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Board Cover Memorandum

To Board of Education

From Kyla Johnson-Trammell, Superintendent
Sondra Aguilera, Chief Academic Officer
Andrea Bustamante, Executive Director, Community Schools and Students Services

Meeting Date June 22, 2022

Subject Services Agreement with Adventure Time/Tuller Corporation – No Cost

Ask of the Board Approve Service Agreement
 Ratify Service Agreement

Services *Adventure Time will provide its summer enrichment and child care program at Montclair Elementary from May 26, 2022 through July 31, 2022.*

Term Start Date: May 26, 2022 End Date: July 31, 2022

Not-To-Exceed Amount \$0

Competitively Bid No. This no-cost agreement is under the bidding threshold.

In-Kind Contributions *None*

Funding Source(s) N/A. No-cost agreement.

Background *Adventure Time has provided after school and summer programs at District sites for fees charged to parents and students. The District and Adventure Time are amending its Memorandum of Understanding regarding these*

services to terminate at the end of the 2021-2022 school year, but the District desires to permit Adventure Time to provide its summer 2022 program at Montclair Elementary. Adventure Time will provide its summer enrichment and child care program at Montclair Elementary during the Term of the Agreement.

The following are the costs to the parents or students:

*\$9.50 per hour for full day sessions. \$10.00 per hour for half day sessions.
\$12.00 per hour for off schedule sessions.*

Adventure Time will use specified facilities at Montclair Elementary during the hours of its summer program, and will pay the District for this use.

Attachment(s)

- Service Agreement with Adventure Time/Tuller Corporation
- Program Fees/Tuition Schedule
- Program Flyer

SERVICES AGREEMENT 2021-2022 – NO COST

This Services Agreement (“Agreement”) is a legally binding contract entered into between the Oakland Unified School District (“OUSD”) and the below named entity or individual (“VENDOR,” together with OUSD, “PARTIES”):
Adventure Time/Tuller Corporation

The PARTIES hereby agree as follows:

1. **Term.**

- a. This Agreement shall start on the below date (“Start Date”):

May 26, 2022

If no Start Date is entered, then the Start Date shall be the latest of the dates on which each of the PARTIES signed this Agreement.

- b. The work shall be completed no later than the below date (“End Date”):

July 31, 2022

If no End Date is entered, then the End Date shall be the first June 30 after the Start Date. If the term set forth above would cause the Agreement to exceed the term limits set forth in Education Code section 17596, the Agreement shall instead automatically terminate upon reaching said term limit.

2. **Services.** VENDOR shall provide the services (“Services”) as described in #1A and #1B of **Exhibit A**, attached hereto and incorporated herein by reference. To the extent that there may be a school closure (e.g., due to poor air quality, planned loss of power, COVID-19) or similar event in which school sites and/or District offices may be closed or otherwise inaccessible, VENDOR shall describe in #1B of **Exhibit A** whether and how its services would be able to continue.

3. **Alignment.** VENDOR agrees to work and communicate with OUSD staff, both formally and informally, to ensure that the Services are aligned with OUSD’s mission and are meeting the needs of students as determined by OUSD.

4. **Inspection and Approval.** VENDOR agrees that OUSD has the right and agrees to provide OUSD with the opportunity to inspect any and all aspects of the Services performed including, but not limited to, any records or other materials (physical or electronic) produced, created, edited, modified, reviewed, or otherwise used in the preparation, performance, or evaluation of the Services. One example of such records or other materials is proof of VENDOR compliance with Section 16.b (Fingerprinting/Criminal Background Investigation). The Services performed by VENDOR must meet the approval of OUSD, and OUSD reserves the right to direct VENDOR to redo the Services, in whole or in part, if OUSD, in its sole discretion, determines that the Services were not performed in accordance with this Agreement.

5. **Data and Information Requests.** VENDOR shall timely provide OUSD with any data and information OUSD reasonably requests regarding students to whom the Services are provided. VENDOR shall register with and maintain current information within OUSD's Community Partner database unless OUSD communicates to VENDOR in writing otherwise, based on OUSD's determination that the Services are not related to community school outcomes. If and when VENDOR's programs and school site(s) change (either midyear or in subsequent years), VENDOR shall promptly update the information in the database.

6. **Confidentiality and Data Privacy.**
 - a. OUSD may share information with VENDOR pursuant to this Agreement in order to further the purposes thereof. VENDOR and all VENDOR's agents, personnel, employee(s), and/or subcontractor(s) shall maintain the confidentiality of all information received in the course of performing the Services, provided such information is (i) marked or identified as "confidential" or "privileged," or (ii) reasonably understood to be confidential or privileged.
 - b. VENDOR understands that student data is confidential. If VENDOR will access or receive identifiable student data, other than directory information, in connection with this Agreement, VENDOR agrees to do so only after VENDOR and OUSD execute a separate data sharing agreement.
 - (i) If VENDOR is a software vendor, it agrees to access or receive identifiable student data, other than directory

information, only after executing a California Student Data Privacy Agreement (“CSDPA”) or CSDPA Exhibit E (available here).

- (ii) If VENDOR is not a software vendor, it agrees to access or receive identifiable student data, other than directory information, only after executing the OUSD Data Sharing Agreement (available here).
 - (iii) Notwithstanding Paragraph 28 (Indemnification), should VENDOR access or receive identifiable student data, other than directory information, without first executing a separate data sharing agreement, VENDOR shall be solely liable for any and all claims or losses resulting from its access or receipt of such data.
- c. All confidentiality requirements, including those set forth in the separate data sharing agreement, extend beyond the termination of this Agreement.

7. **Copyright/Trademark/Patent/Ownership.** VENDOR understands and agrees that all matters produced under this Agreement, excluding any intellectual property that existed prior to execution of this Agreement, shall be works for hire as defined under Title 17 of the United States Code, and all copyrights in those works are the property of OUSD. These matters include, without limitation, drawings, plans, specifications, studies, reports, memoranda, computation sheets, the contents of computer diskettes, artwork, copy, posters, billboards, photographs, videotapes, audiotapes, systems designs, software, reports, diagrams, surveys, source codes or any other original works of authorship, or other documents prepared by VENDOR, its employees, or its subcontractors in connection with the Services performed under this Agreement. VENDOR cannot use, reproduce, distribute, publicly display, perform, alter, remix, or build upon matters produced under this Agreement without OUSD’s express written permission. OUSD shall have all right, title and interest in said matters, including the right to register the copyright, trademark, and/or patent of said matter in the name of OUSD. OUSD may, with VENDOR’s prior written consent, use VENDOR’s name in conjunction with the sale, use, performance and distribution of the matters, for any purpose and in any medium.

8. **Compensation.** VENDOR agrees to provide the Services at no cost

to OUSD. However, OUSD understands and acknowledges that VENDOR shall impose the following costs on families and students: \$9.50 per hour for full day program, \$10.00 for half day program, \$12.00 per hour for off schedule sessions.

9. **Equipment and Materials.** VENDOR shall provide all equipment, materials, and supplies necessary for the performance of this Agreement.

10. **Termination.**

a. For Convenience by OUSD. OUSD may at any time terminate this Agreement upon thirty (30) days prior written notice to VENDOR. Upon approval by OUSD legal counsel, the OUSD Superintendent or an OUSD Chief or Deputy may issue the termination notice without approval by the OUSD Governing Board, in which case this Agreement would terminate upon ratification of the termination by the OUSD Governing Board or thirty (30) days after the notice was provided, whichever is later.

b. Due to COVID-19. Notwithstanding Paragraph 19 (Coronavirus/ COVID-19) or any other language of this Agreement, if a shelter-in-place (or similar) order due to COVID-19 is issued or is in effect during the term of this Agreement that would prohibit or limit, at the sole discretion of OUSD, the ability of VENDOR to perform the Services, OUSD may terminate this Agreement upon seven (7) days prior written notice to VENDOR. Upon approval by OUSD legal counsel, the OUSD Superintendent or an OUSD Chief or Deputy may issue the termination notice without approval by the OUSD Governing Board, in which case this Agreement would terminate upon ratification of the termination by the OUSD Governing Board or seven (7) days after the notice was provided, whichever is later.

c. For Cause. Either PARTY may terminate this Agreement by giving written notice of its intention to terminate for cause to the other PARTY. Written notice shall contain the reasons for such intention to terminate. Cause shall include (i) material violation of this Agreement or (ii) if either PARTY is adjudged bankrupt, makes a general assignment for the benefit of creditors, or a receiver is appointed on account of its insolvency. Upon approval by OUSD legal counsel, the OUSD Superintendent or an OUSD Chief or Deputy may issue the termination notice

without approval by the OUSD Governing Board, in which case this Agreement would terminate upon ratification of the termination by the OUSD Governing Board or three (3) days after the notice was provided, whichever is later, unless the condition or violation ceases or satisfactory arrangements for the correction are made.

- d. Upon termination, VENDOR shall provide OUSD with all materials produced, maintained, or collected by VENDOR pursuant to this Agreement, whether or not such materials are complete or incomplete or are in final or draft form.

- 11. **Legal Notices.** All legal notices provided for under this Agreement shall be sent via email to the email address set forth below and shall be either (i) personally delivered during normal business hours or (ii) sent by U.S. Mail (certified, return receipt requested) with postage prepaid to the other PARTY at the address set forth below.

OUSD

Name: Joshua R. Daniels
Site/Dept: Office of General Counsel
Address: 1000 Broadway, Suite 300
City, ST Zip: Oakland, CA 94607
Phone: 510-879-8535
Email: ousdlegal@ousd.org

VENDOR

Name: Neil Tuller
Title: Executive Administrator
Address: P.O. Box 5009
City, ST Zip: Berkeley, CA 94705
Phone: (510) 658-7412
Email: neil.adventuretime@gmail.com

Notice shall be effective when received if personally served or

emailed or, if mailed, three days after mailing. Either PARTY must give written notice of a change of mailing address or email.

12. Status.

- a. This is not an employment contract. VENDOR, in the performance of this Agreement, shall be and act as an independent contractor. VENDOR understands and agrees that it and any and all of its employees shall not be considered employees of OUSD, and are not entitled to benefits of any kind or nature normally provided employees of OUSD and/or to which OUSD's employees are normally entitled, including, but not limited to, State Unemployment Compensation or Worker's Compensation. VENDOR 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 VENDOR's employees.
- b. If VENDOR is a natural person, VENDOR verifies all of the following:
 - (i) VENDOR is free from the control and direction of OUSD in connection with VENDOR's work;
 - (ii) VENDOR's work is outside the usual course of OUSD's business; and
 - (iii) VENDOR is customarily engaged in an independently established trade, occupation, or business of the same nature as that involved in the work performed for OUSD.
- c. If VENDOR is a business entity, VENDOR verifies all of the following:
 - (i) VENDOR is free from the control and direction of OUSD in connection with the performance of the work;
 - (ii) VENDOR is providing services directly to OUSD rather than to customers of OUSD;
 - (iii) the contract between OUSD and VENDOR is in writing;
 - (iv) VENDOR has the required business license or business tax registration, if the work is performed in a jurisdiction that requires VENDOR to have a business license or business tax registration;
 - (v) VENDOR maintains a business location that is separate from the business or work location of OUSD;
 - (vi) VENDOR is customarily engaged in an independently established business of the same nature as that involved

- in the work performed;
- (vii) VENDOR actually contracts with other businesses to provide the same or similar services and maintains a clientele without restrictions from OUSD;
- (viii) VENDOR advertises and holds itself out to the public as available to provide the same or similar services;
- (ix) VENDOR provides its own tools, vehicles, and equipment to perform the services;
- (x) VENDOR can negotiate its own rates;
- (xi) VENDOR can set its own hours and location of work; and
- (xii) VENDOR is not performing the type of work for which a license from the Contractor's State License Board is required, pursuant to Chapter 9 (commencing with section 7000) of Division 3 of the Business and Professions Code.

13. Qualifications and Training.

- a. VENDOR represents and warrants that VENDOR has the qualifications and ability to perform the Services in a professional manner, without the advice, control or supervision of OUSD. VENDOR will performed the Services in accordance with generally and currently accepted principles and practices of its profession for services to California school districts and in accordance with applicable laws, codes, rules, regulations, and/or ordinances. All VENDOR employees and agents shall have sufficient skill and experience to perform the work assigned to them.
- b. VENDOR represents and warrants that its employees and agents are specially trained, experienced, competent and fully licensed to provide the Services identified in this Agreement in conformity with the laws and regulations of the State of California, the United States of America, and all local laws, ordinances and/or regulations, as they may apply, if VENDOR was selected, at least in part, on such representations and warrants.

14. Certificates/Permits/Licenses/Registration. VENDOR's employees or agents shall secure and maintain in force such certificates, permits, licenses and registration as are required by law in connection with the furnishing of Services pursuant to this Agreement.

15. **Insurance.**

- a. Commercial General Liability Insurance. Unless specifically waived by OUSD as noted in **Exhibit A**, VENDOR shall maintain Commercial General Liability Insurance, including automobile coverage, with limits of at least one million dollars (\$1,000,000) per occurrence for corporal punishment, sexual misconduct, harassment, bodily injury and property damage. The coverage shall be primary as to OUSD and shall name OUSD as an additional insured with the additional insured endorsement provided to OUSD within 15 days of effective date of this Agreement (and within 15 days of each new policy year thereafter during the term of this Agreement). Evidence of insurance shall be attached to this Agreement or otherwise provided to OUSD upon request. Endorsement of OUSD as an additional insured shall not affect OUSD's rights to any claim, demand, suit or judgment made, brought or recovered against VENDOR. The policy shall protect VENDOR and OUSD in the same manner as though each were separately issued. Nothing in said policy shall operate to increase the Insurer's liability as set forth in the policy beyond the amount or amounts shown or to which the Insurer would have been liable if only one interest were named as an insured.
- b. Workers' Compensation Insurance. VENDOR shall procure and maintain at all times during the performance of such work, Workers' Compensation Insurance in conformance with the laws of the State of California (including, but not limited to, Labor Code section 3700) and Federal laws when applicable. Employers' Liability Insurance shall not be less than one million dollars (\$1,000,000) per accident or disease.

16. **Testing and Screening.**

- a. Tuberculosis Screening. Unless specifically waived by OUSD as noted in **Exhibit A**, VENDOR is required to screen employees who will be working at OUSD sites for more than six hours. VENDOR agents who work with students must submit to a tuberculosis risk assessment as required by Education Code section 49406 within the prior 60 days. If tuberculosis risk factors are identified, VENDOR agents must submit to an intradermal or other approved tuberculosis examination to determine that he/she is free of infectious tuberculosis. If the results of the

examination are positive, VENDOR shall obtain an x-ray of the lungs. VENDOR, at its discretion, may choose to submit the agent to the examination instead of the risk assessment.

- b. Fingerprinting/Criminal Background Investigation. Unless specifically waived by OUSD as noted in **Exhibit A**, for all VENDOR employees, subcontractors, volunteers, and agents providing the Services, VENDOR shall ensure completion of fingerprinting and criminal background investigation, and shall request and regularly review subsequent arrest records. VENDOR confirms that no employee, subcontractor, volunteer, or agent providing the Services has been convicted of a felony, as that term is defined in Education Code section 45122.1. VENDOR shall provide the results of the investigations and subsequent arrest notifications to OUSD.

Waivers are not available for VENDORS whose employees, subcontractors, volunteers, and agents will have any contact with OUSD students.

- c. VENDOR shall use either California Department of Justice or Be A Mentor, Inc. (<http://beamentor.org/OUSDPartner>) fingerprinting and subsequent arrest notification services. VENDOR agrees to immediately remove or cause the removal of any employee, representative, agent, or person under VENDOR's control person from OUSD property upon receiving notice from OUSD of such desire. OUSD is not required to provide VENDOR with a basis or explanation for the removal request.

17. Incident/Accident/Mandated Reporting.

- a. VENDOR shall notify OUSD, via email pursuant to Paragraph 12 (Legal Notices), within twelve (12) hours of learning of any significant accident or incident. Examples of a significant accident or incident include, without limitation, an accident or incident that involves law enforcement, possible or alleged criminal activity, or possible or actual exposure to a communicable disease such as COVID-19. VENDOR shall properly submit required accident or incident reports within one business day pursuant to the procedures specified by OUSD. VENDOR shall bear all costs of compliance with this Paragraph.
- b. To the extent that an employee, subcontractor, agent, or

representative of VENDOR is included on the list of mandated reporters found in Penal Code section 11165.7, VENDOR agrees to inform the individual, in writing that they are a mandated reporter, and describing the associated obligations to report suspected cases of abuse and neglect pursuant to Penal Code section 11166.5.

18. **Coronavirus/COVID-19.**

- a. Through its execution of this Agreement, VENDOR declares that it is able to meet its obligations and perform the Services required pursuant to this Agreement in accordance with any shelter-in-place (or similar) order or curfew (or similar) order (“Orders”) issued by local or state authorities and with any social distancing/hygiene (or similar) requirements.
- b. Consistent with the requirements of Paragraph 18 (Incident/Accident/Mandated Reporting), VENDOR agrees to notify OUSD, via email pursuant to Paragraph 12 (Legal Notices), within twelve (12) hours if VENDOR or any employee, subcontractor, agent, or representative of VENDOR tests positive for COVID-19, shows or reports symptoms consistent with COVID-19, or reports to VENDOR possible COVID-19 exposure.
- c. VENDOR agrees to immediately adhere to and follow any OUSD directives regards health and safety protocols including, but not limited to, providing OUSD with information regarding possible exposure of OUSD employees to VENDOR or any employee, subcontractor, agent, or representative of VENDOR and information necessary to perform contact tracing, as well as complying with any OUSD testing and vaccination requirements.
- d. VENDOR shall bear all costs of compliance with this Paragraph, including but not limited to those imposed by this Agreement.

19. **Assignment.** The obligations of VENDOR under this Agreement shall not be assigned by VENDOR without the express prior written consent of OUSD and any assignment without the express prior written consent of OUSD shall be null and void.

20. **Non-Discrimination.** It is the policy of OUSD that in connection with all work performed under Contracts there be no discrimination because of race, color, ancestry, national origin, religious creed, physical

disability, medical condition, marital status, sexual orientation, gender, or age; therefore, VENDOR 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 and OUSD policy. In addition, VENDOR agrees to require like compliance by all its subcontractor (s). VENDOR shall not engage in unlawful discrimination in employment on the basis of actual or perceived; race, color, national origin, ancestry, religion, age, marital status, pregnancy, physical or mental disability, medical condition, veteran status, gender, sex, sexual orientation, or other legally protected class.

21. **Drug-Free/Smoke Free Policy.** No drugs, alcohol, and/or smoking are allowed at any time in any buildings and/or grounds on OUSD property. No students, staff, visitors, VENDORS, or subcontractors are to use controlled substances, alcohol or tobacco on these sites.
22. **Waiver.** No delay or omission by either PARTY in exercising any right under this Agreement shall operate as a waiver of that or any other right or prevent a subsequent act from constituting a violation of this Agreement.
23. **No Rights in Third Parties.** This Agreement does not create any rights in, or inure to the benefit of, any third party except as expressly provided herein.
24. **Conflict of Interest.**
 - a. VENDOR shall abide by and be subject to all applicable, regulations, statutes, or other laws regarding conflict of interest. VENDOR shall not hire any officer or employee of OUSD to perform any service by this Agreement without the prior approval of OUSD Human Resources.
 - b. VENDOR affirms to the best of his/her/its knowledge, there exists no actual or potential conflict of interest between VENDOR's family, business or financial interest and the services provided under this Agreement, and in the event of change in either private interest or services under this Agreement, any question regarding possible conflict of interest which may arise as a result of such change will be brought to OUSD's attention in writing.
 - c. Through its execution of this Agreement, VENDOR

acknowledges that it is familiar with the provisions of section 1090 *et seq.* and section 87100 *et seq.* of the Government Code, and certifies that it does not know of any facts which constitute a violation of said provisions. In the event VENDOR receives any information subsequent to execution of this Agreement which might constitute a violation of said provisions, VENDOR agrees it shall notify OUSD in writing.

25. **Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion.** Through its execution of this Agreement, VENDOR certifies to the best of its knowledge and belief, that it and its principals are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency according to Federal Acquisition Regulation Subpart 9.4, and by signing this contract, certifies that this vendor does not appear on the Excluded Parties List (<https://www.sam.gov/>).
26. **Limitation of OUSD Liability.** OUSD shall have no financial obligations under this Agreement other than as provided in this Agreement. Notwithstanding any other provision of this Agreement, in no event shall OUSD 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.
27. **Indemnification.**
 - a. To the furthest extent permitted by California law, VENDOR shall indemnify, defend and hold harmless OUSD, its Governing Board, agents, representatives, officers, consultants, employees, trustees, and volunteers (“OUSD Indemnified Parties”) from any and all claims or losses accruing or resulting from injury, damage, or death of any person or entity arising out of VENDOR’s performance of this Agreement. VENDOR also agrees to hold harmless, indemnify, and defend OUSD Indemnified Parties from any and all claims or losses incurred by any supplier, VENDOR, or subcontractor furnishing work, services, or materials to VENDOR arising out of the performance of this Agreement. VENDOR shall, to the fullest extent permitted

by California law, defend OUSD Indemnified Parties at VENDOR's own expense, including attorneys' fees and costs, and OUSD shall have the right to accept or reject any legal representation that VENDOR proposes to defend OUSD Indemnified Parties.

- b. To the furthest extent permitted by California law, OUSD shall indemnify, defend, and hold harmless VENDOR, its Board, agents, representatives, officers, consultants, employees, trustees, and volunteers ("VENDOR Indemnified Parties") from any and all claims or losses accruing or resulting from injury, damage, or death of any person or entity arising out of OUSD's performance of this Agreement. OUSD shall, to the fullest extent permitted by California law, defend VENDOR Indemnified Parties at OUSD's own expense, including attorneys' fees and costs.
28. **Audit.** VENDOR shall establish and maintain books, records, and systems of account, in accordance with generally accepted accounting principles, reflecting all business operations of VENDOR transacted under this Agreement. VENDOR shall retain these books, records, and systems of account during the term of this Agreement and for three (3) years after the End Date. VENDOR shall permit OUSD, 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 records and other data related to Services covered by this Agreement. Audit(s) may be performed at any time, provided that OUSD shall give reasonable prior notice to VENDOR and shall conduct audit(s) during VENDOR'S normal business hours, unless VENDOR otherwise consents.
 29. **Litigation.** This Agreement shall be deemed to be performed in Oakland, California and is governed by the laws of the State of California, but without resort to California's principles and laws regarding conflict of laws. The Alameda County Superior Court shall have jurisdiction over any litigation initiated to enforce or interpret this Agreement.
 30. **Incorporation of Recitals and Exhibits.** Any recitals and exhibits attached to this Agreement are incorporated herein by reference. VENDOR agrees that to the extent any recital or document

incorporated herein conflicts with any term or provision of this Agreement, the terms and provisions of this Agreement shall govern.

31. **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.
32. **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.
33. **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.
34. **Captions and Interpretations.** Section and paragraph headings in this Agreement are used solely for convenience, and shall be wholly disregarded in the construction of this Agreement. No provision of this Agreement shall be interpreted for or against a PARTY because that PARTY or its legal representative drafted such provision, and this Agreement shall be construed as if jointly prepared by the PARTIES.
35. **Calculation of Time.** For the purposes of this Agreement, “days” refers to calendar days unless otherwise specified and “hours” refers to hours regardless of whether it is a work day, weekend, or holiday.
36. **Counterparts and Electronic Signature.** This Agreement, and all amendments, addenda, and supplements to this Agreement, may be executed in one or more counterparts, all of which shall constitute one and the same amendment. Any counterpart may be executed and delivered by facsimile or other electronic signature (including portable document format) by either PARTY and, notwithstanding any statute or regulations to the contrary (including, but not limited to, Government Code section 16.5 and the regulations promulgated therefrom), the counterpart shall legally bind the signing PARTY and the receiving

PARTY may rely on the receipt of such document so executed and delivered electronically or by facsimile as if the original had been received. Through its execution of this Agreement, each PARTY waives the requirements and constraints on electronic signatures found in statute and regulations including, but not limited to, Government Code section 16.5 and the regulations promulgated therefrom.

37. **Agreement Publicly Posted.** This Agreement, its contents, and all incorporated documents are public documents and will be made available by OUSD to the public online via the Internet.

38. **Signature Authority.**
 - a. Each PARTY has the full power and authority to enter into and perform this Agreement, and the person(s) signing this Agreement on behalf of each PARTY has been given the proper authority and empowered to enter into this Agreement.
 - b. Notwithstanding subparagraph (a), only the Superintendent, Chiefs, Deputy Chiefs, and the General Counsel have been delegated the authority to sign contracts for OUSD, and only under limited circumstances, which require ratification by the OUSD Governing Board. VENDOR agrees not to accept the signature of another other OUSD employee as having the proper authority and empowered to enter into this Agreement or as legally binding in any way.
 - c. Notwithstanding Paragraph 10, if this Agreement is executed by the signature of the Superintendent, Chiefs, Deputy Chiefs, or General Counsel under their delegated authority, and the Board thereafter declines to ratify the Agreement, the Agreement shall automatically terminate on the date that the Board declines to ratify it. Upon termination, VENDOR shall provide OUSD with all materials produced, maintained, or collected by VENDOR pursuant to this Agreement, whether or not such materials are complete or incomplete or are in final or draft form.

39. **Contract Contingent on Governing Board Approval.** OUSD shall not be bound by the terms of this Agreement unless and until it has been (i) formally approved by OUSD's Governing Board or (ii) validly and properly executed by the OUSD Superintendent, the General Counsel, or a Chief or Deputy Chief authorized by the Education Code

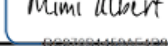
or Board Policy, and no payment shall be owed or made to **VENDOR** absent such formal approval or valid and proper execution.

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IN WITNESS WHEREOF, the PARTIES hereto agree and execute this Agreement and to be bound by its terms and conditions:

VENDOR

Name: Mimi Albert

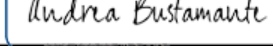
Signature:  _____

Position: Director

Date: 5/25/2022

OUSD

Name: Andrea Bustamante

Signature:  _____

Position: Executive Director, CSSS

Date: 5/25/2022

Board President

Superintendent

Chief/Deputy Chief/Executive Director

Name: Kyla Johnson-Trammell

Signature:  _____

Position: Secretary, Board of Education

Date: 6-23-2022

Template approved as to form by OUSD Office of the General Counsel.

EXHIBIT A

- 1A. **General Description of Services to be Provided:** *This includes the intended outcomes, relevant information on all programs, projects, and services, and the specific the site(s) for each program, project, or service.*

Adventure Time will provide its summer programming at Montclair Elementary, 1757 Mountain Blvd, Oakland, California. Summer programming to include hands-on science, creative arts, and sports and games. Hours of operation to be 7:00 am through 6:00 pm Monday through Friday. Fees to families to range from \$9.50 per hour to \$12.00 per hour depending on scheduling.

Adventure Time will use the following facilities at Montclair Elementary School for its summer program, subject to all District terms, conditions, and policies regarding use of District facilities, including the Application and Agreement for the Use of Facilities COVID-10 Addendum, attached to this Agreement as Exhibit B:

- Auditorium totaling 2000 sq. ft. for the hours of 7:00 am through 6:00 pm Monday through Friday.
- Adventure Time portable classroom totaling 480 sq. ft. for the hours of 7:00 am through 6:00 pm Monday through Friday.

Adventure Time will pay the District the following for the use of these facilities during the term of this Agreement, due by the first day of each month:

- May 26 - 31, 2022: \$551.03
- June 2022: \$2,847.00
- July 2022: \$2,847.00

- 1B. **Description of Services to be Provided During School Closure or Similar Event:** *If there is a school closure (e.g., due to poor air quality, planned loss of power, COVID-19) or similar event in which school sites and/or District offices may be closed or otherwise inaccessible, would services be able to continue?*

XX No, services would not be able to continue.

Yes, services would be able to continue as described in 1A.

- Yes, but services would be different than described in 1A. Please briefly describe how the services would be different.
Click or tap here to enter text.

2. **Waivers (Completed by OUSD Only):** *OUSD has waived the following. Confirmation of the waiver is attached herewith:*

- Commercial General Liability Insurance. (Waiver only available, at OUSD's sole discretion, if VENDOR's employees, subcontractors, volunteers, and agents will have no contact (in-person **or virtual**) with OUSD students, and the compensation not-to-exceed amount is \$25,000 or less.)
- Workers' Compensation Insurance (Waiver only available, at OUSD's sole discretion, if VENDOR has no employees.)
- Tuberculosis Screening (Waiver only available, at OUSD's sole discretion, if VENDOR's employees, subcontractors, volunteers, and agents will have no in-person contact with OUSD students.)
- Fingerprinting/Criminal Background Investigation (Waiver only available, at OUSD's sole discretion, if VENDOR's employees, subcontractors, volunteers, and agents will have no contact (in-person **or virtual**) with OUSD students.)

EXHIBIT B

OAKLAND UNIFIED SCHOOL DISTRICT APPLICATION AND AGREEMENT FOR THE USE OF FACILITIES COVID-19 ADDENDUM

In addition to the Application and Agreement for the Use of Facilities, Applicant/ Representative enters into this COVID-19 Addendum (“Addendum”), incorporated into the Application and Agreement, and agrees to the additional terms and conditions herein:

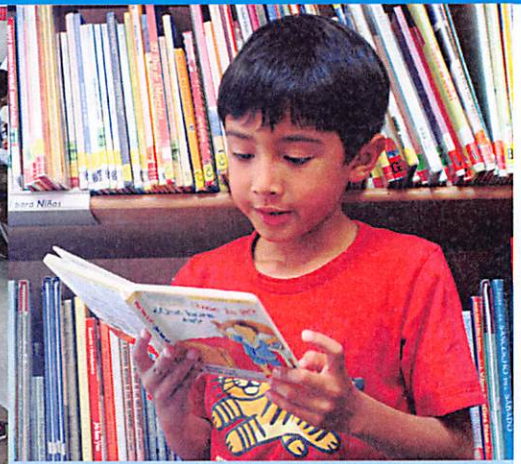
- 1. Guidelines.** The Applicant/Representative (“Facility User”) agrees to strictly, and without exception, follow all federal, state, county, and District orders and guidelines (collectively, “Guidelines”) regarding human protection from the SARS-CoV-2 virus (“Coronavirus”), including but not limited to Guidelines regarding masking, distancing, health screening, ventilation, cleaning, etc. If Facility User does not understand any aspect of the Guidelines or how they apply or are to be implemented, Facility User agrees to email ousdlegal@ousd.org with any questions or requests for clarification and agrees to not hold the event until all of Facility User’s questions have been satisfactorily answered.
- 2. COVID-19 Notification.** Facility User agrees to notify OUSD by email to ousdlegal@ousd.org within twelve (12) hours of becoming aware that anyone present on OUSD property (including Facility User’s employees, subcontractors, agents, or representatives, and any participants in Facility User’s event) tests positive for COVID-19, shows or reports symptoms consistent with COVID-19, or reports to Facility User possible COVID-19 exposure.
- 3. Cancellation of Event.** Facility User shall not hold the event and shall cancel the event if all Guidelines will not, are not, or cannot be met before, during, or after the event. Facility User shall stop the event immediately and send all invitees/participants away if they are observed not to be meeting all required Guidelines.
- 4. Termination of Agreement.** The District may terminate the Facility User’s use of District Facilities at any time if, in the sole discretion of the District, the District determines that Facility User, the proposed/planned event, or the invitees/participants are not in full compliance with the Guidelines. If the District terminates Facility User’s use of District Facilities pursuant to this paragraph, Facility User will be not be entitled to a refund of any fees and will not be entitled to recover any consequential damages arising from such termination.
- 5. No Representation.** The District makes no representation regarding the condition of the facility in use. It shall be Facility User’s sole responsibility to appropriately and thoroughly clean, disinfect, and maintain a clean,

disinfected, and sanitized environment before, during, and after the event, including the use of Coronavirus products approved by the Environmental Protection Agency (EPA) and in compliance with the Healthy Schools Act (HSA).

6. Assumption of Risk. Facility User recognizes that there is presently a significant element of risk of Coronavirus transmission when any group of people gathers. Facility User has reviewed and understands the risks reflected in federal, state, county, and District alerts as well as the Guidelines. Facility User assumes all risks, known and unknown, to Facility User, its employees and agents, participants, volunteers, students, members, and all other related persons, agents, and entities as well as District staff present on site for any reason, arising from the use and occupancy of District Facilities, including risks from the Coronavirus. Facility User assumes full and complete responsibility for any sickness, hospitalization, bodily injury, death, loss of personal property, quarantines, and all related costs and expenses of Facility User, its employees and agents, participants, volunteers, students, members, and all other related persons, agents, and entities as well as District staff present on site for any reason from the use and occupancy of District Facilities.

7. Waiver and Release of Claims. To the fullest extent permitted by law, Facility User releases the Oakland Unified School District, its Governing Boards, administrators, directors, officers, employees, contractors, agents, and volunteers (collectively, referred to herein as "Release Entities"), from and against all claims and causes of action, for any injury or harm of any kind which may arise from or out of Your use and occupancy of District Facilities, including the risks from Coronavirus. This release is intended to discharge the Release Entities against any and all liability arising out of or connected in any way with the use and occupancy of District Facilities, even though that liability may occur or arise out of the full or partial negligence or carelessness on the part of one or more of the Release Entities. I understand that by signing this Agreement, I am releasing claims and giving up substantial rights, including my right to sue, and acknowledge that I am doing so voluntarily. No representations, statements, or inducements, oral or written, apart from the foregoing written statement, have been made.

8. INDEMNIFICATION. TO THE FULLEST EXTENT PERMITTED BY LAW, ON BEHALF OF MYSELF AND MY ORGANIZATION, I AGREE TO IMMEDIATELY DEFEND, INDEMNIFY, AND HOLD THE RELEASE ENTITIES FREE AND HARMLESS FROM ANY LOSS, DAMAGE, LIABILITY, OR EXPENSE THAT MAY ARISE IN WHOLE OR IN PART FROM THE APPLICATION AND AGREEMENT FOR THE USE OF FACILITIES AND THIS CORONAVIRUS ADDENDUM, INCLUDING AS IT RELATES TO ANY EXPOSURE TO THE CORONAVIRUS (AS DESCRIBED HEREIN). THE DEFENSE AND INDEMNITY OBLIGATIONS UNDER THIS PARAGRAPH SHALL APPLY REGARDLESS OF THE DISTRICT OR ANY OTHER PERSON OR ENTITY'S ACTIVE OR PASSIVE NEGLIGENCE.



Tuition

Tuition for full-day sessions is based on \$9.50 per hour, and tuition for half-day sessions is based on \$10.00 per hour. If full-day and half-day sessions are combined in the same week, tuition will be pro-rated accordingly. There is a 20% discount on total tuition for families with two or more siblings enrolled during the same week. Tuition is payable on a weekly basis and is due no later than the first day of attendance each week. After completing the application form and paying the deposits, you will be sent a statement listing tuition amounts for the weeks you have enrolled. Please note that to ensure proper staffing, schedule changes must be approved, in advance, by a Program Supervisor or Site Director. We request that schedule changes be limited to one per month. Schedule changes may be denied due to full enrollment at requested times or safety concerns.

HALF DAY TUITION based on \$10.00 per hour

Sessions: Tuition per week:

7:00-12:00	\$ 250.00
7:30-12:00	225.00
7:00-1:00	300.00
7:30-1:00	275.00
8:00-12:00	200.00
8:30-12:00	175.00
8:00-1:00	250.00
8:30-1:00	225.00
9:00-12:00	150.00
9:00-1:00	200.00
12:00-4:00	200.00
12:00-4:30	225.00
12:00-5:00	250.00
12:00-5:30	275.00
1:00-4:00	150.00
1:00-4:30	175.00
1:00-5:00	200.00
1:00-5:30	225.00
1:00-6:00	250.00
12:00-6:00	300.00

Attendance in the program during hours which are not part of a child's regularly scheduled time, will be charged at the drop-in rate of \$12.00 per hour. A \$15.00 late payment fee will be charged for payments received after the first day of attendance each week.

FULL DAY TUITION based on \$9.50 per hour

Sessions: Tuition per week:

7:00-4:00	\$ 427.50
7:00-4:30	451.25
7:30-4:00	403.75
7:30-4:30	427.50
7:00-5:00	475.00
7:00-5:30	498.75
7:30-5:00	451.25
7:30-5:30	475.00
7:00-6:00	522.50
7:30-6:00	498.75
8:00-4:00	380.00
8:00-4:30	403.75
8:30-4:00	356.25
8:30-4:30	380.00
9:00-4:00	332.50
9:00-4:30	356.25
8:00-5:00	427.50
8:00-5:30	451.25
8:30-5:00	403.75
8:30-5:30	427.50
9:00-5:00	380.00
9:00-5:30	403.75
8:00-6:00	475.00
8:30-6:00	451.25
9:00-6:00	427.50

The above rates are for five days per week. For two days per week, multiply above rates by 40%; for three days, multiply by 60%; and four days, multiply by 80%. **We are unable to give credit for unused time.** A non-refundable deposit of \$15.00 per child per week, which will be credited towards tuition, must be paid at the time of enrollment along with a non-refundable \$45.00 application fee per family. If enrollment for any week is cancelled, deposit(s) will not be refunded. Cancellation of enrollment must be made prior to the scheduled weeks(s) or the full tuition for the weeks(s) must be paid.

Summer Day Camp 2022

Locations

Summer 2022



Oakland Program

May 30 until the end of summer

MONTCLAIR ELEMENTARY SCHOOL

1757 Mountain Blvd.
Oakland, CA 94611
510-339-9149
7:00 a.m. to 6:00 p.m.
License # 010211683

Fremont Program

June 13 until the end of summer

NILES ELEMENTARY SCHOOL

37141 Second Street
Fremont, CA 94536
510-797-4806
7:00 a.m. to 6:00 p.m.
License # 010214002



**ADVENTURE TIME
SUMMER DAY CAMP**

Castro Valley Program

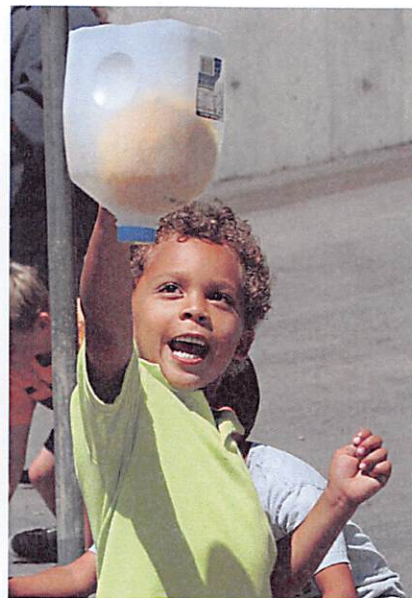
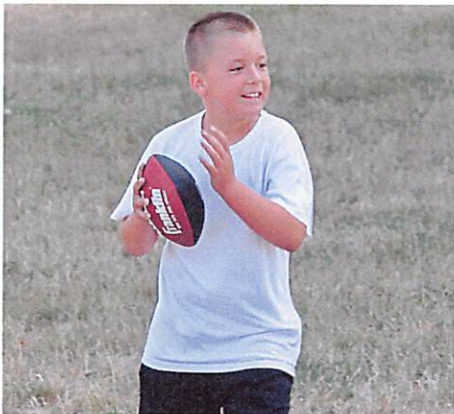
May 30 until the end of summer

INDEPENDENT ELEMENTARY SCHOOL

21201 Independent School Road
Castro Valley, CA 94552
510-733-9134
7:00 a.m. to 6:00 p.m.
License # 010212693



All programs closed on May 30,
June 20, and July 4, 2022



Themes

International Foods & Customs
Carpentry, Jewelry, & Textiles
Celebrating Kindness & Friendship
Travel Through Time
Science Wizards
Color My World



Join Our Family! Enroll Now! 510-658-7412 extension 105



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
5/6/2022

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER License # 0L72977 Legacy Risk & Insurance Services 1850 Mt. Diablo Blvd., Suite 400 Walnut Creek, CA 94596	CONTACT NAME: PHONE (A/C, No, Ext): (925) 482-1000 FAX (A/C, No): (925) 482-1001 E-MAIL ADDRESS: certificates@legacyrisk.net														
INSURED Tuller Corporation PO Box 5009 Berkeley, CA 94705	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="text-align: center;">INSURER(S) AFFORDING COVERAGE</th> <th style="text-align: center;">NAIC #</th> </tr> <tr> <td>INSURER A: Technology Insurance Company, Inc.</td> <td style="text-align: center;">42376</td> </tr> <tr> <td>INSURER B:</td> <td></td> </tr> <tr> <td>INSURER C:</td> <td></td> </tr> <tr> <td>INSURER D:</td> <td></td> </tr> <tr> <td>INSURER E:</td> <td></td> </tr> <tr> <td>INSURER F:</td> <td></td> </tr> </table>	INSURER(S) AFFORDING COVERAGE	NAIC #	INSURER A: Technology Insurance Company, Inc.	42376	INSURER B:		INSURER C:		INSURER D:		INSURER E:		INSURER F:	
INSURER(S) AFFORDING COVERAGE	NAIC #														
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INSURER B:															
INSURER C:															
INSURER D:															
INSURER E:															
INSURER F:															

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
<input checked="" type="checkbox"/>	COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:			PHPK2410718	5/5/2022	5/5/2023	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 3,000,000 PRODUCTS - COMP/OP AGG \$ 3,000,000
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY			PHPK2410718	5/5/2022	5/5/2023	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$ 10,000			PHUB813484	5/5/2022	5/5/2023	EACH OCCURRENCE \$ 2,000,000 AGGREGATE \$ 2,000,000
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y/N <input type="checkbox"/> If yes, describe under DESCRIPTION OF OPERATIONS below		N/A	TWC4088641	3/1/2022	3/1/2023	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
"AS RESPECTS: ALL LOCATION SITES IN THE OAKLAND UNIFIED SCHOOL DISTRICT PER LOCATIONS ON FILE WITH THE COMPANY OAKLAND UNIFIED SCHOOL DISTRICT IS NAMED AS ADDITIONAL INSURED PER FORM ATTACHED CG2026 04 13

Written Contract Required."

CERTIFICATE HOLDER Oakland Unified School District 1000 Broadway, Suite #440 Oakland, CA 94607	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE
---	--

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ADDITIONAL INSURED – DESIGNATED
PERSON OR ORGANIZATION**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s):

Oakland Unified School District

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

A. Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

- 1. In the performance of your ongoing operations; or
- 2. In connection with your premises owned by or rented to you.

However:

- 1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
- 2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds, the following is added to Section III – Limits Of Insurance:

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

- 1. Required by the contract or agreement; or
- 2. Available under the applicable Limits of Insurance shown in the Declarations;

whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.