

**MEMORANDUM OF UNDERSTANDING  
FOR DAYCARE PROGRAM AND FACILITIES USE BETWEEN  
LA VERNIA INDEPENDENT SCHOOL DISTRICT AND  
THE YMCA OF GREATER SAN ANTONIO**

This Memorandum of Understanding for Daycare Program and Facilities Use ("Agreement") is entered into by and between the **La Vernia Independent School District**, a political subdivision of the State of Texas, acting by and through its Board of Trustees, hereto duly authorized, (hereinafter called "District" or "LVISD") and **The YMCA OF GREATER SAN ANTONIO** ("YMCA SA") acting by and through its duly authorized Vice President of Youth Development, Debbie Degollado (collectively the "Parties").

**WHEREAS**, the District owns educational facilities which are available for use for certain approved activities described herein during periods when the District is closed for instruction; and

**WHEREAS**, the District is scheduled to implement a four-day week instructional pilot program for a period of three years; it is anticipated that this four-day instructional week will leave families with students in need of student day care on Fridays when the District is closed for instruction; and

**WHEREAS**, the Parties have historically enjoyed a mutually satisfactory and cooperative relationship that has benefited the students of the District; and

**WHEREAS**, YMCA SA and District have come to an agreement regarding mutually advantageous terms for allowing use of District's facilities for a student daycare Program to be conducted by YMCA SA on District Property, (the "Program") and both desire that such agreement be memorialized herein; and

**WHEREAS**, the Program will be available and open to District enrolled students only;

**NOW, THEREFORE**, in consideration of the mutual covenants set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

**Article 1. Term**

- 1.1 This Agreement will commence on August 4, 2025 and continue through May 28, 2026, unless otherwise earlier terminated in accordance with the terms of this Agreement. The Agreement shall be subject to annual renewal, for up to two (2) additional one (1) year terms, at the election of the District. Such election shall be provided to YMCA SA not later than ninety (90) days before the end of the then current term.

**Article 2. Components of the Program and Participation**

- 2.1 YMCA SA shall operate a student daycare program for District-enrolled students for educational and social enrichment ("Program") to be conducted on each Friday of every week of the academic calendar for the 2025-2026 school year when the students are scheduled to receive instruction. No student daycare will be scheduled during regularly scheduled LVISD holidays. The Program shall take place in designated facilities within

the Primary Campus ,249 FM 1346 S. La Vernia, TX ("District Facility"). The program will provide the following:

- A safe environment that focuses on making friends, building relationships, staying active, and exercising leadership skills
  - Hands on educational experiences for students, meals and snacks daily, encourage healthy eating habits and exercise.
  - Enrichment activities to encourage students to express their talents in the arts, sports and other areas of interest.
  - Provide a snack administered under the Program, state and federal requirements.
- 2.2 Participation in the program will be open solely to students, ages 4-13, who are actively enrolled in the 2025-2026 school year for La Vernia ISD schools.

### **Article 3. Days, Hours and Enrollment of Services**

- 3.1 The program will operate for a minimum of 8.5 Hours beginning at 6:45 a.m. and ending at 3:20 p.m. for each Friday of every week of the academic calendar for the 2025-2026 school year on weeks when the students are scheduled to receive instruction. No daycare will be scheduled during regularly scheduled LVISD holidays.
- 3.2 This program will be partially funded by the District through its general funds and will support services for up to 300 students who are enrolled for the full school year of services. There will be an option for additional students based upon a mutual agreement between LVISD and YMCA. Students, who terminate their services or are removed from the Program by the YMCA SA, will be replaced by students on the waitlist. Should enrollment in the Program drop to less than 50 students, this MOU and the license for services will be adjusted accordingly as negotiated by the Parties.
- 3.3 Enrollment of students will be handled by the YMCA SA with students who are in lower socioeconomic brackets or in hardship situations receiving precedent.

### **Article 4. Responsibilities of the Parties**

- 4.1 District Responsibilities.
- 4.1.1 District will provide YMCA SA access to mutually agreed District Facilities of adequate size to accommodate the amount of program participants that meet the YMCA student to staff ratio and activities as required by YMCA SA to comply with the spacing requirements of the Texas Department of Family and Protective Services.
- 4.1.2 The District and YMCA SA will each designate a contact person who will provide pertinent information about the Facility and the Program such as scheduling, room arrangement and updates as needed to the designated YMCA SA Site Director.
- 4.1.3 Maintain confidentiality of client records pursuant to federal and state law.
- 4.2 YMCA SA shall:

- 4.2.1 Hold an active childcare license/permit issued by the Texas Department of Family and Protective Services to operate (at a minimum) an After-School Program.
- 4.2.2 Comply with Texas child-care licensing laws, including those found in Chapter 42 of the Human Resources Code; Regulations found at Title 40 of the Texas Administrative Code, Part 19, Chapter 744 and 745; the required minimum standards set out therein, and other applicable federal state and local laws related to child care.(hereinafter “Child Care Licensing Laws”)
- 4.2.3 Provide adequate resources and equipment to fulfill the legal requirements of the Child Care Licensing Laws.
- 4.2.4 Assure that YMCA SA Staff are appropriately identified as YWCA employees when in service.
- 4.2.5 Provide District Contact person with all information pertaining to the Site Director, including emergency phone numbers and procedures to be followed by YWCA Daycare Program staff.
- 4.2.6 Maintain confidentiality of client records pursuant to federal and state law.
- 4.2.7 In using the Facility, YMCA SA shall:
  - a. Conduct business in an orderly manner.
  - b. Abide by all laws and policies, including but not limited to those prohibiting the use, sale, or possession of alcoholic beverages, illegal drugs, firearms and the use of tobacco products on school property.
  - c. Make no alteration, temporary or permanent, to school property without prior written consent from the Superintendent; and
- 4.2.8 Will abide by and perform all obligations required of the YMCA SA under this Agreement and any subsequent license or other written agreement with LVISD.
- 4.2.8 Ensure that all District policies and procedures are complied with by YMCA SA, its staff, officers, and employees while occupying and operating the DAYCARE PROGRAM in District facilities.

## **Article 5. Program Staff**

- 5.1 All Program staff persons will be employed by and under the direct supervision of the YMCA SA at all times during the hours of operation of the Program, regardless of whether they may be employed at other times by the District. Any participation in the Program by a District employee Daycare hours, whether on a paid or volunteer basis, shall be considered outside the scope of the employee's District employment. The YMCA SA will provide on-site supervision for Program staff and volunteers during all times they are performing duties associated with the Program, regardless of the time of day or the location where the duties are performed.
- 5.2 The YMCA SA will provide assurance that all employees, subcontractors and volunteers of the YMCA SA who will have contact with students, have completed a training course

in First Aid, CPR, and use of the on-site Automatic External Defibrillator ("AED"), as well as training in sexual harassment awareness and child abuse reporting.

- 5.3 Pursuant to Texas Education Code §22.08341, the YMCA SA shall obtain criminal history record information through the Fingerprint-Based Applicant Clearinghouse of Texas ("FACT Clearinghouse"), for all of YMCA SA's Covered Employees. YMCA SA shall require any subcontractor, independent contractors, and consultants, by the terms of their respective contract with YMCA SA, to obtain the required criminal history record information through the FACT Clearinghouse, for their Covered Employees, and that such subcontractors, independent contractors, and consultants of YMCA SAs subcontractors, require their subcontractors, independent contractors, and consultants of every tier, to timely make the same certifications to the YMCA SA as those required by the statute from the YMCA SA, in order to allow YMCA SA to timely provide the certifications to the District as required by the statute. YMCA SA will subscribe the FACT Clearinghouse for purposes of receiving updates to the criminal history record information it obtained and shall require the same of its subcontractors, independent contractors and consultants, by contract.
- 5.4 To the extent not required by the foregoing Paragraph 5.4, prior to employing a person for the Program, or approving any volunteer to provide services under this Agreement, the YMCA SA shall also provide assurance that that that person has undergone any other criminal background check not included in the Fingerprint-Based Applicant Clearinghouse of Texas check, which is required by another statute in connection with its licensure or service to children, including but not limited to a Multi-Jurisdictional Search, National Database Search of Sex Offender Search, Social Security Trace Search and Texas State Records Search and FBI Finger Print check through TDFPS. Failure by YMCA SA to assure that these requirements are met prior to any person beginning paid or volunteer work with the Program, and that training requirements are current throughout the duration of the Program shall be grounds for immediate termination of this Agreement.

## **Article 6. Program Equipment**

- 6.1 With the exception of desks, furniture, fixtures and permanently affixed sports equipment, (e.g. basketball goals) available in the Facility ("District Property"), YMCA SA shall provide all equipment, supplies, materials and other property necessary to conduct the Program. ("Program Equipment") YMCA SA agrees to safeguard, maintain and inventory Program Equipment and promptly report any incidence of stolen, missing, damaged or destroyed Program Equipment. Notwithstanding the foregoing, in the event that any Program Equipment is damaged, destroyed or stolen the YMCA SA will be responsible for repair or replacement of such equipment in its sole discretion.
- 6.2 YMCA SA agrees that to the extent it uses District Property during the Program, it will safeguard such property and exercise reasonable care in its utilization of such District Property. In the event that any District Property is damaged or destroyed as a result of YMCA SA's use during the Program, YMCA SA agrees to pay for repair or replacement of such District Property, not less than thirty (30) days after being notified by the District of such damage or loss. Failure to provide such reimbursement shall be an event of default.

- 6.3 Upon expiration of the Term or earlier termination under this Agreement, the District may retain, destroy, or dispose of any property left at the Facility more than thirty (30) days after expiration or termination, unless other arrangements are made in writing, signed by both parties.

## **Article 7. District Contributions**

- 7.1 Concurrent with execution of this Agreement the District through the resolution adopted by the Board of Trustees will reimburse YMCA SA for expenses and support for the charges and associated costs in the amount of twenty-five Dollars and NO cents (\$25.00) per participant for up to 300 students to attend the YMCA SA Friday Daycare without charge. There will be an option for additional students based upon a mutual agreement between LVISD and YMCA. This payment shall be made as described below. Should a student withdraw or be terminated from the Program, these students will be replaced by students on the waitlist. Should enrollment in the Program drop to less than 50 students, this MOU and the license for services will be adjusted accordingly as negotiated by the Parties. The payment shall be made on a monthly basis.
- 7.2 Food- YMCA SA will partner with LVISD nutrition services department to provide mutually agreed upon meals for breakfast and lunch. Snack services will be provided by the YMCA.
- 7.3 Custodial Services-in exchange for the services provided by the YMCA SA, LVISD will provide all custodial services.

## **Article 8. Default and Termination**

- 8.1 If default shall be made in any of the covenants or agreements made by YMCA SA in this Agreement, District may, at its option, terminate this Agreement, if YMCA SA fails to cure such default within fifteen (15) days after receiving written notice from District of such default; provided, however, within five (5) days after receipt of such notice, YMCA SA shall cease operations on the Premises and shall not recommence such operations unless and until YMCA SA's default is cured. Any waiver by District of any default or defaults shall not constitute a waiver of the right to terminate this Agreement for any subsequent default or defaults, nor shall any such waiver in any way affect District's ability to enforce any provision of this Agreement. The remedy set forth in this Section shall be in addition to, and not in limitation of, any other remedies that District may have at law or in equity.
- 8.2 Either party may terminate this Agreement for convenience upon ninety (90) days prior written notice to the other. In the event of any breach of this Agreement by YMCA SA, LVISD may give written notice to YMCA SA to such effect, which notice shall describe such breach in reasonable detail and, if YMCA SA shall fail to cure such breach within twenty (20) days after receipt of such notice, the District may thereupon terminate this Agreement effective with providing the written notice of termination.
- 8.3 In the event of termination under any provision of this Article, the YMCA SA agrees to cooperate with the district in providing a smooth transition and closing of the Program.

- 8.4 Within thirty days following the end of the Term or earlier termination in accordance with the terms of this Agreement, the District agrees to return the Security Deposit paid by the YMCA SA, after subtracting from the Security Deposit all amounts applied to cure any breach of the Agreement by YMCA SA, provided that YMCA SA has given the District written notice of its forwarding address.

#### **Article 9. Insurance and Indemnity**

- 9.1 YMCA SA agrees to provide and maintain in effect during the existence of this Agreement a third-party policy of insurance of the type and with indemnification limits as indicated in the attached Exhibit A with not less than the amounts indicated in the attached **Exhibit A** which is attached hereto and incorporated herein by reference.
- 9.2 **YMCA SA HEREBY AGREES TO INDEMNIFY, DEFEND, AND HOLD THE DISTRICT, ITS BOARD OF TRUSTEES, OFFICERS, AGENTS, AND EMPLOYEES, HARMLESS FROM ANY INJURY (AND ANY RESULTING OR RELATED CLAIM, ACTION, LOSS, LIABILITY, OR REASONABLE EXPENSE, INCLUDING ATTORNEY'S FEES, OTHER FEES, COURT AND OTHER COSTS) ARISING, IN CONNECTION WITH THE OPERATIONS OF YMCA SA, ITS AGENTS, EMPLOYEES, CONTRACTORS AND SUPPLIERS PROVIDING GOODS OR SERVICES UNDER THIS AGREEMENT. THE INDEMNITY PROVIDED FOR IN THIS PARAGRAPH SHALL HAVE NO APPLICATION TO ANY CLAIM, LOSS, DAMAGE, CAUSE OF ACTION, SUIT, OR LIABILITY WHERE THE INJURY, DEATH, OR DAMAGE RESULTS FROM THE SOLE NEGLIGENCE OF THE DISTRICT, THE DISTRICT'S TRUSTEES, OFFICERS, AGENTS OR EMPLOYEES, UNMIXED WITH THE FAULT OF ANY OTHER PERSON OR ENTITY. PROVIDED HOWEVER, WHERE THE NEGLIGENCE OF THE DISTRICT, THE DISTRICT'S TRUSTEES, OFFICERS, AGENTS, OR EMPLOYEES, IS A CONCURRING CAUSE, THE YMCA SA'S OBLIGATION TO INDEMNIFY IS LIMITED TO THE AMOUNT NECESSARY TO CAUSE THE RELATIVE LIABILITY OF THE DISTRICT AND YMCA SA TO REFLECT THE COMPARATIVE NEGLIGENCE FINDINGS OF THE TRIER OF FACT (JUDGE OR JURY) OR AS AGREED IN A SETTLEMENT AGREEMENT TO WHICH DISTRICT AND YMCA SA ARE PARTIES.**

#### **Article 10. Maintenance of Records**

- 10.1 YMCA SA agrees to maintain and provide to the District on a monthly basis, with its payment of fees provided for herein, full and accurate records regarding: (1) the number of participants attending on a daily basis, (2) activities planned for and provided to the participants in the previous month, (3) the number of hours worked by the staff and volunteers involved, and (4) all other pertinent information regarding the Program reasonably requested by the District. District shall have, upon reasonable request, reasonable access to such records for purposes of verifying compliance with this agreement. Such records shall be maintained by YMCA SA for five (5) years following termination of this Agreement.

#### **Article 11. Subcontracting and Assignment**

- 11.1 Any other clause of this contract to the contrary notwithstanding, none of the work or services covered by this contract shall be assigned without the prior written approval of

both Parties to this Agreement.

- 11.2 Any other clause of this contract to the contrary notwithstanding, none of the work or services covered by this contract shall be subcontracted without the prior written approval of both Parties to this Agreement. Any work or services approved for sub-contracting hereunder shall be subcontracted only by written contract or agreement and, unless specific waiver is granted in writing by both Parties to this Agreement, shall be subject by its terms to each and every provision of this contract.

#### **Article 12. Relationship of Parties**

- 12.1 Nothing contained herein shall be deemed or construed by the parties hereto, or by any third party, as creating the relationship of principal and agent, partners, joint venturers or any other similar such relationship between the parties hereto. Employees of YMCA SA remain under the sole direction and control of that entity.

#### **Article 13. No Waiver of Immunity**

- 13.1 No Party hereto waives or relinquishes any immunity or defense on behalf of itself, its trustees, officers, employees, and agents as a result of the execution of this Agreement and the performance of the covenants contained herein.

#### **Article 14. No Third-Party Beneficiary**

- 14.1 This Agreement inures to the benefit of and obligates only the Parties executing it. No term or provision of this Agreement shall benefit or obligate any person or entity not a party to it. The Parties hereto shall cooperate fully in opposing any attempt by any third person or entity to claim any benefit, protection, release or other consideration under this Agreement.

#### **Article 15. Entire Agreement and Amendment**

- 15.1 This Agreement supersedes any and all other agreements, either oral or in writing, between the parties with respect to the subject matter of this Agreement and contains all of the covenants and agreements between the parties with respect to such subject matter. Each party to this Agreement acknowledges that no representations, inducements, promises, or agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any party, that are not set forth in this Agreement, and that no agreement, statement, or promise not contained in this Agreement shall be valid or binding.
- 15.2 No amendment, modification, or alteration of the terms of this Agreement shall be binding unless the same is in writing, dated subsequent to the date hereof and duly executed and agreed to by all the parties hereto.

#### **Article 16. Notices**

- 16.1.1 Any notice hereunder may be given by U.S. certified or registered mail, return receipt requested, to the YMCA SA by addressing: Chief Financial Officer, Ross Magsig, YMCA of Greater San Antonio, 231 E. Rhapsody, San Antonio, TX 78261, and to the District by

addressing: Superintendent of Schools, La Vernia ISD 1360 US Hwy 87, La Vernia, TX 78121. Such addresses may be changed from time to time by written notice of such change given in accordance with this section.

**Article 17. Law and Venue**

- 17.1 This Agreement shall be construed and enforced in accordance with Texas law. Venue for any action to construe, enforce or adjudicate a dispute arising from this Agreement shall be in Wilson County, Texas.

**EXECUTED** this \_\_\_\_ day of \_\_\_\_\_, 2024, the **EFFECTIVE DATE**.

YMCA OF GREATER SAN ANTONIO	LA VERNIA INDEPENDENT SCHOOL DISTRICT
<p>By: _____ Ross A. Magsig, Chief Financial Officer</p>	<p>By: _____ Dr. Hensley Cone, Superintendent</p>



## **EXHIBIT A INSURANCE REQUIREMENTS**

A.1 Prior to commencement of the Program at the District Facility, the YMCA SA shall provide and maintain in effect for the duration of this Agreement insurance of the following types and with indemnification limits not less than the amounts indicated:

<u>Workers' Compensation</u> (Including Waiver of Subrogation Endorsement)	All liability arising out of YMCA SA's employment of workers and anyone for who the YMCA SA shall be liable for Worker's Compensation claims.
<u>Errors and Omissions:</u>	\$1,000,000.00 per claim \$2,000,000.00 in the aggregate
<u>Directors' and Officers' Liability:</u>	\$1,000,000.00 per claim \$2,000,000.00 in the aggregate
<u>Commercial General Liability:</u>	
Occurrence	\$1,000,000.00
Aggregate	\$3,000,000.00
Personal Injury (Libel and Slander)	\$1,000,000.00 each person
	\$1,000,000.00 per claim
<u>Abuse &amp; Molestation Liability</u>	\$3,000,000.00 in a policy period
<u>Automobile Liability:</u>	\$1,000,000.00 per occurrence \$2,000,000.00 in the aggregate
<u>Program Consultants</u>	\$1,000,000.00 per claim \$2,000,000.00 in the aggregate

A.2 The required insurance must be written by a company authorized to do business in Texas and which issues such policies in the State of Texas at the time the policy is issued. In addition, the company must be acceptable to the District.

A.3 The Abuse & Molestation Policy required above shall contain no bodily injury deductible or Self-Insured Retention requirements, shall provide for defense costs to be covered outside of the liability limits, and shall include coverage for all employees and volunteers of the YMCA SA who provide supervision of any kind for any student attending the Program.

A.4 It is the intent of the parties to this Agreement that the Commercial General Liability and the Abuse and Molestation Liability coverage provided herein shall be primary to and shall seek no contribution from insurance available to the District, with the District's insurance being excess, secondary and non-contributing. The Commercial General Liability coverage and the Abuse and Molestation Liability coverage shall be endorsed to provide such primary and non-contributing liability.

A.5 Prior to commencement of the Program at the District Facility, the YMCA SA shall have its insurance carrier(s) furnish to the District insurance certificates in form satisfactory to the District that at a minimum specify the following:

- (a) The types and amounts of coverage in effect;

- (b) All exclusions and limitations added by endorsement to any of the insurance policies;
- (c) The expiration dates of each policy;
- (d) A statement that no insurance will be canceled or materially changed while the Agreement is in effect without thirty (30) calendar days' prior written notice to the District; and
- (e) A statement that, except for Workers' Compensation, Errors and Omissions, Directors' and Officers' and Program Consultant's Liability Insurance, the District is named as an additional insured.

The YMCA SA shall notify the District in writing by certified mail or personal delivery, within ten (10) days after the YMCA SA knows or should have known, of any change that materially affects the provision of the coverage required.

A.6 Upon reasonable notice, the YMCA SA shall permit District to examine all of the insurance policies, or at District's option, YMCA SA shall furnish the District with copies, certified by the carrier(s), of insurance policies required.

A.7 If YMCA SA neglects or refuses to provide any insurance required herein, or if any insurance is canceled, the District may (1) terminate this Agreement or (2) may, suspend performance under this Agreement until such insurance is provided.