

File ID Number: 12-2422
Introduction Date: 9/12/12
Enactment Number: 12-2427
Enactment Date: 9/12/12
By: [Signature]

OAKLAND UNIFIED SCHOOL DISTRICT

Office of the Board of Education
September 12, 2012

To: Board of Education

From: Tony Smith, Ph. D, Superintendent,
Timothy E. White, Associate Superintendent of Facilities Planning &
Management, Buildings & Grounds and Custodial Services

Subject: Approval of the First Amendment to Joint-Use Agreement between Tuller Corporation dba Adventure Time Extended Day Care and Oakland Unified School District for Existing Classroom Space for Child Care Purposes at Crocker Highlands Elementary School located at 525 Midcrest Road, Oakland, CA 94610

ACTION REQUESTED

Approval by the Board of Education of the First Amendment to Joint-Use Agreement between Tuller Corporation dba Adventure Time Extended Day Care ("Adventure Time") and Oakland Unified School District ("District") so that the District may conduct an art enrichment program in the portable classroom space leased to Adventure Time during a portion of each school day Monday through Thursday.

BACKGROUND

In January 2012, the District and Adventure Time entered into a Joint Use Agreement ("Agreement") whereby Adventure Time has use of identified District classroom space at various school sites located in the District for purposes of providing before and after school day care services to District students.

In July 2012, the District requested that Adventure Time allow use of the portable classroom space located at the Crocker Highlands Elementary School for an art enrichment program for K-5 students attending Crocker Highlands. Pursuant to the Agreement, Adventure Time pays rent for use of the portable classroom space from the time period of 7:00 a.m. until 6:00 p.m., Monday through Friday. Therefore, the District and Adventure Time negotiated a revision to the Agreement that reduces both the time period of Adventure Time's use and the rent paid for the portable classroom space. This First Amendment provides that the District will use the classroom space for the art enrichment program, Monday through Thursday from 9:00 a.m. until 1:00 p.m., and reduces the rent charged Adventure Time. Adventure Time's Rent is reduced from Two Thousand Sixty Nine Dollars And Fifty Eight Cents (\$2069.58) to One Thousand Eight Hundred Sixty Nine Dollars and Fifty Eight Cents (\$1869.58).

FISCAL IMPACT

Adventure Time will pay the District One Thousand Eight Hundred Sixty Nine Dollars and Fifty Eight Cents (\$1869.58) per month effective commencing in September 2012 and continuing for the term of the Agreement.

RECOMMENDATION

That the Board of Education approves the First Amendment to Joint-Use Agreement between Tuller Corporation dba Adventure Time Extended Day Care and Oakland Unified School District for Existing Classroom Space for Child Care Purposes at Crocker Highlands Elementary School located at 525 Midcrest Road, Oakland, CA 94610.

ATTACHMENT

First Amendment to Joint-Use Agreement between Tuller Corporation dba Adventure Time Extended Day Care and Oakland Unified School District for Existing Classroom Space for Child Care Purposes at Crocker Highlands Elementary School located at 525 Midcrest Road, Oakland, CA 94610.

**FIRST AMENDMENT TO JOINT USE AGREEMENT BETWEEN TULLER CORPORATION
DBA ADVENTURE TIME EXTENDED DAY CARE AND OAKLAND UNIFIED SCHOOL
DISTRICT FOR USE OF EXISTING CLASSROOM SPACE FOR CHILD CARE PURPOSES
AT VARIOUS DISTRICT SCHOOL SITES LOCATED WITHIN THE BOUNDARIES OF
OAKLAND, CA**

THIS FIRST AMENDMENT is made this ____ day of August 2012, by and between the Oakland Unified School District, a California public school district located in the County of Alameda, California, ("District") and Tuller Corporation dba Adventure Time Extended Day Care, a California nonprofit corporation ("Tenant"). District and Tenant may be individually referred to herein as "Party" or collectively referred to herein as "Parties."

RECITALS

1. District and Tenant entered into a Joint Use Lease Agreement ("Agreement") dated as of January 13, 2012, whereby Tenant has use of identified District space at various school sites located in the District for the purpose of providing before and after school day care services to District students.
2. District now requires use of the portable classroom space located at the Crocker Highlands Elementary School Site ("Crocker Highlands") to house an art enrichment class for grades K-5 from 9:00 a.m. until 1:00 p.m., Monday through Thursday. Tenant shall continue to use the portable classroom space from 7:00 a.m. until 9:00 a.m. and 1:00 p.m. until 6:00 p.m., Monday through Thursday and Friday 7:00 a.m. until 6:00 p.m.
3. District and Tenant intend to amend the Agreement to reduce both the time period of Tenant's use and Rent paid for the portable classroom space located at Crocker Highlands.

NOW THEREFORE, for valuable consideration, receipt of which is hereby acknowledged, District and Tenant agree as follows:

1. Reduction in Rent for Portable Classroom Space Located at Crocker Highlands. The Parties intend to reduce the Rent set forth in the Agreement at Section 5 for the use of the Premises located on the Crocker Highlands School Site. Accordingly, section 5.1 "Rent" of the Agreement is revised to provide that the Rent to be paid by Tenant to District for use of the Premises located at Crocker Highlands School Site shall be as follows:

"5.1. For and in consideration of the use of the Premises for the Term of this Agreement, Agreement Tenant agrees to pay District the following sums per month ("Rent"):

- Crocker Highlands Elementary School: ~~Two Thousand Sixty nine Dollars, Fifty eight cents (\$2,069.58)~~ per month One Thousand Eight Hundred Sixty Nine Dollars and Fifty Eight Cents (\$1869.58) per month."

The reduction in Rent shall be effective commencing in September, for Rent due on September 1, 2012, and continuing for the Term of the Agreement unless otherwise revised or amended by the Parties.

Except as revised herein solely for the Crocker Highlands School Site, all other provisions in Section 5 remain the same.

- 2. Reduction in Tenant's Use Time Periods for Portable Classroom Space Located at Crocker Highlands. The Parties intend to reduce the time periods of Tenant's use of the portable classroom space located on the Crocker Highlands School Site. Accordingly, Exhibit "A" Description of Premises and Sites is revised to provide the following hours of use for the portable classroom space located on the Crocker Highlands School site:

**"Exhibit "A"
Description of Premises and Sites**

The Premises that are being lease to Tenant are the following rooms and areas as described below and as indicated on the attached Site maps:

- Site: Crocker Highlands Elementary School
• Multipurpose Room totaling 2000 sq. ft., for the hours of 3:00 p.m. until 5:00 p.m., Monday through Friday.
• Adventure Time portable classroom totaling 480 sq. ft. for the hours of 7:00 a.m. until 6:00 p.m., Monday through Friday. 7:00 a.m. until 9:00 a.m., and 1:00 p.m. until 6:00 p.m., Monday through Thursday, and Friday 7:00 a.m. until 6:00 p.m. District shall have use of the portable classroom space for the hours of 7:00 a.m. until 9:00 a.m., Monday through Thursday."

Except as revised herein solely for the Crocker Highlands School Site, all other provisions in Exhibit "A" remain the same.

- 3. Miscellaneous. This First Amendment may be executed in any number of counterparts all of which when taken together shall constitute one and the same document. Except as expressly modified by this First Amendment, all other terms and provisions of the Agreement are in full force and effect. This First Amendment shall be governed and construed in accordance with the laws of the State of California.

The Parties hereto have executed this First Amendment as of the date set forth above.

ACCEPTED AND AGREED on the date indicated below:

OAKLAND UNIFIED SCHOOL DISTRICT

Jody London
Jody London, President, Board of Education

Date: 9/13/12

Edgar Rakestraw, Jr.
Edgar Rakestraw, Jr., Secretary, Board of Education

Date: 9/13/12

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Tuller Corporation, dba Adventure Time Extended Day Care

By: NEIL TULLER Neil Tuller

Print Name: NEIL TULLER

Print Title: EXECUTIVE ADMINISTRATOR

APPROVED AS TO FORM:



Jacqueline Minor, General Counsel

Date: 9/7/12