MORGAN HILL UNIFIED SCHOOL DISTRICT

LEASE AGREEMENT
YMCA Owned Portable
2019-2022

THIS LEASE AGREEMENT, hereinafter referred to as "Agreement," is made and entered into by and between the **MORGAN HILL UNIFIED SCHOOL DISTRICT** ("Landlord") and **Young Men's Christian Association** ("Tenant").

RECITALS

1. Landlord owns and operates **Los Paseos Elementary School** located at 121 Avenida Grande, San Jose, California.

2. Tenant is in the business of before and after school day care.

3. Tenant desires to use a portion of the Property for the operation of before and after school day care at:

Los Paseos Elementary School
121 Avenida Grande
San Jose, CA 95139

NOW, THEREFORE, as full and complete consideration of the covenants and agreements hereinafter set forth, Landlord and Tenant agree as follows:

AGREEMENT

A. USE OF PREMISES: Landlord hereby grants permission to Tenant to occupy the Site to operate before and after school daycare. Equipment necessary for Tenant's operations shall be installed, constructed, operated and maintained by Tenant at Tenant's sole cost and expense, following Tenant's obtaining all appropriate permits to install, construct and commence operations of Tenant from any public agency having jurisdiction over the issuance of permits related to Tenant's operations. Tenant is obligated to obtain and maintain all Municipal, State and Federal permits necessary to use the Site.

B. TERM: The Term ("Term") of this Agreement shall be for three years beginning July 1, 2019 and terminating on June 30, 2022, unless sooner terminated as provided herein. Either party may give 60 day written notice to terminate this agreement.

C. RENT: Tenant agrees to pay Landlord, as Rent for the Site, the sum of $1.00 per year to the party and at the address designated in Section H.

D. ACCESS: Tenant shall grant access to and from the Site. Tenant shall provide Landlord with a key to access the site, to be used primarily for emergencies. Tenant is required to provide Landlord with a list of emergency contact information.

E. UTILITIES: Currently, all utilities except garbage are tied into Los Paseos' meter. Therefore all water/sewer and electrical used for the operation of typical classroom activities will be paid by the Landlord.

Tenant agrees to pay a $4,700 annual rate to cover all water/sewer and electrical expenses for the 2019-2020 school year. The full annual payment is due no later than September 9th of each year. Payments made after September 9th will be subject to a $100 late fee each month per site until the entire annual payment has been made. Rent will increase by $120.00 each year thereafter ($4,820 for 2020-2021 and $4,940 for 2021-2022).

Tenant is responsible for ordering and paying for their own refuse service directly with a refuse company. Tenant shall provide and store all garbage within a minimum two yard lockable dumpster, which shall be locked with District-provided lock. All other utilities are included based on the monthly square footage rental. Recycled wastes shall be stored likewise or within locked classrooms.

F. REPAIRS AND MAINTENANCE: The Tenant shall, at its own expense, keep the exterior facilities in good repair and maintain them in a condition suitable for the above purpose according to State Building requirements (California Administrative Code, Title 24) and Public Safety requirements (California Administrative Code, Title 19). Tenant shall be responsible for all repairs to those portions of the building that are used for Tenant's classrooms, which are occasioned by damage caused by Tenant's employees, agents, invitees, pupils or their parents or guardians.

G. CUSTODIAL AND GROUNDS: The Tenant shall be responsible to provide their own custodial and grounds services to maintain the interior and grounds surrounding the portable building up to district standards.

H. NOTICE: Any notice, request, demand, instruction or other communication to be given to either party hereunder shall be in writing and shall be sent to the addresses listed below. Notice shall be deemed to have been given upon receipt or refusal of delivery of said notice.

Landlord:
Morgan Hill Unified School District
15600 Concord Circle
Morgan Hill, CA 95037

Tenant:
Young Men's Christian Association
17666 Crest Avenue
Morgan Hill, CA 95037

I. LIABILITY AND INDEMNITY: Tenant shall indemnify and hold harmless Landlord, and its agents, employees, officers, elected officials against and from any and all claims, liabilities, judgments, costs, demands, causes of action and expenses (including, without limitation, reasonable attorneys' fees) arising from Tenant's and its agents', employees', partners', shareholders', officers', directors', invitees', and independent contractors' use of the Site or by reason of this Agreement. If any action or proceeding is brought against Landlord by reason of any such claim, upon notice from Landlord, Tenant shall defend the same at Tenant's expense by counsel reasonably satisfactory to Landlord.

J. SURRENDER: Tenant agrees that on the last day of the Term, Tenant shall surrender and vacate the Site in good condition and repair (damage by Acts of God, fire, and normal wear and tear excepted). All property of Tenant not so removed in thirty (30) days, unless such non-removal is consented to by Landlord in writing, shall be deemed abandoned by Tenant, provided that in such event Tenant shall remain liable to Landlord for all reasonable costs incurred in storing and disposing of such abandoned property of Tenant. The obligations herein shall survive termination of this Agreement

K. TERMINATION: Landlord shall have the right to terminate this Agreement upon the occurrence of any of the following events:

a. The breach by Tenant of any duty or obligation contained herein and the failure or refusal by Tenant to timely perform any duty or obligation of Tenant under this Agreement should Tenant fail to remedy such nonperformance within thirty (30) days following written notice from Landlord to Tenant;

b. The refusal or revocation by any agency, board, court or other governmental authority to issue any permit or license necessary for Tenant to operate on the Site;

c. The Landlord requires the use of the Site for its educational purposes.

Should Landlord terminate pursuant to this provision, Tenant's termination shall be effectively immediately upon notice to Tenant and shall be subject to the surrender provisions set out above, as if it were the last day of the Term.

L. LIABILITY INSURANCE: During the term of this Agreement, Tenant shall, at Tenant's expense, obtain and keep in force a policy of comprehensive public liability insurance with policy limits of not less than Two Million Dollars ($2,000,000) for injury or death of any one person, Two Million Dollars ($2,000,000) for injury or death of two or more persons, and Two Million Dollars ($2,000,000) for any property damage, issued by companies approved by Landlord. The limit of said insurance shall not limit the liability of the Tenant hereunder. Tenant may carry such insurance under a blanket policy provided such insurance adds Landlord as an additional insured. Tenant shall deliver to Landlord certificates evidencing the existence and amounts of such insurance. No policy shall be cancelable or subject to reduction of coverage except after thirty (30) days prior written notice to Landlord.

M. ASSIGNMENT BY TENANT: Tenant shall not voluntarily or by operation of law assign all or any part of Tenant's interest in the Agreement or in the Site, without Landlord's prior written consent.

N. ATTORNEY'S FEES: In the event any legal action or proceeding, including arbitration and declaratory relief, is commenced for the purpose of enforcing any rights or remedies pursuant to this Agreement, the prevailing party shall be entitled to recover from the non-prevailing party reasonable attorneys' fees, as well as costs of suit, in said action or proceeding, whether or not such action is prosecuted to judgment.

O. COMPLIANCE WITH LAW: Any Portable building installed by Tenant on Landlord's Property shall meet all applicable structural, safety, health, equipment, and related conditions as applicable to pupil housing requirements. Additionally, Tenant agrees to conform to all laws and regulations, municipal, state and federal, and any and all requirements orders, and permits or any municipal, state, or federal board or authority, present or future, in any way relating to the condition, use or occupancy of the premises throughout the entire term of this agreement,

P. HEALTHY SCHOOL ACT OF 2002: Landlord certifies that it and the Property are in compliance with California's Healthy School Act of 2000 (AB2000) as they relate to the use of pesticides. Landlord shall provide the adequate notices to Tenant as required including the updated development of an IPM plan.

Q. FINGERPRINTS: Landlord shall require Tenant (and their staff) to submit fingerprints

consistent with California Education Code Section 44237. Tenant shall comply with the requirements of Education Code Section 45125.1 including, but not limited to: obtaining California Department of Justice (CDOJ) clearance for Tenant's employees; prohibiting its employees from coming in contact with students until CDOJ clearance is ascertained and certifying in writing and providing such certification to Landlord that none of its employees who may come in contact with students have been convicted of a violent or serious felony. Nor will any person employed who has been convicted of or entered a plea of nolo contenter to charges of any sex offense as defined in Education Code §44011.

R. **MISCELLANEOUS:** This Agreement and any attached exhibits and addenda, as signed by the parties hereto, constitute the entire agreement between Landlord and Tenant. This Agreement shall not be amended or changed except by written instrument signed by the parties hereto.

Landlord:
Morgan Hill Unified School District

By: *Kirsten Perez*
Assistant Superintendent of Business Services
Date:_____

Tenant:
Young Men's Christian Association

By:
Date:_____

_____
Emergency Contact

_____
Phone Number