

**ARLINGTON BEFORE AND AFTER SCHOOL CARE PROGRAM
BY AND BETWEEN
ARLINGTON PUBLIC SCHOOL DISTRICT
AND FREMONT YMCA**

The following Agreement is submitted this 9th day of May 2016, between Washington County School District 89-0024, a/k/a Arlington Public School District (APSD) and the Fremont YMCA (Before/After School Operator).

1. **Introduction and Term of Agreement:** The Fremont YMCA agrees to provide a Before and After School Day Care Program at the following elementary school location at the Arlington Public School District: Arlington Public Schools - Elementary Building located at 705 North 9th Street, Arlington, Nebraska. The term of this Agreement will be until either party terminates the agreement as per contract.
2. **Operating Hours and Days:** The Before/After School Operator will operate its Before/After School Program on regular school days. Operating hours from 6:00 a.m. to 8:05 a.m. and after school hours from the school release time (normally) 3:20 p.m. to 6:00 p.m. Additionally, the Before/After School Program will be operational on prescheduled Inservice Days as long as a minimum number of students are participating.
3. **Independent Contractor:** The Before/After School Operator will provide all necessary staffing, materials, and management to effectively operate the Before/After School Program. The Before/After School Operator is an independent Operator and is not an agent, servant, or employee of the APSD. The Before/After School Operator's engagement with the school is limited solely to the operation of the Before/After School Program. Neither party has the authority to act on behalf of the other party in any capacity.
4. **Compliance with Applicable Laws and Regulations:** The Before/After School Operator agrees to comply with all applicable state and federal laws and regulations governing the Before/After School Program. The Before/After School Operator agrees to obtain and maintain all necessary licenses in order to operate the Before/After School School Program. In the event that any governmental authority requires changes or repairs to the school facilities in order to license or operate the Before/After School Program, the APSD shall be responsible for making such changes or repairs within a reasonable time period. The APSD has the option to terminate this Agreement if it elects to not incur the cost of the repairs or changes. The Before/After School Operator agrees to comply with all applicable federal, state, and local laws concerning its employees.
5. **APSD Responsibilities:** While this Agreement is in effect, APSD will provide at its cost the following items:

- a. A licensable space, with existing equipment, and fixtures to accommodate 40-50 children.
- b. Fire extinguishers and any other safety equipment required by state authorities.
- c. Utilities, including but not limited to, heating, lighting, power, access to toilet facilities within the main building, hot and cold water, and access to a telephone line.
- d. Refuse removal.

6. Insurance Requirements:

a. **Before/After School Operator:** The Before/After School Operator agrees to maintain in full force and effective liability insurance covering the operation with limits of not less than One Million Dollars (\$1,000,000). The Before/After School Operator shall list the APSD as a named insured under such liability insurance policy. The Before/After School Operator shall provide the APSD with a 'Certificate of Insurance' complying with the foregoing.

b. **APSD:** The APSD agrees to maintain in full force and effect liability insurance covering injury or loss occurring on the APSD's premises by reason of defect in or condition of the APSD's premises with limits of not less than One Million Dollars (\$1,000,000). The APSD shall list the Before/After School Operator as a named insured under such liability insurance policy and shall provide the Before/After School Operator with a "Certificate of Insurance" complying with the foregoing.

7. Equal Opportunity in Employment: The Before/After School Operator shall not discriminate against any employee or applicant for employment to be employed in the performance of the Agreement with respect to hire, tenure, terms, conditions or privileges of employment, because of race, color, religion, sex or national origin, as prohibited by the Nebraska Fair Employment Practice Act or federal law. The Before/After School Operator agrees to post in conspicuous places available to employees and applicants, notices setting forth the Before/After School Operator's nondiscrimination policies. The Before/After School Operator shall, in all solicitations or advertisements for employees placed by them or on their behalf, state that all qualified applicants will receive consideration for employment without regard to race, religion, age, disability, sex, or national origin.

b. The Before/After School Operator hereby warrants and represents that it is in compliance with said Act. Any failure to so comply during the performance of this Agreement shall be a material breach of the Agreement. The Before/After School Operator by execution of this agreement certifies that the Before/After School Operator is an equal opportunity employer and does not discriminate against any employee or applicant for employment or Before/After School Operator by reason of race, color, national origin, religion, marital status, sex, age, disability or

sexual orientation. By execution of this agreement, the Before/After School Operator agrees to actively continue and implement this policy throughout any awarded project.

8. Criminal History Checks:

a. Before/After School Operator shall obtain all criminal history information regarding its "covered employees", as defined below. The Before/After School Operator will provide written certification to APSD that Before/After School Operator has complied with the statutory requirements as of that date. Upon request by APSD, Before/After School Operator will provide, in writing, updated certifications and the names and any other requested information regarding covered employees, so that APSD may obtain criminal history record information on the covered employees. Before/After School Operator shall assume all expenses associated with obtaining the initial criminal history record information and APSD shall be responsible for expenses associated with any subsequent request. Before/After School Operator shall include similar criminal history check provisions in all contracts with suppliers.

b. Before/After School Operator will not assign any "covered employee" with a "disqualifying criminal history", as those terms are defined below, to work for and provide service as part of the day care operation. If Before/After School Operator receives information that a covered employee has a reported disqualifying criminal history, then Before/After School Operator will immediately remove the covered employee from providing care services and notify APSD in writing within three (3) business days. If APSD objects to the assignment of any covered employee on the basis of the covered employee's criminal history record information, then Before/After School Operator agrees to discontinue using that covered employee to provide services.

c. For the purposes of this Section, "covered employees" means employees, agents or subcontractors who has or will have continuing duties related to the before/after school care services and has or will have direct contact with APSD's students. APSD will decide what constitutes direct contact with APSD's students. "Disqualifying criminal history" means any conviction or other criminal history of the following offenses: a felony offense under Nebraska Criminal Code Article 3 Offenses Against The Person; an offense for which a defendant is required to register as a sex offender under the Nebraska Sex Offender Registration Act, Neb. Rev. Stat. §§ 29-4001 et seq.

d. The Before/After School Operator shall establish a day care facility security protocol which shall include providing all employees of the Before/After School Operator a badge created by the Before/After School Operator; each badge shall identify each individual employee by name. A log of all names of the employees that will be providing services as part of this Before/After school Program will be kept current at all times by the Before/After School Operator's Manager and a copy of an updated log shall be kept at all times in the office of the APSD Superintendent's. All means of identification that is provided by the Before/After School

Operator must be approved by the APSD Superintendent. Identification must be visible at all times. Personnel failing to comply with the job-site security requirements may be required by the Before/After School Operator or APSD personnel to leave the school-site.

9. **Contributions Under Nebraska Employment Security Law:** The Before/After School Operator shall make payment to the Unemployment Compensation Fund of the State of Nebraska all contributions and interest due under the provisions of the Employment Security Law, Neb. Rev. Stat. §§ 48-601, et seq. (Reissue 1988), as amended, on wages paid to individuals employed in the performance of the Contract.

10. **Verification of Immigration Status:** The Before/After School Operator agrees to use the federal immigration verification system to determine the work eligibility status of new employees physically performing services on the Project within the State of Nebraska. The federal immigration verification system means the electronic verification of the work authorization program authorized by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324a, known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee.

11. **Indemnification:** The Before/After School Operator agrees to release, hold harmless, and indemnify APSD, its employees, and agents from any and all liability, claims, demands, actions or causes of action, of any kind, arising out of the operation of the Program. This indemnification does not extend to any claims, damages, losses, or expenses caused by, related to, or arising from any defect in, condition of or failure by APSD to provide physical maintenance of its school buildings and/or grounds or failure by APSD to comply with its other responsibilities under this Agreement.

The APSD agrees to release, hold harmless and indemnify the Before/After School Operator, its employees and agents from any and all liability, claims, demands, actions or causes of action, of any kind, arising out of any defect in, condition of or failure by APSD to provide physical maintenance of its school buildings and/or grounds or failure by APSD to comply with its other responsibilities under this Agreement.

12. **Termination of Agreement:** Either party may terminate this Agreement, with or without cause, upon five months written notice in advance. For purposes of this Agreement, “without cause” means that either party, for any reason or no reason, may decide to discontinue the Day Care and terminate this Agreement in their sole discretion, without having to show just or reasonable cause for doing so.

13. **Notices:** All notices given by either pursuant to this Agreement shall be in writing and be either hand delivered or mailed to the other party at the addresses indicated below. The terms and conditions set forth in this Agreement shall constitute the entire Agreement between the Before/After School Operator and APSD unless otherwise agreed and shall be binding upon and

