

**AGREEMENT FOR ASES & ELO-P SERVICES
BY AND BETWEEN
SAN JOSÉ UNIFIED SCHOOL DISTRICT
AND
YMCA OF SILICON VALLEY**

Agreement for ASES & ELO-P Services (“Agreement”) is made as of May 15, 2024, between the **San José Unified School District** (“District”) and **YMCA of Silicon Valley** (“Contractor”). The District and Contractor may be individually referred to herein as a “Party” or collectively referred to herein as the “Parties.”

WHEREAS, the District is authorized by Section 53060 of the California Government Code to contract with and employ any persons for the furnishing of special services and advice in financial, economic, accounting, engineering, legal or administrative matters, if those persons are specially trained and experienced and competent to perform the special services required;

WHEREAS, the District requires such services and advice and the Contractor warrants that it is specially trained, licensed and experienced and competent to perform the services required by the District;

WHEREAS, the Contractor agrees to perform the Services described in this Agreement in accordance with the standards of its profession, to District’s satisfaction, and in accordance with this Agreement.

NOW, THEREFORE, the Parties agree as follows:

1. **Services.** Contractor shall furnish to the District ELO-P Summer Services as more fully described in **Exhibit A**, attached hereto and incorporated herein by this reference (“Services” or “Work”).
2. **Term.** Contractor shall commence providing services under this Agreement on **June 3, 2024** (“Effective Date”), and will diligently perform as required or requested by District as applicable. The term for these services shall expire on **June 28, 2024**. This Agreement may be extended upon mutual approval of both parties on an annual basis to the extent permissible under applicable law, and based on the approval of the District’s Governing Board.
3. **Submittal of Documents.** The Contractor shall not commence the Work under this Agreement until the Contractor has submitted and the District has approved the certificate(s) and affidavit(s), and the endorsement(s) of insurance required as indicated below:
 - 3.1. Signed Agreement
 - 3.2. Contractor Certification
 - 3.3. Insurance Certificates & Endorsements
 - 3.4. W-9 Form
4. **Compensation.** District agrees to pay the Contractor for Services satisfactorily rendered pursuant to this Agreement, at the rates indicated and as more specifically described in **Exhibit B**, on an hourly basis and a per-item basis, as applicable, and up to **a maximum amount not-to-exceed Three Hundred and Fifteen Thousand Seven Hundred and Eighty Four Dollars and Sixty Six Cents (\$315,784.66)**. District shall pay Contractor only for all undisputed amounts within thirty (30) days after the Contractor submits an invoice to the District for Work actually completed and after the District’s written approval of the Work, or the portion of the Work for which payment is to be made.
5. **Independent Contractor.** Contractor, in the performance of this Agreement, shall be and act as an independent contractor. Contractor understands and agrees that he/she and all of his/her employees shall not be considered officers, employees, agents, partner, or joint venture of the District, and are not entitled to benefits of any kind or nature normally provided employees of the District and/or to which District's employees are normally entitled, including, but not limited to, State Unemployment Compensation or Worker's Compensation. Contractor shall assume full responsibility for payment of all federal, state and local taxes or contributions, including unemployment insurance, social security and income taxes with respect to Contractor's employees.
6. **Standard of Care.**

- 6.1. Contractor represents that Contractor has the qualifications and ability to perform the Services in a professional manner, without the advice, control or supervision of District. Contractor's Services will be performed, findings obtained, reports and recommendations prepared in accordance with generally and currently accepted principles and practices of its profession for services to California school districts. Contractor's Services will be performed with due care and in accordance with applicable law, code, rule, regulation, and/or ordinance.
- 6.2. Contractor hereby represents that it possesses the necessary professional capabilities, qualifications, licenses, skilled personnel, experience, expertise, and financial resources, and it has available and will provide the necessary equipment, materials, tools, and facilities to perform the Services in an efficient, professional, and timely manner in accordance with the terms and conditions of the Agreement.
- 6.3. Contractor shall be responsible for the professional quality, technical accuracy, completeness, and coordination of the Services, and Contractor understands that the District relies upon such professional quality, accuracy, completeness, and coordination by Consultant in performing the Services.
- 6.4. Contractor shall ensure that any individual performing work under the Agreement requiring a California license shall possess the appropriate license required by the State of California. All personnel shall have sufficient skill and experience to perform the work assigned to them.
7. **Originality of Services.** Contractor agrees that all technologies, formulae, procedures, processes, methods, writings, ideas, dialogue, compositions, recordings, teleplays and video productions prepared for, written for, or submitted to the District and/or used in connection with this Agreement, shall be wholly original to Contractor and shall not be copied in whole or in part from any other source, except that submitted to Contractor by District as a basis for such services.
8. **Copyright/Trademark/Patent.** Contractor understands and agrees that all matters produced under this Agreement shall become the property of District and cannot be used without District's express written permission. District shall have all right, title and interest in said matters, including the right to secure and maintain the copyright, trademark and/or patent of said matter in the name of the District. Contractor consents to use of Contractor's name in conjunction with the sale, use, performance and distribution of the matters, for any purpose and in any medium.
9. **Termination.**
- 9.1. **Without Cause by District.** District may, at any time, with or without reason, terminate this Agreement and compensate Contractor only for services satisfactorily rendered to the date of termination. Written notice by District shall be sufficient to stop further performance of services by Contractor. Notice shall be deemed given when received by the Contractor or no later than three days after the day of mailing, whichever is sooner.
- 9.2. **With Cause by District.** District may terminate this Agreement upon giving of written notice of intention to terminate for cause. Cause shall include:
- 9.2.1. material violation of this Agreement by the Contractor; or
- 9.2.2. any act by Contractor exposing the District to liability to others for personal injury or property damage; or
- 9.2.3. Contractor is adjudged a bankrupt, Contractor makes a general assignment for the benefit of creditors or a receiver is appointed on account of Contractor's insolvency.
- Written notice by District shall contain the reasons for such intention to terminate and, unless within three (3) calendar days after that notice the condition or violation shall cease or satisfactory arrangements for the correction thereof be made, this Agreement shall upon the expiration of the three (3) calendar days cease and terminate. In the event of this termination, the District may secure the required Services from another Contractor. If the expense, fees, and/or costs to the District exceeds the cost of providing the Services pursuant to this Agreement, the Contractor shall immediately pay the excess expense, fees, and/or costs to the District upon the receipt of the District's notice of these expenses, fees, and/or costs. The foregoing provisions are in addition to and not a limitation of any other rights or remedies available to District.
- 9.3. **With Cause by Contractor.** The Contractor has the right to terminate this Agreement if the District does not fulfill its material obligations under this Agreement and fails to cure such material default within sixty (60) days, or if the default cannot be cured within sixty (60) days, commence to cure such default, diligently pursue such cure, and complete the cure within a reasonable time following written notice and demand from Contractor. Such termination shall be effective after receipt of written notice from Contractor to the District.

- 9.4. Upon termination, Contractor shall provide the District with all documents produced maintained or collected by Contractor pursuant to this Agreement, whether or not such documents are final or draft documents.
- 9.5. **Termination for Non-Appropriation of Funds.** The continuation of this Agreement is contingent upon the appropriation of funds to fulfill the requirements of the Agreement by the District. If the District fails to appropriate sufficient monies to provide for the continuation of the Agreement, or if appropriations to the District are reduced and the effect of such reduction is to provide insufficient monies for the continuation of the Agreement, the Agreement shall terminate on the date of the beginning of the first fiscal year for which funds have not been appropriated. Contractor will only be entitled to payment for deliverables that have been satisfactorily completed as of the termination date.
10. **Force Majeure Clause.** Contractor shall be excused from performance hereunder during the time and to the extent that it is prevented from obtaining delivery, or performing by act of God, fire, strike, loss, or shortage of transportation facilities, lock-out, commandeering of materials, product, plant, or facilities by the government, or pandemic (collectively a "Force Majeure Event") when satisfactory evidence thereof is presented to the District, provided that it is satisfactorily established that the non-performance is not due to the fault or neglect of the Contractor. Any delay associated with a Force Majeure Event, or any federal, state, or local order relating thereto, shall not be considered a Force Majeure Event unless it renders Consultant's performance of the Services impossible, and that event was not reasonably foreseeable at the time Contractor executed this Agreement.
11. **Indemnification.** To the furthest extent permitted by California law, Contractor shall defend, indemnify, and hold free and harmless the District, its agents, representatives, officers, consultants, employees, trustees, and volunteers ("the indemnified parties") from any and all claims, demands, causes of action, costs, expenses, liability, loss, damage or injury of any kind, in law or equity, including without limitation the payment of all consequential damages ("Claim"), arising out of, pertaining to or relating to, in whole or in part, the negligence, recklessness, errors or omissions, or willful misconduct of Contractor, its officials, officers, employees, subcontractors, consultants, or agents directly or indirectly arising out of, connected with, or resulting from the performance of the Services or from any activity, work, or thing done, permitted, or suffered by the Contractor in conjunction with this Agreement. The District shall have the right to accept or reject any legal representation that Contractor proposes to defend the indemnified parties.
12. **Release.** Contractor acknowledges that it is voluntarily and freely entering into this Agreement and to perform the Services which may require Contractor to enter upon and into the District's site(s) or property(ies) ("Premises"). Contractor further acknowledges that Contractor's use of the Premises may result in Contractor's exposure to and illness from infectious disease including, but not limited to, MSRA, influenza and COVID-19 (collectively "Infectious Disease"). Contractor further acknowledges the dangers involved with providing the Services and, with full knowledge of these dangers, voluntarily agrees to assume all risks of bodily injury, death, or property damage, whether those risks are known or unknown. Contractor hereby releases the District, its agents, representatives, officers, consultants, employees, trustees, and volunteers from any and all liabilities, causes of action, lawsuits, claims, demands, or damages of any kind whatsoever that Contractor, its staff, participants, relatives, children, spouse, partner, household members, family members, employees, guests, invitees, volunteers, agents, consultants and any other person tracing exposure or illness to Contractor, now have, or may have in the future, for injury, trauma, illness, loss, unwanted contact, harassment, disability, death or property damages related to being exposed to or contracting an Infectious Disease while using the Premise for the performance of the Services.
13. **Insurance.**
- 13.1. The Contractor shall procure and maintain at all times it performs any portion of the Services the following insurance with minimum limits equal to the amount indicated below.
- 13.1.1. **Commercial General Liability and Automobile Liability Insurance.** Commercial General Liability Insurance and Any Auto Automobile Liability Insurance that insure against all claims of bodily injury, property damage, personal injury, death, advertising injury, and medical payments arising from Contractor's performance of any portion of the Services. (Form CG 0001 and CA 0001)
- 13.1.2. **Workers' Compensation and Employers' Liability Insurance.** Workers' Compensation Insurance and Employers' Liability Insurance for all of its employees performing any portion of the Services. In accordance with provisions of section 3700 of the California Labor Code, the

Contractor shall be required to secure workers' compensation coverage for its employees. If any class of employee or employees engaged in performing any portion of the Services under this Agreement are not protected under the Workers' Compensation Statute, adequate insurance coverage for the protection of any employee(s) not otherwise protected must be obtained before any of those employee(s) commence performing any portion of the Services.

- 13.1.3. **Professional Liability (Errors and Omissions).** Professional Liability (Errors and Omissions) Insurance as appropriate to the Contractor's profession.

Type of Coverage	Minimum Requirement
Commercial General Liability Insurance , including Bodily Injury, Personal Injury, Property Damage, Advertising Injury, and Medical Payments	
Each Occurrence	\$ 1,000,000
General Aggregate	\$ 2,000,000
Automobile Liability Insurance - Any Auto	
Each Occurrence	\$ 1,000,000
General Aggregate	\$ 2,000,000
Abuse and Molestation Liability	
Each Occurrence	\$1,000,000
General Aggregate	\$1,000,000
Workers Compensation	Statutory Limits
Employer's Liability	\$ 1,000,000

- 13.2. **Proof of Carriage of Insurance.** The Contractor shall not commence performing any portion of the Services until all required insurance has been obtained and certificates indicating the required coverage's have been delivered in duplicate to the District and approved by the District. Certificates and insurance policies shall include the following:
- 13.2.1. A clause stating: "This policy shall not be canceled or reduced in required limits of liability or amounts of insurance until notice has been mailed to the District, stating date of cancellation or reduction. Date of cancellation or reduction shall not be less than thirty (30) days after date of mailing notice."
- 13.2.2. Language stating in particular those insured, extent of insurance, location and operation to which insurance applies, expiration date, to whom cancellation and reduction notice will be sent, and length of notice period.
- 13.2.3. An endorsement stating that the District and its representatives, employees, trustees, officers, and volunteers are named additional insureds under all policies except Workers' Compensation Insurance, Professional Liability, and Employers' Liability Insurance. An endorsement shall also state that Contractor's insurance policies shall be primary to any insurance or self-insurance maintained by District.
- 13.2.4. All policies shall be written on an occurrence form, except for Professional Liability which shall be on a claims-made form.
- 13.3. **Acceptability of Insurers.** Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A: VII, unless otherwise acceptable to the District.

14. **Assignment.** The obligations of the Contractor pursuant to this Agreement shall not be assigned by the Contractor.
15. **Compliance with Applicable Laws.** In performing services under this Agreement, Contractor shall comply with all applicable legal requirements. Contractor must complete and sign the Contractor Certifications attached as Exhibit C when Contractor submits this Agreement to the District. It shall be the sole responsibility of Contractor to obtain any needed business licenses, certificates, permits to conduct business to meet the terms of this Agreement.

Contractor shall give all notices required by any law, ordinance, rule and regulation bearing on conduct of the Work as indicated or specified. If Contractor observes that any of the Work required by this Agreement is at variance with any such laws, ordinance, rules or regulations, Contractor shall notify the District, in writing, and,

at the sole option of the District, any necessary changes to the scope of the Work shall be made and this Agreement shall be appropriately amended in writing, or this Agreement shall be terminated effective upon Contractor's receipt of a written termination notice from the District. If Contractor performs any work that is in violation of any laws, ordinances, rules or regulations, without first notifying the District of the violation, Contractor shall bear all costs arising therefrom.

16. **Permits/Licenses.** Contractor and all Contractor's employees or agents shall secure and maintain in force such permits and licenses as are required by law in connection with the furnishing of services pursuant to this agreement.
17. **Safety and Security.** Contractor is responsible for maintaining safety in the performance of this Agreement. Contractor shall be responsible to ascertain from the District the rules and regulations pertaining to safety, security, and driving on school grounds, particularly when children are present. Contractor is responsible to comply with Santa Clara County Public Health's guidelines concerning the Novel Coronavirus (COVID-19).
18. **Employment with Public Agency.** Contractor, if an employee of another public agency, agrees that Contractor will not receive salary or remuneration, other than vacation pay, as an employee of another public agency for the actual time in which services are actually being performed pursuant to this Agreement.
19. **Anti-Discrimination.** It is the policy of the District that in connection with all work performed under Contracts there be no discrimination against any employee engaged in the work because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status and therefore the Contractor agrees to comply with applicable Federal and California laws including, but not limited to the California Fair Employment and Housing Act beginning with Government Code Section 12900 and Labor Code Section 1735. In addition, the Contractor agrees to require like compliance by all its subcontractor(s).
20. **Audit.** Contractor shall establish and maintain books, records, and systems of account, in accordance with generally accepted accounting principles, reflecting all business operations of Contractor transacted under this Agreement. Contractor shall retain these books, records, and systems of account during the Term of this Agreement and for five (5) years thereafter. Contractor shall permit the District, its agent, other representatives, or an independent auditor to audit, examine, and make excerpts, copies, and transcripts from all books and records, and to make audit(s) of all billing statements, invoices, records, and other data related to the Services covered by this Agreement. Audit(s) may be performed at any time, provided that the District shall give reasonable prior notice to Contractor and shall conduct audit(s) during Contractor's normal business hours, unless Contractor otherwise consents.
21. **District's Evaluation of Contractor and Contractor's Employees and/or Subcontractors.** The District may evaluate the Contractor in any manner which is permissible under the law. The District's evaluation may include, without limitation:
 - 21.1. Requesting that District employee(s) evaluate the Contractor and the Contractor's employees and subcontractors and each of their performance.
 - 21.2. Announced and unannounced observance of Contractor, Contractor's employee(s), and/or subcontractor(s).
 - 21.3. Consultant agrees to remove or re-assign its employees as may be reasonably requested by the District as a result of the District's evaluation. The District shall provide its request in writing, convey the basis for its request and provide reasonable time for Consultant to satisfy the District's request.
22. **Limitation of District Liability.** Other than as provided in this Agreement, District's financial obligations under this Agreement shall be limited to the payment of the compensation provided in this Agreement. Notwithstanding any other provision of this Agreement, in no event, shall District be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including, but not limited to, lost profits or revenue, arising out of or in connection with this Agreement for the services performed in connection with this Agreement.
23. **Disputes:** In the event of a dispute between the parties as to performance of Work, Agreement interpretation, or payment, the Parties shall attempt to resolve the dispute by negotiation and/or mediation, if agreed to by the

Parties. Pending resolution of the dispute, Contractor shall neither rescind the Agreement nor stop Work.

24. **Confidentiality.** The Contractor and all Contractor's agents, personnel, employee(s), and/or subcontractor(s) shall maintain the confidentiality of all information received in the course of performing the Services. This requirement to maintain confidentiality shall extend beyond the termination of this Agreement.
25. **Notice.** Any notice required or permitted to be given under this Agreement shall be deemed to have been given, served, and received if given in writing and either personally delivered or sent by overnight delivery service, or facsimile transmission, addressed as follows:

San José Unified School District

Procurement & Contracts
855 Lenzen Avenue
San Jose, CA 95126
(408) 535-6000
Attn: Laura Garcia

YMCA of Silicon Valley

Executive Director
80 Saratoga Avenue
Santa Clara, CA 95051
(408) 351-6442
Attn: Lizeth Gonzalez

Any notice personally given shall be effective upon receipt. Any notice sent by overnight delivery service shall be effective the business day next following delivery thereof to the overnight delivery service.

26. **Integration/Entire Agreement of Parties.** This Agreement constitutes the entire agreement between the Parties and supersedes all prior discussions, negotiations, and agreements, whether oral or written. This Agreement may be amended or modified only by a written instrument executed by both Parties.
27. **California Law.** This Agreement shall be governed by and the rights, duties and obligations of the Parties shall be determined and enforced in accordance with the laws of the State of California. The Parties further agree that any action or proceeding brought to enforce the terms and conditions of this Agreement shall be maintained in the California county in which the District's administration offices are located.
28. **Provisions Required by Law Deemed Inserted.** Each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to be inserted herein and this Agreement shall be read and enforced as though it were included therein.
29. **Authority of Executing Officer or Party.** By signing below, the signer represents that it has the legal right, power, and authority to enter into and execute this Agreement and to bind the Party on whose behalf the signer executes this Agreement.
30. **Waiver.** The waiver by either party of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of such term, covenant, condition, or any subsequent breach of the same or any other term, covenant, or condition herein contained.
31. **Severability.** If any term, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force and effect, and shall not be affected, impaired or invalidated in any way.
32. **Incorporation of Recitals and Exhibits.** The Recitals and each exhibit attached hereto are hereby incorporated herein by reference.

[Signatures on following page]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the date indicated below.

San José Unified School District

Date: 5/31/2024

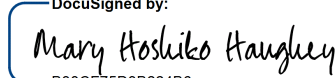
By: 
24398E33D9794D1...

Tracy Morrison
Director, Procurement



YMCA of Silicon Valley

Date: 5/31/2024

By: 
B38CF75D3B224B6...

Mary Hoshiko Haughey
Chief Operations Officer

EXHIBIT A
ELO-P SUMMER 2024 SERVICES

1. The District’s vision is preparing today’s students to be the thinkers, leaders, and creators of tomorrow. In alignment with this, District will offer an Expanded Learning Opportunities Program for students in TK-6. The program shall serve multiple groups of students at a maximum ratio of 20 students:1 staff for grades 1-6 or 10 students:1 staff for grades TK-K ratio. School sites participating in the ELO-P (“**School(s)**”), are listed below with an approximate enrollment projection.

Area Managers: 2

Group A School Sites	Enrollment Projection	Site Coordinator	Instructors TK/K	Instructors 1-6
Almaden Elementary	80	1	2	3
Anne Darling Elementary	103	2	2	5
Empire Gardens Elementary	84	1	2	4
Merritt Trace Elementary	147	2	2	5
Selma Olinder Elementary	90	1	2	4
Walter L. Bachrodt Elementary	119	1	2	5
Washington Elementary	136	1	2	5
Totals	759	9	14	31

2. **District’s ELO-P Plan Guide.** District’s ELO-P Plan Guide is available for Firm’s review at <https://www.sjUSD.org/who-we-are/district-information/>.
3. **Program Requirements.** Per grant requirements and as outlined in Education Code Section 46120 and the program requirements outlined in District’s ELO-P Plan Guide, Firm shall provide ELO-P Summer Services to TK-6 grade students at the School sites listed in Section 1 above. The ELO-P shall operate Monday through Friday from June 3, 2024 through June 28, 2024 from 8:00 a.m. to 5:00 p.m. No Services will be provided June 19, 2024.
4. **Firm Requirements.** Firm shall be responsible for hiring and retaining all staff to implement the ELO-P at the District School sites listed in Section 1 above.
- 4.1. Firm shall designate one representative to work with District staff.
- 4.2. Employ and appoint instructors, site coordinators, and area managers for each School site listed in Section 1 above. At least one Firm staff member shall be certified and maintain a CPR and First Aide certification per School site. At least one staff member shall be fluent in Spanish.
- 4.3. Firm shall have a current, compliant, Business Tax Certificate with the City of San José. <https://www.sanjoseca.gov/your-government/departments-offices/finance/business-tax-registration/register-for-a-business-tax-certificate> at the time the notice of award is issued.
- 4.4. Ensure that all persons (whether employees or independent contractors) who provide direct supervision to District students in the ELO-P meet the minimum qualifications for the District’s Instructional Aide [job classification](#).
- 4.5. Certify compliance with: (i) Child Abuse and Neglect Act guidelines for Mandated Reporters as

required by California Penal Code § 11164-11174; (ii) fingerprinting and background checks for all employees, contractors, agents and volunteers before they have contact with any District students (Education Code Section 45125.1(e)), and (iii) have on file current documentation of Tuberculosis Screening and negative test results for all employees, contractors, agents and volunteers who have contact with District students. The cost of any fingerprinting, background checks, and health screenings shall be the responsibility of the successful Firm(s).

- 4.6. Firm is required to add the following Non-Discrimination disclosure to all communications given to students, staff, and parents. Communications include, but are not limited to posters, flyers, handbooks, newsletters, social media, and brochures.

SJUSD prohibits discrimination, intimidation, harassment (including sexual harassment), or bullying based on a person's real or perceived ancestry, color, disability, gender, gender identity, gender expression, immigration status, nationality, race or ethnicity, religion, sex, sexual orientation, or association with a person or a group with one or more of these actual or perceived characteristics. For questions or complaints, contact Equity Compliance and Title IX Coordinator Darbi O'Connell, Director of Students Services, UniformComplaint@sjusd.org, and Section 504 Coordinator Chris Metcalfe, Director of Special Education, 504@sjusd.org 855 Lenzen Avenue, (408) 535-6000.

El Distrito Escolar Unificado de San José prohíbe la discriminación, intimidación, acoso (incluyendo el acoso sexual) o el hostigamiento tomando como base la ascendencia real o percibida de una persona, su color, discapacidad, género, identidad de género, expresión de género, la situación migratoria, nacionalidad, raza o etnia, religión, sexo, orientación sexual o asociación con una persona o un grupo con una o más de estas características reales o percibidas. Si tiene preguntas o quejas al respecto, comuníquese con la Coordinadora de Cumplimiento de Equidad y Título IX, Darbi O'Connell, Directora de Servicios Estudiantiles a: UniformComplaint@sjusd.org y con el Coordinador del Artículo 504, Chris Metcalfe, Director de Educación Especial a: 504@sjusd.org 855 Lenzen Avenue, (408) 535-6000.

- 4.7. Follow all District protocols as it relates to COVID screening, vaccination verification, and testing.
- 4.8. Be responsible for monitoring attendance of all student participants in the program and providing attendance reports to the District as agreed upon.
- 4.9. Comply with all federal and state laws, regulations and requirements relating to the confidentiality of student records and personally identifiable information and shall agree to execute and comply with District's Student Data Confidentiality Agreement.
- 4.10. Firm shall not charge District families for any services provided.

5. Program Services. Firm shall provide the following Services:

- 5.1. Provide various academic enrichment programming and services for the District's Summer Expanded Learning Opportunities Program, no field trips will be authorized; in accordance with Education Code Section 46120 and consistent with the District's ELO-P Plan Guide, to support the following purposes, which include and may not be limited to:
- 5.1.1. Academic enrichment and support programs.
 - 5.1.2. Visual and Performing Arts programs.
 - 5.1.3. Fitness and athletic programs.
 - 5.1.4. STEAM programs.
 - 5.1.5. Career and Technical Education programs and/or career readiness programs.
 - 5.1.6. Leadership programs, service-learning projects, and civic education. High school and college readiness programs.

- 5.1.7. Work in conjunction with District's staff to determine student's support for students with disabilities.
- 5.2. Develop and implement necessary curricula, instructional plans, and/or program guidelines, as applicable for the needs of each respective School site. Directly provide all materials, supplies, and technology equipment related to the proposed program. Firm must provide receipts for all materials and supplies purchased for the ELO-P, all materials and supplies shall remain the property of the District. Firm shall adhere with Education Code including, but not limited to Toxic Art Supplies in Schools [EC32064](#), and [State and Federal Legislation Affecting Science Instruction](#). No student data shall be shared with educational software programs the Firm elects to license with.
- 5.3. Schedule and coordinate the assignment of Firm's employees and/or Firm's contractors at each school site to implement the ELO-P. Ensure that fingerprinting and background checks are conducted for all Firm employees and/or Firm contractors before they have contact with any District students.
- 5.4. Collect reliable data and outcome measures, as determined with the District through a collaborative process, which addresses the performance indicators for the ELO-P.
- 5.5. Maintain and submit accurate records of the ELO-P plan, attendance policies, students' sign in/sign out records, staff records, monthly attendance reports, and any other records or reports as may be agreed upon with the District.
- 5.6. Attend and participate in meetings as requested by the District and/or coordinator(s) at each School site to discuss the progress of the ELO-P.
- 5.7. Regularly monitor and evaluate the program, in a manner as agreed upon with the District.
- 5.8. Share District facilities and work cooperatively with District staff and other community programs or organizations. Firm shall reserve space used for ELO-P summer program in [Facilitron](#), fees associated with the reservation for ELO-P shall be covered by the District. Firm's use of District's facilities for performance of the Services shall comply with District's facility use policies and any Board policy applicable to this use. These policies, practices and procedures include, but are not limited to, District's energy and water management policies and the prohibition against the use of any inflatable attractions on District's school sites. No vendor or subcontractor shall have access to District facilities without prior District approval.
- 5.9. Firm shall develop a technology use policy that is in accordance with [District's Acceptable Use Policy](#) related to student's use of technology in the program.
- 5.10. Firm's program shall adhere to the District's Wellness policies, including but not limited to the student's Wellness Policy 5030, Hazardous Substances Policy 3514.1, and Environmental Safety Policy 3514.
- 5.11. Firm shall develop a discipline policy that is in accordance with the District's. Firm shall not remove/expel any student without prior District approval.
- 5.12. Services provided shall be invoiced to the District monthly, as further described in Section 4 of the Agreement and at the rates listed in Exhibit B.

6. District Responsibilities.

- 6.1. Upon Firm's Facilitron reservation, District shall provide, and maintain facilities for the Firm to

deliver ELO-P summer services. Classroom assignments are subject to change with 48-hour prior notice.

- 6.2. District will provide access to the facilities three days prior to the start of the program for the Firm to set up. Access will be granted from 8:00 a.m. to 5:00 p.m.
- 6.3. District will provide Firm with Student Enrollment information (directory information, guardian and emergency contacts, health information, educational program, and opt-out of media). If Firm requires information beyond what the District has provided, Firm shall submit the request to the District for approval prior to contacting families.
- 6.4. District will provide an on-site administrator for limited support, custodial services, limited health services and other clerical support.
- 6.5. District shall provide access to Wifi and the use of District copiers and phones. Copier paper and other supplies will not be provided.
- 6.6. If District can provide technology equipment for Firm's staff's use, such as a laptop, Firm must sign equipment out and agree to the terms related to borrowing District equipment. An appointment with the District's Technology Department is required.
- 6.7. District will provide students with breakfast, lunch, and one snack per day.
- 6.8. District will provide access to the facilities for two days after the culmination of the ELO-P for the Firm to clean up. Access will be granted from 8:00 a.m. to 5:00 p.m.

EXHIBIT B
ELO-P SUMMER 2024 PROGRAM COSTS

The Firm shall provide ELO-P summer services to the schools listed in Exhibit A in an amount not to exceed **\$315,784.66**. This cost is broken down as follows:

1. Firm staff rates:

Position	# of Positions	Rate	Total Hours (8 Hours x 19 Days)	Totals
Area Manager	2	\$41.50	152	\$12,616.00
Site Coordinators	9	\$29.50	152	\$40,356.00
Instructors (TK/K)	14	\$25.20	152	\$53,625.60
Instructors (1-6)	31	\$25.20	152	\$118,742.40
Totals				\$225,340.00

Staffing Costs: **\$225,340.00**

Additional Operating Costs (delta): \$143,659.31

2. Firm costs for materials and supplies: **\$18,615.00**
3. The original proposal presented by the District had a delta of \$143,659.31. The YMCA offered to split this delta equally between the school District and the YMCA. This gesture underscores our commitment to fostering a stronger collaboration with the District. The YMCA will absorb its share of this cost for this proposal, reflecting our dedication to supporting our partnership and the community we serve.
- a. YMCA cost absorption: \$71,829.65
 - b. District responsibility: **\$71,829.66**
4. Firm shall provide final invoice by July 15th.
- a. Invoice shall include:
 - i. Actual enrollment numbers
 - ii. Number of staff per position, per school site
 - b. Firm shall be prepared to furnish proof of purchase of materials & supplies.

EXHIBIT C
FIRM CERTIFICATION

THE UNDERSIGNED EXECUTE THIS FORM AND HEREBY CERTIFIES TO THE GOVERNING BOARD OF THE DISTRICT THAT UNDERSIGNED IS:

- (1) A representative of the Firm,
- (2) Familiar with the facts herein certified,
- (3) Authorized and qualified to execute this certificate on behalf of Firm and that by executing this Agreement is certifying the following items.

Fingerprint and Background Certification. Business entities entering into a Service Agreement with the District shall comply with Education Code section [45125.1](#). Such entities are responsible for ensuring full compliance with the requirements of this statute and should thoroughly review the requirements thereunder.

The Firm and the Firm parties shall at all times comply with the fingerprint and background certification requirements as set forth below. Specifically, by checking an applicable option below, Firm hereby represents and warrants to District the following:

- Firm and/or Firm parties will not be present on a District site or will not have contact with District students when District students are present during the term of this Agreement.
- The Firm shall conduct the required criminal background check(s) of all persons who will be providing services to the San José Unified School District on behalf of Firm, and that none of those persons have been reported by the Department of Justice (“DOJ”) as having been convicted of a serious or violent felony as specified in Penal Code Sections [667.5](#) and/or [1192.7\(c\)](#). I understand that this Certificate is not to be signed and submitted until I have received clearance from DOJ regarding those persons named. Upon request, Firm will provide a list of the names of the employees who may come in contact with pupils while providing Services under this Agreement. This list shall be regularly maintained and updated by Firm and shall be available to District upon request or audit.
- Arrange to have a Certificated District Employee continually monitor and supervise the Firm at all times while services are provided on site such that Firm will have no interaction with any District student outside the immediate supervision and control of a District employee. As supported by California Education Code Section 45125.1.

Certificated District Employee:

Signature: _____ Date: _____ Principal Initials: _____

Megan’s Law (Sex Offenders). I have verified and will continue to verify that the employees of the Firm and the Subcontractor(s) having contact with District students under this agreement are **not** listed on California’s “Megan’s Law” Website (<http://www.meganslaw.ca.gov/>).

Tuberculosis Certification. The Firm and the Firm parties shall at all times comply with the certification requirements as set forth below. Specifically, by checking the one applicable option below, Firm hereby represents and warrants to District the following:

- Firm and/or Firm parties will not be present on a District school site and will not have contact with District students when District students are present during the term of this Agreement.
- District has determined that Firm will not have frequent or prolonged contact with students. District's determination is in compliance with and supported by California Education Code Section [49406\(m\)](#).
- The following Firm and/or Firm parties shall or may be on a District school site and have contact with District students during the term of this Agreement and, at no cost to District, they have received a tuberculosis risk assessment that complies with the requirements of California Education Code Section [49406](#). In addition, the Firm shall maintain on file the certificates showing that the Firm parties were examined and found free from active tuberculosis. These forms shall be regularly maintained and updated by Firm and shall be available to District upon request or audit.

Firm further agrees and acknowledges that all new personnel hired after the effective date of this Agreement are subject to the tuberculosis certification requirements and shall be prohibited from having any contact with District students until the tuberculosis certification requirements have been satisfied and District determines whether any such contact is permissible.

COVID-19 Certification. The Firm and the Firm parties shall at all times comply with the Covid-19 certification requirements as set forth below. Firm hereby represents and warrants to District the following:

I acknowledge and am aware of all applicable requirements and recommendations to mitigate the spread of COVID-19, including [COVID-19 Public Health Guidance for K–12 Schools to Support Safe In-Person Learning for the School Year](#) and [San José Unified's COVID Health and Safety Information](#).

Firm further agrees and acknowledges that District may at its sole discretion modify the requirements of this COVID-19 certification to ensure the health and safety of students.

Lobbyist Certification. The Firm and the Firm parties shall at all times comply with the lobbyist certification requirements as set forth below. Specifically, by checking the one applicable option below, Firm hereby represents and warrants to District the following:

- Firm and/or Firm parties are not a "Lobbying Coalition," "Lobbying Firm," "Lobbyist" or "Lobbyist Employer" as those terms are defined in the Political Reform Act of 1974 (Gov. Code §§ 81000) (collectively "Lobbyist") and are not performing Services hereunder that would require registering as a Lobbyist.
- Firm and/or Firm parties Services hereunder shall or may include lobbying. Firm and/or Firm parties shall comply with all applicable District, local, state and/or federal policies, rules, regulations, statutes and requirements governing Lobbyists. In addition, the Firm shall maintain on file registering and reporting records for Lobbyists. These records shall be regularly maintained and updated by Firm and shall be available to District upon request or audit.

Conflict of Interest Certification. The Firm and the Firm parties shall at all times comply with the conflict of interest certification requirements as set forth below. Specifically, by checking the one applicable option below, Firm hereby represents and warrants to District the following:

- Firm and/or Firm parties have read and understand the District's Conflict of Interest Code (Board Bylaw 9270) and, to the best of Firm's knowledge, there are no conflicts of interest that must be disclosed pursuant to the Conflict of Interest Code.

- Firm and/or Firm parties have read and understand the District's Conflict of Interest Code and, Firm knows or has reason to believe that Firm has a conflict of interest that requires disclosure and Firm and/or Firm parties shall comply with the applicable disclosure requirements of the District's Conflict of Interest Code. In addition, the Firm shall maintain on file statements of economic interests in accordance with applicable disclosure requirements. These records shall be regularly maintained and updated by Firm and shall be available to District upon request or audit.

I acknowledge and certify under penalty of perjury that I am duly authorized to legally bind the Firm to all provisions and items included in this certification, that the contents of this certification are true, and that this certification is made under the laws of the State of California.

YMCA of Silicon Valley

Date: 5/31/2024

By:  B38CF75D3B224B6...

Mary Hoshiko Haughey
Chief Operations Officer

EXHIBIT C CONTINUATION
WORKERS' COMPENSATION CERTIFICATION

Labor Code Section 3700 in relevant part provides that every employer except the State shall secure the payment of compensation in one or more of the following ways:

- By being insured against liability to pay compensation by one or more insurers duly authorized to write compensation insurance in this State.
- By securing from the Director of Industrial Relations a certificate of consent to self-insure, which may be given upon furnishing proof satisfactory to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to its employees.

I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the Work of this Agreement.

YMCA of Silicon Valley

Date: 5/31/2024

By: DocuSigned by:
Mary Hoshiko Haughey
B38CF75D3B224B6...

Mary Hoshiko Haughey
Chief Operations Officer

(In accordance with Article 5 – commencing at Section 1860, Chapter 1, part 7, Division 2 of the Labor Code, the above certificate must be signed and filed with the District prior to performing any Work under this Agreement.)

EXHIBIT C CONTINUATION
STUDENT DATA CONFIDENTIALITY CERTIFICATION

The Firm acknowledges his/her responsibility to respect the confidentiality of Covered data and information (CDI) and to act in a professional manner in the handling of student performance data. The Firm will ensure that confidential data, including data on individual students, is not created, collected, stored, maintained, or disseminated in violation of state and federal laws. (CDI) includes paper and electronic student education record information supplied by Institution, as well as any data provided by Institution's students to the Firm.

Furthermore, the Firm agrees to the following guidelines regarding the appropriate use of student data collected by myself or made available to me from other school/system employees, Infinite Campus, TES or any other file or application to which the Firm has access:

- Firm will comply to abide by the limitations on re-disclosure of personally identifiable information from education records set forth in The Family Educational Rights and Privacy Act (34 CFR § 99.33 (a)(2)) and with the terms set forth below. 34 CFR 99.33 (a)(2) states that the officers, employees, and agents of a party that receive education record information from the Institution may use the information, but only for the purposes for which the disclosure was made.
- Firm acknowledges that the Agreement allows the Firm access to (CDI) for whom the Firm has a legitimate educational interest and will be used for the sole purpose of improving student achievement and providing academic advisement to the student.
- The Firm shall develop, implement, maintain and use appropriate administrative, technical and physical security measures to preserve the confidentiality, integrity and availability of all electronically maintained or transmitted (CDI) received from, or on behalf of Institution or its students. The Firm acknowledges that it is illegal for a student to have access to another student's data and will not share (CDI) from any source with another student.
- Firm agrees to hold (CDI) in strict confidence. Firm shall not use or disclose (CDI) received from or on behalf of Institution (or its students) except as permitted or required by the Agreement, as required by law, or as otherwise authorized in writing by Institution. Firm agrees not to use (CDI) for any purpose other than the purpose for which the disclosure was made.
- Firm shall, within one day of discovery, report to Institution any use or disclosure of (CDI) not authorized by this agreement or in writing by Institution. Firm's report shall identify: (i) the nature of the unauthorized use or disclosure, (ii) the (CDI) used or disclosed, (iii) who made the unauthorized use or received the unauthorized disclosure, (iv) what the Firm has done or shall do to mitigate any deleterious effect of the unauthorized use or disclosure, and (v) what corrective action the Firm has taken or shall take to prevent future similar unauthorized use or disclosure.

California Consumer Privacy Act. To the extent applicable, Firm shall comply with the requirements of the California Consumer Privacy Act ("CCPA"). The CCPA, however, shall not preempt the requirements of the Family Educational Rights and Privacy Act (20 U.S.C. §1232g; 34 C.F.R. Part 99), the Children's Online Privacy Protection Act (Pub.L.No. 106-554 and 47 U.S.C. §254(h)), the Children's Internet Protection Act (15 U.S.C. §6501 et seq.), California Education Code sections 49073.1 and 49073.6, and/or the Student Online Personal Information Protection Act (California Business and Professions Code §22584). Notwithstanding the above, to the extent that a "consumer" as that term is defined by the CCPA, contacts Firm to receive Covered Data and Information provided to Firm pursuant to this Agreement, to delete consumer's personal information or to access information collected by Firm hereunder, Firm shall refer the consumer to the District, and the District will provide the necessary and proper procedures regarding the requested information.

YMCA of Silicon Valley

Date: 5/31/2024

By: DocuSigned by:
Mary Hoshiko Haughey
B38CF75D3B224B6...

Mary Hoshiko Haughey
Chief Operations Officer