



**AGREEMENT FOR AFTER SCHOOL PROGRAM SERVICES & FUNDING**

**This Agreement for After School Program Services & Funding (“Agreement”) establishes the material terms of the business relationship between Bay Area Community Resources (“BACR”) and American Indian Model Schools (“AIMS” or “School”) for the provision of certain educational services (as further detailed below) at the AIMS school site during the 2018-19 school year. BACR and AIMS are each referred to individually as a “Party,” and collectively as the “Parties.” This Agreement is effective upon execution by representatives of each Party (“Effective Date”).**

In exchange for the benefits and consideration set forth below, the sufficiency of which is hereby acknowledged by both Parties, AIMS and BACR will collaborate to implement the educational program detailed below (“Program”) and assure the fulfillment of the objectives and activities outlined in this Agreement. The program will occur at two different campuses.

**I. SCOPE OF WORK AND RELATED TERMS**

BACR agrees to provide an after-school program aligned with the School's school day, program quality, and fiscal oversight, as follows:

**A. Miscellaneous Program Details:**

1. BACR will develop the Program and review it with School staff, making adjustments as necessary, reasonable, and within the budget set forth below.
2. The Program will include an educational and literacy element designed to provide tutoring and/or homework assistance in one or more of the following subject areas: language arts, mathematics, history and social science, science, and computer training.
3. The Program will have an educational enrichment element that may include, but is not limited to, STEM focused activities, recreation, physical fitness, and other activities.
4. The Program will serve up to 140 School students at a maximum ratio of 20:1 (students to instructor). If it appears Program enrollment will exceed 140, BACR is open to accommodating more students. However, before Program enrollment exceeds 140 students, the Parties agree that they will confer and reach agreement on a written amendment to this Agreement, including the Program Budget and Management Fee terms set forth in Section IV below, with a revised Program Budget to allow for additional staff and Management Fee to reflect additional management efforts.
5. The program will operate daily, Monday through Friday, from August 20, 2018 to June 14, 2019. Program will begin immediately at the end of the regular school day on Monday-Thursdays (except scheduled minimum days) and 1:30 pm on Fridays and minimum days, and will stay open until 6:00 pm daily
6. BACR will handle all human resources and accounting duties as related to hiring, training, paying, and otherwise managing Program staff, who are BACR employees. BACR employees are not employed by AIMS or any of it's schools.
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**B. Coordination between School, and BACR Program staffs.**

The School and BACR intend to provide a comprehensive after school program for the School's students. To ensure a consistent experience for School students and families, the Parties hereby agree to the following:

1. Training. The BACR After-School Site Coordinator will attend, when able, training with School faculty and Staff (“School-Day Staff”). Additionally, both the School and BACR agree to be conscious of overlapping staff in scheduling professional development sessions so as to

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- minimize disruption.
2. Fundraising. Because all fundraisers will affect the same group of parents, BACR must obtain written approval from AIMS prior to any fundraising efforts involving the School's parents, apart from those funds associated with Program Participation Fees as set forth herein.
    3. Classrooms. Teachers at the School will provide a "classroom checklist" to the BACR staff using their classrooms. These checklists are to ensure minimal disruption in the classroom from day to day. BACR staff will commit to checking the list upon arrival and before leaving, and reporting any issues regarding the same in a timely manner.
  4. Events. BACR and the School will notify each other of any proposed School-related family events (including any shows or showcases) at least one month in advance, and will be open to changing dates and times for optimal coordination and participation.
  5. Check-Ins. The BACR After-School Site Coordinator will check in daily with the School-Day Site Administrator or such other School staff member that is designated by the School Administrator from time to time for informational handover about student behavior and Program-related matters. In addition, the BACR After-School Site Coordinator and School-Day Site Administrator (or his or her designee) will have additional meetings on weekly or monthly basis to address case management of students, including updates around suspensions and expulsions, where necessary, as well as general Program operations and coordination between the School and BACR.
    6. Policies and Procedures. BACR employees working at the School must abide by all BACR, and School policies. BACR will communicate all relevant School policies and procedures to BACR staff and ensure that BACR staff abide by them at all times. These include but are not limited to the School's safety plans and procedures, discipline, social media, student restraint, and any other applicable elements from AIMS' Staff/Family Handbook. A current copy of AIMS' Staff/Family Handbook policies is attached as **Appendix A** and incorporated herein. AIMS, in its sole discretion, may change these policies from time to time. In the event of any such changes, AIMS will provide BACR with the updated versions of the policies.
  7. Teacher communications. Specific discussions between teachers and the BACR staff using their room must involve BACR's After-School Site Coordinator and the School's School-Day Site Administrator.

**C. Communication and accessibility with parents.**

The School and BACR recognize that communication with School parents and guardians is an important component of the Program's success. To that end, the Parties hereby agree to the following:

- 1. Announcements. The School can send information out to its entire parent body on behalf of BACR. This should be used only for major announcements, i.e., deadlines and applications for signing up. Program-specific information to participants will be managed by BACR, but subject to the School-Division Head(s) prior approval. Communications should include the School-Division Head(s) on the distribution list.
2. Key School Year Events. The BACR After-School Site Coordinator commits to attending the School's major school-year events, so that BACR has a presence at school-related activities that occur outside of the school day.
3. Welcoming events. BACR commits to being present at welcoming events for new families.
4. Office hours. The BACR After-School Site Coordinator commits to being on-site and available for questions from families and School staff at pre-committed hours that will not interfere with Program duties. The BACR After-School Site Coordinator will be on-site and available for questions from families and School staff each week from 12:00-6:00 pm on Monday-Thursday, and 12:00-6:00 pm on Fridays. Two Wednesdays per month After-School Site Coordinator will have off-site mandatory meetings that he or she must attend, and thus will not be available for office hours during these times. The After-School Site Coordinator will communicate details regarding these off-site meetings to the School-Day Site Administrator with as much advance notice as possible.
5. Attendance Records: BACR shall maintain accurate Program attendance records.
6. Research: BACR shall respond to any additional surveys or other methods of data collection that may be required throughout the life of the Program.
7. Student-to-Staff Ratio: BACR shall maintain a student-to-staff member ratio of no more than 20:1, except for in the case of temporary emergencies.
8. Qualifications: BACR shall establish qualifications for each position so that all staff members directly supervising students meet the minimum qualifications of an instructional aide.

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9. Screening: BACR shall ensure that all Program staff and volunteers will fulfill health screening (Clear TB Test) and CalDOJ fingerprint clearance requirements in current law and in compliance with School policies (Certified Assurance #25)

**D. Legal Compliance**

BACR shall comply with all applicable federal, state, and local laws governing privacy of student information, including but not limited to the Health Insurance Portability and Accountability Act ("HIPAA"), the Family Educational Rights and Privacy Act ("FERPA"), and the Individuals with Disabilities in Education Act ("IDEA") .

**E. Safety and Crisis Protocol**

To ensure the safety of all School students participating in the Program, the Parties agree that:

1. BACR shall enforce a clear safety and crisis protocol, applicable to Program operations, that outlines procedure, response times, and commitment to notifying and working with School staff. That Safe School Plan is attached hereto as **Appendix B**.
2. In the event that a crisis occurs while the BACR After-School Site Coordinator is not on the School-site, the BACR After-School Site Coordinator is expected to be available via phone within 5 minutes and physically present within 30 minutes, unless there are extenuating travel circumstances.
3. AIMS will identify a School staff member who will be on-call during BACR program hours, and who must be notified ASAP when a crisis occurs. The School staff member and BACR's Program Coordinator will jointly respond to the crisis.

**II. PROGRAM PARTICIPANT FEES, SCHOLARSHIPS, AND PROGRAM FEE PAYMENT TERMS**

**A. Nature of the Program:** The Program is an optional extra-curricular enrichment program that School families may elect to participate in, at their choosing, subject to the eligibility, payment of fees, and other criteria stated herein.

**B. Program Fee Schedule:**

BACR and AIMS have established Program Fees for participants who elect to participate in the Program in the 2018-2019 School Year ("Program Fee Schedule") as follows, and based upon various factors including sibling participants and income tiers.

[INTENTIONALLY BLANK]

Household Size	Tier 1 (Annual Household Income)	Tier 2 (Annual Household Income)	Tier 3 (Annual Household Income)
1	\$0 - 14,980.99	\$14,981.00 - 25,766.99	\$25,767.00 +
2	\$0 - 20,200.99	\$20,201.00 - 34,745.99	\$34,746.00 +
3	\$0 - 25,421.99	\$25,422.00 - 43,725.99	\$43,726.00 +
4	\$0 - 30,641.99	\$30,642.00 - 52,703.99	\$52,704.00 +
5	\$0 - 35,862.99	\$35,863.00 - 61,683.99	\$61,684.00 +
6	\$0 - 41,082.99	\$41,083.00 - 70,662.99	\$70,663.00 +
7	\$0 - 46,316.99	\$46,317.00 - 79,664.99	\$79,665.00 +
8	\$0 - 51,561.99	\$51,562.00 - 88,686.99	\$88,687.00 +
9	\$0 - 56,807.99	\$56,808.00 - 97,709.99	\$97,710.00 +

Income-Based Tier	Monthly Fee/Student	Monthly Fee w/ Sibling Discount (20%) <sup>1</sup>
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<sup>1</sup> This sibling discount does not apply to the first-enrolled student, but instead applies to the second (and any additional) enrolled students from the same family. For example, for a Tier 1 family, the monthly fee for student 1 is

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1	\$150	\$120
2	\$200	\$160
3	\$350	\$350

**C. Program Fee Payment Terms:**

1. Program Fees will not be pro-rated for students who join the Program later than the beginning of the school year or participate on a less-than-full-time basis (both of which are discouraged), except in cases where the student joins after January, 2019. Students who join after January, 2019 will be responsible for paying one half of the full-year Program Fee.
2. Program Fees may be paid in one lump sum, at the time of enrollment in the Program, or on a monthly basis, received by BACR no later than 7th of each month following the initial payment.
3. BACR will provide participants a 7-day grace period for payment, to the 15<sup>th</sup> of each month. If no payment is received by then, the nonpayment will be reported by BACR to the School via the Program Fees Report, described below, and it will become the School's responsibility to pay BACR those funds on the terms set forth below.
4. All Program Fees shall be made on-line, by check, or by money order, made payable to "Bay Area Community Resources." No cash payments will be accepted.
5. Monthly Program Fees are due before participation begins, and then on a monthly basis going forward (unless paid in one lump sum), and are non-refundable in the event that a child leaves the program prior to the end of the year and/or only attend on a part time basis (both of which are discouraged).
6. As noted above, the Program will run until 6:00 pm. BACR will extend a 10-minute grace period for parents, guardians and other authorized persons to pick-up Program participants. BACR will not release a Program participant to an unauthorized person, and it will not allow a Program participant to simply leave on his or her own, without the authorized person. Program participants who remain after 6:10 pm may be charged a late fee of \$5.00 for every 10 minutes they are picked up late after the 10-minute grace period of 6:10pm. Late pick up fees will need to be paid by next Program day, online, by check or by money order. In the event any Program participants do not pay any late fee(s) in a timely manner, the School will pay BACR the applicable amount, as invoiced on a monthly basis.

**D. Scholarships:**

AIMS will establish a process for the administration of Program scholarships, to be awarded by the School to individual students for participation in the Program. BACR will not provide any funding for Program scholarships, or be responsible for related fund-raising events. In addition, BACR will not be involved in establishing Program scholarship eligibility criteria or selecting recipients. Instead, the School will fund all Program scholarships. The School will also identify the criteria for determining which students will receive Program scholarships, and it shall be primarily responsible for communicating the availability of such assistance, the criteria, and application process to families. AIMS will also be responsible for issuing, receiving, and processing the Program scholarship applications, as well as applying the criteria it identifies, and determining which students will receive Program scholarships. The School will also notify Program scholarship applicants of its decisions.

Any Program scholarship granted by the School to its students shall be documented and reported to BACR (by name of recipient and amount), given that BACR must collect Program Fees as set forth below. Further, no Program scholarship award shall, in any event, impact the Management Fee the School shall pay BACR as set forth below.

**III. PROGRAM ADMINISTRATION**

**A. Registration, Financial Aid, and First Collection of Program Fees**

BACR will be responsible registering students, collecting Program Fees, and administering the financial assistance programs. BACR will use its best efforts to collect Program Fees from all families other than those that qualify for financial assistance. BACR will not allow families who have not paid the Program Fee (other than those designated by the BACR as being eligible for financial assistance) to participate

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\$150, and the monthly fee is \$120 for any additional students from that same family.

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in the program. BACR retain all Program Fees as a contribution towards the cost of managing the program.

**B. Ongoing Collection of Program Fees**

Following launch of the Program, BACR will be responsible for ongoing collection of Program Fees. BACR will use its best efforts to collect Program Fees from all families, considering those that receive Program scholarships as noted above and as determined by the School. BACR will report, to the School during the monthly meeting described below in Section IV, families who have not paid the Program Fee in full and in a timely manner (other than those designated by the School as being eligible for financial assistance). It shall then be the School's responsibility to take corrective action, if any, for non-payment. The School will report all such action(s) to BACR, so that BACR may act accordingly with respect to Program administration, collection of Program Fees in the future, etc. BACR retains all Program Fees as a contribution towards the cost of managing the Program and coverage of the Management Fee (defined below).

**IV. PROGRAM BUDGET AND MANAGEMENT FEE**

The budget for the Program at AIMS for the 2018-19 year is \$283,250 based on the School's Program enrollment projection of 140 students. Thus, the fee that the School will pay to BACR for management of the Program as set forth herein is \$283,250 payable as set forth below (the "Management Fee").

The Program Fees that are projected to be collected monthly are \$25,750 from August 2018 through June 2019 (11 months), collected and paid in the manner set forth herein.

School staff and BACR staff will meet no later than the third Friday of each month in order to review various Program-related matters, including enrollment numbers and Program Fee collections.

At this monthly meeting, BACR will provide AIMS a written report of Program Fees it has collected from the parents of Program participants for the prior month, as well as any overdue Program Fees and late fees for that same month ("Program Fees Report"). In the event that Program Fee collections are below \$25,750, AIMS will fund any shortfall, regardless of amount. In addition, AIMS will fund any related late fees not already paid, as described above in Section (II)(C)(6). BACR will invoice AIMS for the shortfall, if any, and payment by the School will be made within thirty (30) days of issuance of BACR's invoice.

For the sake of clarity, the Parties expressly agree that the School (not BACR), shall solely fund any shortfall in collections of Program Fees, whether such shortfall is caused by lower than expected enrollment, non-payment by Program participants, or any other reason. But for this express agreement and commitment by AIMS, BACR would not enter into this Agreement on these terms. The Management Fee is set at \$283,250 regardless of collections of Program Fees or other factors, until and unless there is an amendment as set forth below.

In the event BACR receives payment of any Program Fees after the School has covered the same, e.g., in the event of an exceptionally late payment by Program participant to BACR, then BACR shall report the same to the School as part of the monthly meeting and that amount shall be used to offset any future payment of the Management Fee, so that BACR does not receive double payment at any time.

If enrollment trends over two (2) or more consecutive months indicate more than a 10% change in Program enrollment as compared to the current expected level of 140 participants, then the Parties will meet and confer on proposed changes to Program-related terms, including staffing, student groupings, and the Management Fee on a go-forward basis (i.e., non-retroactive) following execution of any addendum. The Parties will document the results of any such discussions and memorialize any related changes in an addendum to this Agreement.

**V. TERM AND TERMINATION**

The Term of the Agreement shall be from the Effective Date through June 30, 2019.

Either Party may terminate this Agreement at any time for any reason by giving at least thirty (30) days' written notice to the other Party.

Notwithstanding any other provision of this Agreement, BACR may terminate this this Agreement immediately

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for cause, without any further obligation by BACR, by providing written notice of the same to the School upon the occurrence of any of the following events which shall constitute "cause" for such immediate termination: (1) bankruptcy, insolvency, loss or reduction of funds for the Program by the School; (2) assignment of this Agreement by the School to any other person or entity without the express advance written consent of BACR; (3) a material breach of this Agreement; (4) the School's failure to pay the Management Fee to BACR in a timely manner as set forth above; or (5) a Force Majeure as defined below.

In the event of any termination for cause by BACR, other than one based on Force Majeure (as defined below), the School shall pay BACR any and all outstanding Management Fees and pre-approved expenses due and owing to BACR or incurred by BACR under this Agreement. For the sake of clarity, the School shall pay BACR the full Management Fee in the event of any termination for cause of this Agreement (except one resulting from Force Majeure as defined below), unless BACR advises of cost savings due to early termination that may be deducted from the AIMS fee.

**VI. INDEMNITY**

BACR shall defend, indemnify, and hold the School, AIMS, its Board of Directors, officers, employees and agents harmless from and against any and all liability, loss expense, attorney fees or claims for injury or damages, arising out of BACR's performance of the agreement but only in proportion to and to the extent such liability, loss, expense, attorney's fees or claims, for injury on damages are caused by or result from the grossly negligent or fraudulent acts or omissions of BACR, its officers, agents or employees.

AIMS shall defend, indemnify, and hold BACR, its Board of Directors, officers, employees and agents harmless from and against any and all liability, loss expense, attorney fees or claims for injury or damages, arising out of AIMS' performance of the Agreement but only in proportion to and to the extent such liability, loss, expense, attorney's fees or claims, for injury on damages are caused by or result from the negligent or intentional acts or omissions of AIMS, its officers, agents or employees. Further, if AIMS exercises its rights pursuant to Section VII of this Agreement (Removal of Staff), then it shall indemnify BACR and its Board of Directors, officers, employees and agents for any liability, loss, expense, attorney fees, or claims for injury or damages related to that termination, under any theory, even if in its exercise of such rights the School has not engaged in any negligent or intentional acts or omissions.

**VII. REMOVAL OF STAFF**

In the event that AIMS, for reasonable cause, at any time during the term of this agreement, desires the removal of any BACR related persons, employees, representatives or agents from the School site and/or property, BACR shall immediately upon receiving notice from AIMS of such desire, cause the removal of such person or persons. Notwithstanding the foregoing, BACR will retain final authority over hiring and termination of any BACR staff, and any such hiring or termination will follow BACR HR policies.

**VIII. CANRA COMPLIANCE**

BACR will comply with the Child Abuse and Neglect Reporting Act (CANRA) guidelines as mandated Reporters to report suspicions of possible child abuse to the appropriate reporting agency as stated in California Penal Code 11164 -11174.

**IX. SUBCONTRACTING**

BACR may elect to subcontract a portion of the work or activities to be performed under this agreement. In such an event, AIMS in its sole discretion, shall have the right to approve or disapprove the use of such subcontractor. BACR shall require each such AIMS-approved subcontractor to agree to abide by all terms of this Agreement, and to indemnify, hold harmless and defend AIMS, its officers, officials, employees, volunteers, or agents in accordance with the terms of Paragraph IV, above (Indemnity).

**X. INSURANCE**

During the term of this agreement, BACR shall maintain insurance as noted below and shall at all times name AIMS as additional insureds under the applicable policy or policies. Upon request, BACR shall furnish copies of the policy forms indicating that AIMS is an additional insureds under the policy or policies. Insurance shall include the following:

- *Property Insurance* - for replacement value, including coverage for all assets listed in AIMS' property inventory and consumables that BACR will utilize as part of the Program. If full replacement value

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coverage is not available, BACR shall procure property insurance in amounts as close to replacement value as possible.

- *General Liability* - providing coverage for negligence, errors and omissions, abuse and molestation, and employment practices liability of the School, its governing board, officers, agents, employees, or students.
- *Automobile Insurance* - to the extent necessary and in amounts appropriate for the type and use of the automobile.

**XI. RELATIONSHIP BETWEEN THE PARTIES.**

It is agreed that the relationship of BACR to AIMS is that of an independent contractor, that BACR shall provide all services under this Agreement as an independent contractor, and that BACR shall not have the authority to bind or make any commitment on behalf of AIMS. Nothing herein shall be construed to create a joint venture, partnership, employer-employee, association, or principal-agent relationship between BACR and AIMS.

**XII. NOTICE**

Any notice required or permitted to be given hereunder may be effectively given by letter delivered either by personal delivery, registered mail or electronic means (with delivery confirmation), addressed to the recipient as follows:

If to the School:

ATTN: Marisol Magana  
American Indian Model Schools  
171 12<sup>th</sup> Street  
Oakland, CA 94607  
510-220-9985 (Phone)

If to BACR:

ATTN: Martin Weinstein, CEO  
191 Carlos Drive  
San Rafael, CA 94903-2005  
415-444-5581 (Phone)  
415-444-5589 (Fax)  
[mweinstein@bacr.org](mailto:mweinstein@bacr.org)

All notices must be in writing to the addresses set forth above, unless otherwise advised by a Party. Notices sent are deemed to have been received immediately upon personal delivery, three (3) business days following deposit of the same with an authorized carrier for delivery by registered mail, or on the next business day following issuance by e-mail, but only if the recipient confirms receipt by e-mail.

**XIII. INTEGRATION**

This Agreement is the final, complete, and exclusive agreement of the Parties with respect to the subject matter hereof, and it supersedes and merges all prior discussions between the Parties.

This Agreement may only be modified in a writing signed by both Parties that expressly references this Agreement.

**XIV. LIMITATION ON LIABILITY**

TO THE EXTENT PERMITTED BY LAW, IN NO EVENT SHALL BACR'S AGGREGATE LIABILITY ARISING OUT OF OR RELATING TO THIS AGREEMENT (REGARDLESS OF THE FORM OF ACTION GIVING RISE TO SUCH LIABILITY, WHETHER IN CONTRACT, TORT, OR OTHERWISE) EXCEED THE FEES PAID OR PAYABLE BY THE SCHOOL UNDER THIS AGREEMENT TO BACR.

TO THE EXTENT PERMITTED BY LAW, IN NO EVENT SHALL THE SCHOOL'S AGGREGATE LIABILITY ARISING OUT OF OR RELATING TO THIS AGREEMENT (REGARDLESS OF THE FORM OF ACTION GIVING RISE TO SUCH LIABILITY, WHETHER IN CONTRACT, TORT OR OTHERWISE) EXCEED THE FEES PAID OR PAYABLE BY THE SCHOOL UNDER THIS AGREEMENT.

**XV. EXCLUSION ON LIABILITY**

IN NO EVENT SHALL BACR BE LIABLE FOR ANY CONSEQUENTIAL INCIDENTAL, INDIRECT, EXEMPLARY, PUNITIVE OR SPECIAL DAMAGES, HOWEVER CAUSED, INCLUDING LOSS OF PROFITS,

BACR Initials \_\_\_\_\_  
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BUSINESS, REVENUE, DATA, GOODWILL OR USE, INCURRED BY SCHOOL OR ANY THIRD PARTY, WHETHER UNDER THEORY OF CONTRACT, TORT (INCLUDING NEGLIGENCE), WARRANTY OR OTHERWISE, EVEN IF THE SCHOOL HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

IN NO EVENT SHALL THE SCHOOL BE LIABLE FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, PUNITIVE OR SPECIAL DAMAGES, HOWEVER CAUSED, INCLUDING LOSS OF PROFITS, BUSINESS, REVENUE, DATA, GOODWILL OR USE, INCURRED BY BACR OR ANY THIRD PARTY, WHETHER UNDER THE THEORY OF CONTRACT, TORT (INCLUDING NEGLIGENCE), WARRANTY OR OTHERWISE, EVEN IF BACR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

**XVI. MISCELLANEOUS**

- A. Force Majeure: If, for reasons beyond the control of either Party (a "Force Majeure" event), BACR is unable to carry out any of its obligations hereunder, or is required to make material changes to the schedule or activities comprising the Program, BACR shall make reasonable efforts to inform School of such changes and to provide appropriate substitutes to School, or to suspend performance of its obligations, up to and including cancellation of the Agreement, and shall provide pro rata refunds to School after meeting BACR's non-recoupable expenses. Force Majeure shall include, without limitation, riot, war, acts of God, third-party labor disputes, governmental action or inaction, and failure of power, telecommunication means, or third-party service providers upon which an obligation hereunder depends.
- B. Time is of the Essence: Time is of the essence with respect to the Parties' performance of the Services hereunder.
- C. No Waiver: No waiver will be implied from conduct or failure to enforce rights. No provision of this Agreement shall be deemed waived unless such waiver is in writing and signed by the authorized representative of the Party against whom it is sought to be enforced.
- D. Survivability: All provisions of this Agreement and any exhibit that are by their nature intended to survive the expiration or termination of this Agreement or any such exhibit, including obligations with respect to indemnification, shall survive such expiration or termination.
- E. Joint Negotiation: This Agreement is the product of BACR and School, and each provision hereof has been subject to the negotiation and mutual agreement of the Parties, and sufficient time for the review of their respective legal counsel and advisers. Accordingly, any rule of construction that a document shall be interpreted or construed against the drafting Party shall not be applicable.
- F. Choice of Law: This Agreement will be governed and construed in accordance with the laws of the State of California.
- G. Venue and Forum Selection: To the extent the courts need to be involved, the Parties irrevocably consent to the exclusive jurisdiction of any state or federal courts located in Alameda County, California and the Parties expressly waive any objection thereto and consent to personal jurisdiction therein.
- H. Prevailing Party: In the event that it shall become necessary for any Party to institute legal proceedings

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against another Party for recovery of any amounts due and owing under the Agreement, it is expressly agreed that the prevailing Party in any such action shall be entitled to recover from the non-prevailing Party all costs related to such collection, including reasonable attorneys' fees and all expert witness fees incurred during pre-suit efforts, suit, and post judgment, appeal, or settlement collection.

- I. Severability: While the Parties consider the provisions contained in this Agreement reasonable, having the opportunity to seek independent legal advice, if any provision(s) of this Agreement is held to be invalid, illegal or unenforceable the remaining provisions shall be severable and enforceable. If a provision is excessively broad, such provision shall be limited or reduced in scope so as to be enforceable
- J. Interpretation: In this Agreement: (i) the headings are used for convenience only and do not affect any interpretation; (ii) reference to "person(s)" include incorporated and unincorporated persons; (iii) references to the singular include the plural and vice versa; (iv) references to the feminine include the masculine and vice versa; and (v) where the word "including" is used, it means "including without limitation."
- K. Non-Assignability: This Agreement cannot be assigned or modified except pursuant to a written agreement signed by both Parties. Notwithstanding this term, BACR is permitted to subcontract as set forth herein.
- L. Counterpart Execution: This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument. The Parties agree that a facsimile or electronic copy of this Agreement may be accepted as an original, and that facsimile or electronic copies of the executed Agreement constitute one and the same instrument. The Parties agree that a "including" is used, it means "including, but not limited to."
- M. Authority: The undersigned represent and warrant that they are duly authorized to sign this Agreement on behalf of their respective entities.

Effective as of the Date noted above upon signature of both parties.

AMERICAN INDIAN MODEL SCHOOLS

BAY AREA COMMUNITY RESOURCES, INC.

By: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

Its: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Printed Name: \_\_\_\_\_

APPENDIX A: AMERICAN INDIAN MODEL SCHOOL STAFF AND FAMILY HANDBOOK

APPENDIX B: SAFETY SCHOOL PLAN

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