations specified by the State Grant (65%, 25% and 10% based on State schedule and reporting procedures). The amount of a grant will be based on the number of students a program will serve, the number of days a program will operate, and the rate per pupil. The daily rate per pupil is \$8.19 for an after school component.

- A. The funding for this program is calculated for a minimum of 180 days of operation and enrollment of a minimum of 80 students. CONTRACTOR further acknowledges that not meeting the required attendance level (as specified in Exhibit A) will result in CONTRACTOR's reimbursements being reduced, as more particularly described in Subsection C below
- B. Each party will ensure direct expenditures fall within 85% of the total grant award. Administrative expenses will fall within 15% of the total grant award. If CONTRACTOR is in doubt if an expense is subject to reimbursement, a CONTRACTOR representative shall first contact LEA or Region V Consultant prior to incurring the cost.
- C. Funding through the State Grant is based on the number of students participating in the program. Programs must meet a minimum of 85% of the projected attendance (80 students/180 days elementary) If the State determines that the funds to CONTRACTOR are in excess of the amount warranted due to the site serving fewer student participants than projected, or any other reason, State law allows the State to require a refund in an amount equal to that overpayment.

- D. If CONTRACTOR serves more participants than the minimum specified in the Projected Attendance, no additional funds will be awarded through the State Grant.
- E. Notwithstanding Subsection D above, CONTRACTOR acknowledges and agrees that LEA may adjust CONTRACTOR's Projected Attendance in compliance with State rules and allowances.

#### **SECTION 6. LEA'S RESPONSIBILITIES.**

LEA agrees to provide the services as set forth in the attached EXHIBIT D, entitled "LEA'S RESPONSIBILITIES."

#### **SECTION 7. CONTRACTOR'S RESPONSIBILITIES.**

CONTRACTOR agrees to provide the services at school sites set forth in the attached Exhibit A, as set forth in the attached EXHIBIT E, entitled "CONTRACTOR'S RESPONSIBILITIES." CONTRACTOR agrees to provide the administrative services set forth in the attached Exhibit E.

#### **SECTION 8. RELATIONSHIP OF PARTIES.**

Under no circumstances shall this Agreement be construed as one of agency, partnership, joint venture or employment between CONTRACTOR and LEA. Each party acknowledges and agrees that it neither has, nor will give the appearance or impression of having, any legal authority to bind or commit the other party in any way.

#### **SECTION 9. FINANCIAL REPORTS/LEA'S RIGHT TO AUDIT.**

- A. CONTRACTOR, in accordance with the schedule set forth in EXHIBIT B, shall submit to LEA's Coordinator or his/her designee financial reports as more particularly described in EXHIBIT B.
- B. CONTRACTOR shall establish and maintain, in accordance with generally accepted accounting principles, a complete record of all financial transactions related to this Agreement.
- C. CONTRACTOR agrees that the LEA or any of their duly authorized

representatives, upon reasonable advance notice to CONTRACTOR, shall have access and the right, to examine and audit the CONTRACTOR's financial records relating to the performance of this Agreement, including all contracts, subcontracts, invoices, payrolls, conditions of employment, materials and all other data or financial records relating to matters covered by this Agreement. CONTRACTOR agrees that LEA's authorized representatives, at any time, upon reasonable advance notice to CONTRACTOR, during normal business hours, shall have access to and right to examine the offices and facilities engaged in performance of this Agreement.

- D. CONTRACTOR further agrees that such right of LEA to examine or audit shall continue for five (5) years after the expiration or termination of this Agreement, or for such longer period, if any, as is required by applicable law. CONTRACTOR shall preserve and make available its records (a) until the expiration of five (5) years from the date of expiration or sooner termination of this Agreement, or (b) for such longer period, if any, as is required by applicable law.
- E. CONTRACTOR agrees to submit copies of documentation required by the State that support LEA's direct grants in accordance with the Reporting Schedule shown in EXHIBIT B.
- F. CONTRACTOR is responsible for repayment to LEA of any disallowed cost. Disallowed costs may be identified through audits, monitoring or other sources of information that become available to LEA. Disallowed costs are any expenditures that are not made in compliance with the terms of this Agreement.

#### **SECTION 10. EMPLOYEES/VOLUNTEERS.**

- A. Any and all personnel employed or volunteers retained by CONTRACTOR in conducting the operations of CONTRACTOR's services shall be

qualified to perform the duties assigned to them by CONTRACTOR. CONTRACTOR's personnel shall be neatly attired, clearly and visibly distinguishable as After School staff and shall conduct themselves at all times in a courteous and businesslike manner.

- B. Any and all personnel employed as site-based After School staff shall meet the requirements of the LEA Instructional Assistant, including educational units, if they are considered part of the 1:20 minimum ratio and directly supervising the students. This requirement is negotiable based on school site Title 1 status and ESSA requirements. LEA and CONTRACTOR will review this requirement upon acknowledgement of inability to hire qualified staff.
- C. CONTRACTOR represents and warrants to LEA that any personnel employed or volunteer retained by CONTRACTOR to teach Workshops in which minors are participants shall not have any criminal record for offenses related to the possession or use of controlled substances, sex offenses or any criminal offense involving violence.
- D. CONTRACTOR shall, prior to implementation of the services, comply with the employee/volunteer clearance verification requirements as set forth in the attached EXHIBIT F. entitled "EMPLOYEE/VOLUNTEER CLEARANCE VERIFICATION". All staff will be fingerprinted and TB tested prior to implementation of services.

**11. COMPLIANCE WITH ALL LAWS/ BACKGROUND CHECKS/ REPORT OF CHILD ABUSE AND NON-DISCRIMINATION.**

- A. CONTRACTOR shall comply with all applicable laws, ordinances, codes and regulations of the federal, state and local governments.
- B. CONTRACTOR shall be responsible for payment of all taxes, fees, contributions or charges applicable to the conduct of CONTRACTOR'S business.
- C. Without limitation of any other provision herein, if the services provided

hereunder (i) involve direct contact with minors or if minors are supervised as a part of the services provided hereunder, or (ii) if services provided hereunder include services in the human services field and involve the care and security of children, the elderly, the handicapped, or the mentally impaired, then CONTRACTOR represents and warrants to LEA that prior to services being provided hereunder by any personnel or volunteers retained by CONTRACTOR that the CONTRACTOR has or will conduct a criminal background check as provided in California Penal Code Section 11105.3 and has or will verify prior to services being provided that the personnel or volunteers do not have any criminal record for the offenses listed in California Penal Code Section 11105.3, which include certain offenses related to the possession or use of controlled substances, sex offenses or any criminal offense involving violence.

- D. CONTRACTOR shall comply with the provisions of the Child Abuse and Neglect Reporting Act, California Penal Code Section 11164 et seq.
- E. If the services provided by CONTRACTOR hereunder occur on school facilities at any time, CONTRACTOR shall also conduct background checks in compliance with the California Education Code, including without limitation, Ed. Code Section 44237 and Ed. Code Section 45125.1
- F. CONTRACTOR shall also request subsequent arrest service from the Department of Justice as provided under Section 11105.2 of the Penal Code.
- G. CONTRACTOR shall not discriminate, in any way, against any person on the basis of race, sex, color, age, religion, sexual orientation, actual or perceived gender identity, disability, ethnicity or national origin in connection with or related to the performance of this Agreement.

## **SECTION 12. MONITORING AND EVALUATION.**

- A. In accordance with State Grant requirements, CONTRACTOR shall furnish all data, statements, records, information, and reports necessary

for LEA to monitor, review and evaluate the program. CONTRACTOR shall submit to LEA's Director the attendance and evaluation reports as described in EXHIBIT B. LEA agrees to participate in a statewide evaluation process as determined by CDE and the CONTRACTOR agrees to provide all information and prepare all documents in a timely manner.

- B. CONTRACTOR shall be responsible for all administration regarding the grant reporting on a schedule determined by the State.
- C. CONTRACTOR acknowledges that the State may modify reporting requirements. CONTRACTOR and LEA agree to abide by State's reporting requirements as they are developed and disseminated to LEA. LEA will notify CONTRACTOR of such modifications in accordance with Section 16.
- D. During fiscal year 2019-2020, CONTRACTOR shall measure its performance using the performance measures specified in EXHIBIT A. For the purposes of this Agreement, all performance measures are considered baseline data.
- E. CONTRACTOR shall attend any necessary meetings/training session(s) conducted by LEA to assist CONTRACTOR in its completion of the evaluation requirements included in this Section of the Agreement.
- F. CONTRACTOR acknowledges and agrees that CONTRACTOR's future funding, pending appropriation of funds by LEA, may be determined based on the results of the evaluation process described in this Section. LEA, with input from the CONTRACTOR, shall use the resulting evaluation data for review of CONTRACTOR's current performance and develop future performance targets. Overall program data shall be used in setting minimum expected levels of performance for each eligible service.
- G. CONTRACTOR acknowledges and agrees that LEA reserves the right to conduct a minimum of one site visit each year to monitor each site. These visits will be conducted to identify program components, strategies,



or methods which are yielding positive results, to collect information, which will assist staff to provide technical assistance, and to ensure that services provided meet grant requirements, satisfy community needs and are delivered cost effectively.

**SECTION 13. INSURANCE.**

CONTRACTOR shall, prior to implementation of the Services, comply with the insurance requirements set forth in the attached EXHIBIT G, entitled "Insurance." Payment of any compensation to CONTRACTOR is subject to CONTRACTOR's compliance with this Section.

**SECTION 14. INDEMNIFICATION AND HOLD HARMLESS.**

CONTRACTOR shall defend, indemnify, and hold harmless LEA, its Board members, officers, employees, and agents from any and all actions, causes of actions, claims, losses, expenses (including reasonable attorneys' fees and costs) or liability on account of damage of property or injury to or death of persons arising out of or resulting in any way from work performed in connection with this Agreement attributable to the willful misconduct or negligent acts (active or passive) or omissions by CONTRACTOR, its officers, employees, or agents.

LEA shall defend, indemnify, and hold harmless CONTRACTOR, its Board members, officers, employees and agents from any and all actions, causes of actions, claims, losses, expenses (including reasonable attorneys' fees and costs) or liability on account of damage of property or injury to or death of persons arising out of or resulting from the willful misconduct or negligent acts (active or passive) or omissions by LEA, its officers, employees, or agents.

All obligations under this section are intended to apply to the fullest extent permitted by law and shall survive the expiration or sooner termination of this Agreement.

**SECTION 15. SUSPENSION OR TERMINATION OF AGREEMENT.**

- A. LEA, through LEA's Coordinator, may at any time during the term of this Agreement, suspend or terminate reimbursement to CONTRACTOR, in whole or in part, in the event of any of the following occurrences:
1. If CONTRACTOR has made or makes any material misrepresentation of any nature with respect to any information or statements furnished to LEA in connection with this Agreement.
  - 2.. If there is pending litigation with respect to the performance by CONTRACTOR of any of its obligations under this Agreement, which may materially jeopardize or adversely affect the undertaking of or carrying out of the program.
  3. If CONTRACTOR fails to comply with any of the material terms of this Agreement, including but not limited to:
    - a. The program closes or is in danger of closing due to insufficient attendance or lack of adequate facility usage.
    - b. Required staffing level according to the State Grant is not met and is not expected to be met through the combined efforts of the LEA and CONTRACTOR.
    - c. CONTRACTOR fails to comply with any requirement of the State Grant.
  4. If CONTRACTOR applies for, or consents to, or acquiesces in the appointment of a receiver, trustee, liquidator or custodian for all or part of its property; or if CONTRACTOR files a voluntary petition in bankruptcy or petition or an answer seeking liquidation or reorganization under the Bankruptcy Code or any other law related to bankruptcy or insolvency or relief of debtors.
- B. Either LEA or CONTRACTOR may terminate this Agreement for any reason and without cause upon thirty (30) days written notice to the other party.
- C. In the event of termination or suspension CONTRACTOR shall be responsible for expenses up to termination of this Agreement. In accordance with this Agreement, LEA will reimburse CONTRACTOR for

the period prior to termination or suspension, provided that  
CONTRACTOR is in compliance with the provisions of this Agreement.

#### **SECTION 16. NOTICES.**

Any communication or notice which either party is required or desires to send to the other, shall be in writing and shall be either personally delivered or mailed in the United States mail, postage prepaid, to the LEA and CONTRACTOR as set forth below:

LEA: Coordinator Learning and Development  
Milpitas Unified School District  
1331 East Calaveras Blvd.  
Milpitas, CA 95035

CONTRACTOR: YMCA of Silicon Valley  
Sr. Vice President of Operations  
80 Saratoga Ave  
Santa Clara, CA 95051

Either party may change its address by sending notice of the new address to the other party pursuant to this Section.

#### **SECTION 17. ASSIGNABILITY**

This Agreement shall not be delegated or assigned by CONTRACTOR nor shall any of the Scope of Services be subcontracted to third parties without approval from LEA. Any attempted assignment of such rights or delegation of duties, either voluntary, or by operation of law, made without LEA's advance written consent shall be voidable at LEA's option.

#### **SECTION 18. AMENDMENTS**

Unless otherwise authorized by this Agreement, amendments to the terms and conditions of this Agreement shall be requested in writing by the party desiring such revision, and any such adjustment to this Agreement shall be effective only upon the mutual agreement in writing of the parties.

#### **SECTION 19. INTEGRATED DOCUMENT**

This Agreement including its attachments embodies the entire agreement between the LEA and CONTRACTOR concerning the terms and conditions of their relationship. The parties intend that this Agreement shall supersede any and all prior written and/or oral agreements, including any conversations between any officer, agent or employee of LEA and that of CONTRACTOR, none of which shall affect or modify any of the terms or obligations contained in any documents comprising this Agreement

#### **SECTION 20. SEVERABILITY OF PROVISIONS**

If any part of this Agreement is for any reason found to be unenforceable by a court of competent jurisdiction, the parties agree that all other parts not so affected shall nevertheless remain enforceable. LEA and CONTRACTOR agree that to the extent that the exclusion of any unenforceable provisions from this Agreement affects the purpose of this Agreement, then the parties shall negotiate an adjustment to this Agreement in order to give full effect to the purpose of this Agreement or either party may terminate this Agreement.

#### **SECTION 21. GOVERNING LAW/VENUE**

LEA and CONTRACTOR agree that the law governing this Agreement shall be that of the State of California. In the event that suit shall be brought by either party to this Agreement, the parties agree that venue shall be exclusively vested in the state courts of the County of Santa Clara, or if federal jurisdiction is appropriate, exclusively in the United States District Court, Northern District of California, San José, California.

#### **SECTION 22. WAIVER**

The waiver by any party to this Agreement of a breach of any provision of this Agreement shall not be deemed a continuing waiver or a waiver of any subsequent breach of that or any other provision of this Agreement. In no event shall any payment by LEA or acceptance of payment by CONTRACTOR constitute or be construed to be a

waiver by LEA or CONTRACTOR of any breach of this Agreement or any default which may then exist on the part of LEA or CONTRACTOR, and the making of such payment or the acceptance of any such payment while any such breach or default exists shall in no way impair or prejudice any right or remedy available to LEA or CONTRACTOR with respect to such breach or default.

### **SECTION 23. ACKNOWLEDGEMENT OF LEA**

CONTRACTOR shall acknowledge the support of LEA in all written documents and information materials concerning the Program, including, but not limited to, flyers, newsletters, brochures, banners, apparel, and promotional items. The final format of CONTRACTOR's acknowledgement of LEA's contribution shall be reviewed and approved by LEA prior to distribution or publication.

### **SECTION 24. CONFIDENTIALITY**

CONTRACTOR acknowledges and agrees that all information, work in progress, trade secrets, or other secret or confidential information related to the business or projects of LEA, as well as student achievement data, demographic data, student medical records and academic records (collectively, "Student Data") constitutes confidential information (collectively, "Confidential Information"). CONTRACTOR agrees that at all times, both during this Agreement and after its termination, CONTRACTOR will keep in confidence and trust all such Confidential Information and shall not use, copy, or disclose to any person, firm, or corporation any such Confidential Information. This obligation shall end whenever such information enters the public domain and is no longer confidential or proprietary through no improper action or inaction by either Party. Upon termination or expiration of this Agreement, or at any time upon request of LEA, CONTRACTOR will return to LEA all Confidential Information in CONTRACTOR's possession or control. If data will be provided through an online platform, CONTRACTOR shall have controlled access to the data via password, and CONTRACTOR shall assume full liability for any access violations which may occur. If CONTRACTOR is requested or required by reason of legal requirements or legal proceedings of any nature to disclose any Confidential Information, it shall promptly provide LEA with notice of the request or

requirement. In those cases, CONTRACTOR will in good faith consult with LEA and consider and act upon LEA's suggestions concerning the nature, scope, and manner of disclosure, including cooperating with LEA in seeking a protective order or other appropriate remedy. If, in the absence of a protective order or other remedy, CONTRACTOR is nonetheless legally compelled to disclose Confidential Information, CONTRACTOR may disclose only that portion of Confidential Information which its counsel advises is legally required to be disclosed. CONTRACTOR recognizes that Student Data is sensitive, and that any misuse of such data by CONTRACTOR could be or is a violation of state and federal law. CONTRACTOR assumes full responsibility for the use of such Student Data.

#### **SECTION 25. MISCELLANEOUS PROVISIONS.**

- A. The headings of the sections and subsections of this Agreement are inserted for convenience only. They do not constitute a part of this Agreement and shall not be used in its construction.
- B. Where this Agreement refers to LEA and no officer of the LEA is named, LEA's Coordinator shall have the authority to act on LEA's behalf.
- C. This Agreement shall not be construed or deemed to be an agreement for the benefit of any third party or parties, and the parties hereto do not intend to create any third parties beneficiaries as a result of this Agreement. No third party or parties shall have any claim or right of action hereunder for any cause whatsoever.
- D. The following documents are attached to this Agreement, are incorporated by referenced herein as though fully set forth, and are deemed a part of this Agreement:

Appendix 1	Copy of State Grant
Exhibit A	SCHOOL SITES, PROJECTED ATTENDANCE AND PERFORMANCE MEASURES
Exhibit B	REIMBURSEMENT AND REPORTING SCHEDULE
Exhibit C	LEA'S RESPONSIBILITIES
Exhibit D	CONTRACTOR'S RESPONSIBILITIES
Exhibit E	EMPLOYEE/VOLUNTEER CLEARANCE VERIFICATION
Exhibit F	INSURANCE

WITNESS THE EXECUTION HEREOF the day and year first hereinabove written.


APPROVED AS TO FORM:

MILPITAS UNIFIED SCHOOL DISTRICT,  
LEA

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Cheryl Jordan  
Superintendent

**YMCA OF SILICON VALLEY**, a California  
nonprofit public benefit corporation



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Sandy B Walker  
President & CEO

**EXHIBIT A**  
**YMCA OF SILICON VALLEY**  
**SCHOOL SITES, PROJECTED ATTENDANCE AND PERFORMANCE MEASURES**

**School Sites and Projected Attendance:**

CONTRACTOR will provide an After School Education and Safety program at the sites listed below in accordance with the Projected Attendance. Programs must operate every day school is in session. Comprehensive programs shall include tutoring, homework assistance, literacy, recreation and sports, arts, nutrition, and enrichment activities to elementary and middle school students. Also described are required minimum attendance levels. Evaluation performance measures will be based on the CDE determined measures TBD. Program start date: First Day of School in August 2017.

<b>Name of Site</b>	<b>Projected Minimum Annual Attendance</b>	<b>Minimum Daily Attendance</b>	<b>Maximum Reimbursed Daily Attendance</b>	<b>Days Of Operation</b>
Alexander Rose	14,400	68	80	180
Robert Randall	14,400	68	80	180

**Performance Measures:**

**The following Academic and Youth Development performance measures shall govern the delivery of services:**

- A. 60% of participants participating students will report a change for the better or maintain proficiency or higher in their academic scores as evidenced by an increase in positive growth on California Standards Test in English, Language Arts, and Math or if already proficient, they will maintain proficiency.



## EXHIBIT B

### REIMBURSEMENT AND REPORTING SCHEDULE

Funding through the State Grant is based on the number of students participating in the program. The amount of \$5,000 per school will be included as part of the contract for administrative expenses. LEA agrees to pay CONTRACTOR an amount not to exceed the total amount of contract for each site as specified below:

<b>Name of School site</b>	<b>65%</b>	<b>25%</b>	<b>10%</b>	<b>School District Direct Payment</b>	<b>Total amount of contract for site</b>	<b>Total Award (District &amp; YMCA)</b>
Rose	\$73,408.00	\$28,234.00	\$11,294.00	\$5,000	\$112,936.00	\$117,936.00
Randall	\$73,408.00	\$28,234.00	\$11,294.00	\$5,000	\$112,936.00	\$117,936.00
<b>TOTALS</b>	<b>\$146,816.00</b>	<b>\$56,468.00</b>	<b>\$22,588.00</b>	<b>\$10,000.00</b>	<b>\$225,872.00</b>	<b>\$235,872.00</b>

#### A. Payment Schedule

An initial payment of 65% of the total amount of the Agreement will be processed within 30 days after LEA receives the apportionment from the state.

CONTRACTOR's initial invoices, approved by the LEA, will be deducted from the initial 65% payment described in the preceding paragraph. After this amount is depleted, subsequent payments by the LEA will be processed upon receipt of the interim payments made by the State and the receipt of the invoices from the CONTRACTOR. The CONTRACTOR will submit invoices to the LEA on the subsequent payment schedule of the State Grant.

CONTRACTOR will be reimbursed by the direct grant not greater than the expenses approved by LEA and incurred by CONTRACTOR at each school site. The second direct payment (25%) will be made to the CONTRACTOR after the receipt of the funds contingent on the successful reporting by the CONTRACTOR for the mid-term report. The final total payment to CONTRACTOR will be the final 10% allowed for each school

site for the 2019-20 school year. The final payment will be made to the CONTRACTOR upon receipt of the direct grant after the satisfactory completion of the close out report for the school year.

CONTRACTOR shall expend the Grant Award in accordance with the budget requirements set forth in the attached EXHIBIT C entitled, "SITE BUDGET BREAKDOWN".

CONTRACTOR acknowledges and agrees that unless authorized by LEA's Director, CONTRACTOR shall not transfer grant funding between program sites. In addition, CONTRACTOR acknowledges that the accounting of the expenditure of the Grant Award shall be by individual sites, in accordance with the budget as specified in EXHIBIT C.

CONTRACTOR must submit all required reports and be reimbursed according to the schedule set forth in Subsection B below. The description of the contents of the required reports is also set forth below.

B. Reporting Schedule and Description of Required Reports

1. Program attendance reports are created based on State reporting schedule twice a year, January 31, 2020 and July 31, 2020.
2. An expenditure report in a format specified by the State shall be submitted to the LEA based on the State reporting schedule. Additional expenditure reports will be submitted to the LEA based on the direct grant schedule. For the purposes of this Agreement, the State schedule is below:

October 31, 2019

January 31, 2020

April 30, 2020

July 31, 2020

October 15, 2020 Final Report

CONTRACTOR's expenditure reports shall set forth in detail all financial transactions related to CONTRACTOR's expenditure of the projected budget, including documentation required by the State and a report of CONTRACTOR's matching funds and/or in-kind services. CONTRACTOR's expenditure reports shall be in a format acceptable to LEA's Director.

3. CONTRACTOR shall submit to LEA the final year-end close out report no later than October 15, 2020.

In addition, CONTRACTOR shall provide the LEA an evaluation report which includes, but is not limited to, program attendance records, early release forms, and satisfaction evaluation surveys. The CONTRACTOR recognizes the confidentiality of school academic records and other records deemed confidential and will work with the school district to submit confidential reports directly to the State.

## **EXHIBIT C**

### **LEA'S RESPONSIBILITIES**

LEA will provide the following services:

1. Assist CONTRACTOR with the promotion of the program, the identification of students for targeted enrollment and the engagement of principals at identified schools;
2. Conduct an orientation for School Site staff and faculty at each program site;
3. Provide STAR testing results according to the State guidelines as they are developed for the close-out report.
4. Provide facilities (and all collateral expense; e.g. janitorial, utilities, space).
5. Provide snack meeting USDA requirements for the afterschool program.
6. Conduct site visits. to ensure programs are meeting educational goals for the students
7. Recruit a teacher liaison for the program at each school site, and
8. Ensure on-line access at the school site to enable the Site Director to post attendance records daily.

## **EXHIBIT D**

### **CONTRACTOR'S RESPONSIBILITIES**

CONTRACTOR agrees to provide the following services at the school sites designated in EXHIBIT A and the following administrative services:

1. Operate and carry out the ASES Program from school release time through 6:00 p.m. during weekdays excluding school holidays (some school holidays may have programs to meet attendance and expense numbers);
2. Provide a site coordinator, and any additional staff required to meet the State's 1:20 staff-to-participant ratio. CONTRACTOR shall submit a staffing plan to LEA for all employees and volunteers at each program site. Plan shall include names, job titles, and hours scheduled to work. CONTRACTOR shall submit; updated plan within two weeks following any change in staffing;
3. CONTRACTOR shall provide educational academic activities pursuant to the grant program requirements.
4. CONTRACTOR shall provide educational enrichment activities pursuant to the grant program requirements.
5. Provide all registration materials, in two languages if required by LEA;
6. Submit reports, invoices and documentation as specified in EXHIBIT B;
7. Manage expenses within the parameters of the State Grant.
8. Submit all documentation for district reports in accordance with State reporting requirements and schedule;
9. Sign in and sign out students, on a daily basis;
10. Create program policies for the protection of students and staff as well as standard operating procedures;
  - Sign in and out procedures
  - Early release policies
  - Bathroom policies
  - Child Abuse Prevention
  - Transportation
11. Ensure that completed original copies of registration forms are on file at the program site and copies are held at the administrative office;
12. Coordinate recruitment and retention of program participants;
13. Recruit, screen and hire all staff in accordance with State Grant and LEA requirements;

14. Prior to commencement of services, CONTRACTOR shall provide LEA with a letter certifying that CONTRACTOR has complied with the necessary clearances as specified in EXHIBIT F. CONTRACTOR shall submit, in a form provided by the LEA, the names of all employees and volunteers assigned to work at each school site. CONTRACTOR shall submit to the LEA any updated list two weeks following any staffing changes;
15. Conduct evaluations of the program at each site according to the State guidelines ;
16. CONTRACTOR will attend meetings and select trainings provided by the Region V Afterschool and Healthy Start Partnership. In addition, site coordinators are required to meet with the principal, teachers, site council, and other school staff on a regular basis;
17. CONTRACTOR understands that all student information (including testing and attendance records) is highly confidential and will treat all student information with a high degree of care and confidentiality.
18. CONTRACTOR shall coordinate with other LEA-funded programs at each site in order to avoid duplication of services and,
19. Conduct monthly meetings with site coordinators and program directors to provide necessary trainings, sharing of program ideas, and reporting on best practices.
20. CONTRACTOR will assist LEA with the development and writing of the ASES program plan.
21. CONTRACTOR will assist with the state's Categorical Program Monitoring but maintaining accurate records and participating in site visit or ongoing review process.

**EXHIBIT E**

**EMPLOYEE/VOLUNTEER CLEARANCE VERIFICATION**

CONTRACTOR shall conduct a criminal background check as provided in California Penal Code Section 11105.3 on each of its employees and volunteers who directly supervise minors, elderly, or the mentally impaired in the performance of the Services. In addition, CONTRACTOR shall comply with all of the provisions of SECTION 11 of this Agreement.

CONTRACTOR shall comply with the provisions of the Child Abuse and Neglect Reporting Act, California Penal Code Section 11164 et. seq.

Additionally, CONTRACTOR certifies under penalty of perjury, the following:

- That no person whether paid or not paid by CONTRACTOR shall be permitted to provide services unless, prior to commencing services hereunder, CONTRACTOR delivers a letter to LEA listing such person or persons certifying that the CONTRACTOR has conducted a proper background check (including fingerprints) on such person or persons, and each of the named persons is legally permitted to perform the services described in this Agreement; and
- That no person, whether paid or not paid by CONTRACTOR, shall be permitted to provide services unless, prior to commencing services hereunder, CONTRACTOR delivers a letter to LEA listing such person or persons certifying that the CONTRACTOR has verified that the person or persons has provided evidence/verification of a negative TB skin test reading less than 4 years old from the date of execution of this Agreement. For inactive-positive TB skin test readings, a physician's medical clearance must be obtained prior to services being provided.

I, the CONTRACTOR, by signing below verify that I have read and agree to the above:

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Signature \_\_\_\_\_ Date \_\_\_\_\_

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YMCA of Silicon Valley

## **EXHIBIT F INSURANCE**

CONTRACTOR, at CONTRACTOR'S sole cost and expense, shall procure and maintain for the duration of this AGREEMENT insurance against claims for injuries to persons or damages to property which may arise from, or in connection with, the performance of the services hereunder by CONTRACTOR, its agents, representatives, employees or subcontractors.

**A. Minimum Scope of Insurance**

Coverage shall be at least as broad as:

1. The coverage described in Insurance Services Office Form Commercial General Liability coverage ("occurrence") Form Number CG 0001, including products and completed operations, and where applicable with additional Insured Endorsement form CG2010.
2. Workers' Compensation insurance as required by the California Labor Code and Employers Liability insurance.

**B. Minimum Limits of Insurance**

CONTRACTOR and LEA shall maintain limits no less than:

1. Commercial General Liability: \$2,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial 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; and
2. Automobile Liability: \$1,000,000 combined single limit per accident for bodily injury and property damage; and



3. Workers' Compensation and Employers' Liability: Workers' Compensation limits as required by the California Labor and Employers Liability limits of \$1,000,000 per accident.

D. **Other Insurance Provisions**

The policies are to contain, or be endorsed to contain, the following provisions:

1. Commercial General Liability and Automobile Liability Coverages
  - a. The Milpitas Unified School District, its officers, employees, agents and contractors are to be covered as additional insureds as respects: Liability arising out of activities performed by or on behalf of, CONTRACTOR; products and completed operations of CONTRACTOR; premises owned, leased or used by CONTRACTOR; and automobiles owned, leased, hired or borrowed by CONTRACTOR. The coverage shall contain no special limitations on the scope of protection afforded to LEA, its officers, employees, agents and contractors.
  - b. YMCA of Silicon Valley, its officers, employees, agents and contractors are to be covered as additional insured as respects: Liability arising out of activities performed by or on behalf of, LEA; products and completed operations of LEA; premises owned, leased or used by LEA; and automobiles owned, leased, hired or borrowed by LEA. The coverage shall contain no special limitations on the scope of protection afforded to the CONTRACTOR, its officers, employees, agents, and contractors.
  - c. Any failure to comply with reporting provisions of the policies by CONTRACTOR shall not affect coverage provided LEA, its officers, employees, agents, or contractors.

- d. Coverage shall state that CONTRACTOR'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.

## 2. All Coverages

Each insurance policy required by this AGREEMENT shall be endorsed to state that coverage shall not be suspended, voided, canceled, or reduced in limits except after thirty (30) days' prior written notice has been given to LEA.

### E. Acceptability of Insurers

Insurance is to be placed with insurers acceptable to LEA's Risk Manager.

### F. Verification of Coverage

CONTRACTOR shall furnish LEA with certificates of insurance and with original endorsements affecting coverage required by this AGREEMENT. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

Proof of insurance shall be mailed to the following address or any subsequent address as may be directed in writing by the Risk Manager:

Milpitas Unified School District  
Purchasing / Contracts  
1331 East Calaveras Blvd.  
Milpitas, CA 95035

### G. Subcontractors

CONTRACTOR shall include all subcontractors as insured under its policies or shall obtain separate certificates and endorsements for each subcontractor.