

**Partnership Agreement
Between
Davis Kids Klub and the Davis Joint Unified School District**

This Partnership Agreement ("Agreement") is entered into by and between the Davis Kids Klub, a California 501(c)(3) nonprofit corporation (hereinafter "DKK") and the Davis Joint Unified School District, a California public school district (hereinafter "DISTRICT"). DKK and DISTRICT are referred to singularly as "Party" and collectively as "Parties."

Purpose

The purpose of this Agreement is to establish a formal working relationship between the Parties of the Agreement and to set forth the operative conditions that govern this partnership. DISTRICT and DKK believe that enriching, effective and affordable after school programs for Davis students are of mutual benefit to DISTRICT, DKK and the Davis community. As a result, DISTRICT and DKK wish to solidify and strengthen their partnership to continue to provide excellent after school options for the students of Davis.

General

DKK Program Description

DKK is a non-profit quality, affordable after school recreation enrichment program located on DISTRICT campuses. DKK offers safe, structured fun in a recreational environment that supports academic, social and emotional growth. The daily schedule and programming include time for homework tutoring, a nutritious snack, guided fitness and outdoor play, as well as games and activities that focus on STEAM (Science, Technology, Engineering, Arts and Math). DKK works in partnership with DISTRICT, UC Davis, and other community groups to provide enrichment opportunities, such as robotics, coding, chess, theater, as well as a number of other exciting and engaging activities for students.

DKK offers children and families a nurturing and inclusive program staffed with experienced directors and assistants. DKK hires appropriately state licensed teachers, paraprofessionals, and other qualified individuals to serve as a part of the DKK team. Site directors are CPR and first aid certified, have been fingerprinted and background checked, have a clear TB test, and have completed mandated reporter training. DKK agrees to notify DISTRICT should any DKK employee be arrested and/or convicted of a violent or sex related offense, or any felony. In addition, staff has had program specific training in classroom management, conflict resolution and emergency action plans and procedures. Staff is diligent in maintaining a positive, safe, and clean environment where children learn, play, have fun and thrive.

DKK employs well qualified recreation leaders who participate in ongoing training in classroom management, conflict resolution, emergency procedures and curriculum execution. Ratios of leaders to students is approximately 11:1. All leaders are fingerprinted, have cleared TB tests and reference checks upon hiring. Most of the DKK leaders are pursuing careers working with children and have college child development coursework that supports their work at DKK. All DKK employees are mandated by the State of California to report any suspicion of child abuse.

The DISTRICT Superintendent or designee will determine which DISTRICT administrator will serve as the DISTRICT Liaison to DKK and provide oversight for the terms of the Agreement. The DISTRICT Liaison to DKK will resolve internal conflicts related to personnel, facilities use and any other issues that arise regarding the Agreement.

DKK agrees to provide DISTRICT Employees with a 20% discount on DKK program costs. DKK will work with DJUSD employee on a case by case basis to execute the discount.

A DISTRICT employee, and Teacher on Special Assignment (hereinafter "TOSA"), will serve as the DKK Site Liaison. The TOSA will coordinate and monitor programming and operations on DISTRICT campuses in consultation with Lynda Yancher, DKK Executive Director. DKK will reimburse DISTRICT the actual cost of the DISTRICT employee as outlined in Section 3 C. The Site Liaison will meet with site principals and other staff to customize the after school needs at each school site and collaborate in order provide the best program possible.

Recitals

WHEREAS, pursuant to California Education Code § 38131(b)(4) DISTRICT may grant the use of school facilities, under appropriate terms and conditions, for purposes of providing child care services.

WHEREAS, DISTRICT has determined that it is beneficial to locate child care services, pre-school programs and after-school programs ("Programs"), in facilities at school sites in DISTRICT.

WHEREAS, DISTRICT has further determined that it is beneficial to locate supervised recreational activities at school sites in DISTRICT as provided for in CEC § 38131(b)(6).

WHEREAS, pursuant to California Health and Safety code § 1596.792(g), and subject to the direction of programming via a TOSA, the Programs as run by DKK are license exempt.

WHEREAS, DISTRICT hereby agrees to grant the use of certain facilities located at Birch Lane Elementary, Korematsu Elementary, Marguerite Montgomery Elementary, North Davis Elementary, Patwin Elementary, Pioneer Elementary, Robert E. Willett Elementary, Cesar Chavez Elementary (each such location is referred to as a "School Site" in this Agreement) subject to the following covenants, conditions, restrictions, and terms.

WHEREAS, Under California Education Code section 38131, also known as the Civic Center Act (the "Act"), the governing board of a school district may grant use of school facilities or grounds, upon terms and conditions the board deems proper, subject to the limits set forth in the Act. The Act and public policy recognize that school district facilities and grounds are an important community resource and encourage the shared use of school property to promote youth activities.

NOW, THEREFORE, in consideration of the mutual promises, covenants and conditions herein contained, the Parties hereby agree as follows:

Section 1. Term.

This Agreement shall be for a term of three (3) years commencing on July 1, 2018 and ending on June 30, 2021. The Term may be terminated only as expressly provided for in Section 11 of this Agreement. The Agreement may be renegotiated in April 2021 for a subsequent term, as mutually agreed to in writing between the Parties. The Parties will meet annually to review the terms of this Agreement and determine if any addendums are needed. This Agreement will supersede any previous agreements between DISTRICT and DKK.

Section 2. Facilities Descriptions.

(A) Use of Facilities: DKK shall be permitted use of facilities at the below-referenced School Sites, as reasonably assigned by each School Site Principal for each academic year and summer session as applicable (all such indoor and outdoor facilities hereinafter referred to as "Facility" or Facilities") which shall consist of the following:

1. the Multi-Purpose Room, Library, vacant classroom(s), or other similar suitable locations; and
2. Notwithstanding anything to the contrary, DKK shall be permitted use of all outdoor common areas, playgrounds, and play structures at each School Site.

(B) Hours of Access: DKK shall have access to the School Sites, and the Facilities there in, as follows:

1. During any DISTRICT academic year: From Final Dismissal of DISTRICT students at each School Site to 6:00 p.m. Monday through Friday for DKK's Programs, excluding legal holidays. Entry during weekend hours, or at hours before or after the specified hours Monday through Friday, may be granted in writing by the relevant School Site Principal at his or her discretion.
2. For School Sites that provide access to DKK during any summer period: From 8:00 a.m. to 6:00 p.m.
3. For school sites that provide access to DKK for before school programs: From 7:00 a.m. to the start of the school day.
4. For school sites that provide access to DKK Before/ After Transitional Kindergarten and Kindergarten programs: From 7:00 a.m. until first TK/K dismissal and/or from the start of second session until 2:15 p.m., depending on the site TK/K classes.
5. The parties acknowledge that because the Facilities are DISTRICT property, they may constitute a "Civic Center" pursuant to the Act, and that use of the Facilities may require compliance with the Act. The Parties understand that other individuals or entities may be allowed to utilize the Facilities within the pursuant to the Act and within the constraints of this Agreement.
6. DKK's use shall be limited to the extent that it conflicts with any other DISTRICT activity.

(C) Other Facilities. DISTRICT may, in its discretion, provide to DKK additional classrooms or other school Facilities upon written request and at a fee rate consistent with DISTRICT's current Fee Schedule. Such additional Facilities shall be requested by DKK at least three (3) days in advance of the anticipated use. Use of such additional Facilities shall be subject to the terms set forth herein.

(D) DISTRICT will provide keys to facilities used by DKK. DKK will be responsible for the maintenance and security of keys provided. DKK may be responsible for the replacement and rekeying of lost or misused keys.

(E) DKK will ensure that facilities used will be returned to the condition that they were found in at the conclusion of each day's activities. As a result, DKK will not incur custodial fees, unless the facility needs to be cleaned as a result of DKK activities.

(F) DISTRICT agrees to allow DKK the use of DISTRICT equipment, specifically chromebooks and computer labs if not in use by the school site during the after school programs. DKK agrees to repair or replace any equipment damaged during their use, and comply with any and all technology use policies of the DISTRICT. .

(G) Specific room use will be coordinate with the site Principal or designee. Conflicts regarding site scheduling will be resolved by the Superintendent's designee.

Section 3. Payment.

(A) In consideration for DKK's use of DISTRICT School Sites pursuant to this Agreement, DKK shall pay to DISTRICT the following for each School Site:

(1) \$1,600 per School Site per month during the months of August through May ("Facility Fee") for After School Programs.

(i) In consideration of the opening of DKK programming at Cesar Chavez Elementary in the 2018-2019 school year, DISTRICT agrees to waive the fee for the use of facilities at Cesar Chavez Elementary for the 2018-2019 school year. DKK will pay \$1,500 per month during the months of August through May for the use of Cesar Chavez starting in the 2019-2020 school year.

(2) \$3,200 per School Site designated for summer use by the Parties for the two month summer session (runs from mid-June to mid-August), payable on or before June 10th of each year.

(3) An energy surcharge of \$2.50 (two dollars and fifty cents) per School Site for each hour, or portion thereof, DKK uses any indoor areas of each School Site ("Energy Fee"). The Energy Fee is subject to revision during the Term of this Agreement based on DISTRICT's Fee Schedule as adopted by DISTRICT's Governing Board as applicable to all DISTRICT Facilities. If DISTRICT changes the amount of the Energy Fee in DISTRICT's Fee Schedule, DISTRICT shall provide notice to DKK of the effective date of such revision.

(4) If programs to serve Transitional Kindergarten and Kindergarten are established. The Superintendent or designee will approve the location(s) and DKK will pay \$1,600 per School Site per month during the months of August through May ("Facility Fee") for each Transitional Kindergarten and Kindergarten program.

(5) If programs to serve students before school are established. The Superintendent or designee will approve the location(s) and DKK will pay \$400 per

School Site per month during the months of August through May ("Facility Fee") for each Before School program.

(B) DKK shall remit the Facility Fee and Energy Fee to DISTRICT within thirty (30) days of the last day of the preceding month. All fees payable to DISTRICT by DKK, if not paid when due, shall bear interest from the due date until paid, at the maximum rate permitted by law.

(C) DKK agrees to reimburse DISTRICT annually an amount equal to the total payroll cost of a TOSA, such DISTRICT employee to be mutually agreed upon by DISTRICT and DKK, who will serve as the DISTRICT DKK Site Liaison. DKK will pay DISTRICT the total amount in 12 equal monthly payments in order for DISTRICT to employ a TOSA to serve as the DKK-DISTRICT Site Liaison.

(D) All payments shall be made and delivered to the DISTRICT address as set forth below.

Section 4. Use.

(A) Program. DKK shall use the School Sites for its Programs in a manner consistent with the lawful child care and recreational activities of DKK, other uses necessary and compatible therewith, and for no other reason.

1. DKK shall be responsible for designing and carrying out the Program, subject to the direction of a TOSA.
2. DKK shall be responsible for seeing that the standards and quality of any operations for the Program shall meet the requirements of all applicable federal, state and local laws.
3. State and local officials and DISTRICT shall have the right to inspect any and all aspects of the Program on the School Site at any time during the term of this Agreement.
4. DKK shall act in a professional manner and shall not do or permit anything to be done on the School Site which would obstruct or interfere with the rights of anyone on the School Site (other than the exclusive occupancy of specific indoor Facility locations, during the actual occupancy by DKK), or that would injure or annoy them. DISTRICT shall not permit any nuisance or waste on the School Site.
5. DKK shall not obstruct anyone's access to or passage across the School Site (other than the exclusive occupancy of specific indoor Facility locations, during the actual occupancy by DKK).
6. DKK may place appropriate signs on the School Site to identify the Program and shall obtain DISTRICT's prior approval of the placement of such signage and/or any changes to the placement of such signage. All signage in existence as of the effective date of this Agreement shall be deemed approved by DISTRICT.
7. DKK shall not do or permit to be done in or about the School Sites and/or Facilities, nor bring into, keep or permit to be brought into or kept therein, anything which is prohibited by or will in anyway conflict with any applicable law, statute, ordinance or governmental rule or regulation. Neither shall DKK act in a manner, or knowingly permit action or non-action in contravention of DISTRICT's insurance policies, causing cancellation of existing policies or any increase in fees. DKK shall not do or permit to be done anything which will in any way

obstruct or interfere with the right of DISTRICT to use the School Site. DKK shall not permit the School Sites to be used for any unlawful purpose, or cause, maintain or permit any nuisance in or about the School Sites. DKK shall not commit or suffer to be committed any waste in or about the School Site. DISTRICT confirms that DKK's usage of School Sites in a manner consistent with the lawful child care and recreational activities of DKK does not fall within any of the above prohibited uses.

8. DKK shall not make any alterations or modifications to the School Site.
9. DKK shall maintain the Facilities in the same condition as when delivered, surrendering them at the end of the Agreement term in the same condition as that in which they were delivered, excepting normal wear and tear, or damage by elemental factors, or acts of God. The Parties expressly understand that DKK may not have exclusive use or control over all of the Facilities, and as such, the requirements to maintain and return the Facilities in a specific condition shall not be applicable where change in condition is not caused by DKK or those under DKK's control.
10. Liens and Claims. DKK shall endeavor to ensure that no liens are placed upon the Facilities, but in the event that it does occur, DKK shall promptly pay in full for any equipment, furnishings and furniture for the Program that DKK shall cause to be delivered to the School Site and shall promptly pay in full all persons who perform labor on the School Site at DKK's request. If any mechanics' or material men's liens or any other liens or claims for any work done or items furnished at DKK's request are filed against the School Site, DISTRICT shall so notify DKK in writing in a timely manner, and DKK shall remove the liens and claims at DKK's own expense. If DKK fails to remove the liens or claims and any judgment is entered thereon or thereunder, DKK shall pay that judgment. Should DKK fail, neglect, or refuse to remove any liens or claim or to pay any judgment, DISTRICT shall have the right to pay any amount required to release any such liens or claims, or to defend any action brought on the liens or claims and to pay any judgment entered on the liens or claims; and DKK shall be liable to DISTRICT for all costs, damages, reasonable attorneys' fees, and any amounts expended in defending any proceedings or in the payment of any of said liens or claims or any judgment obtained therefore. DISTRICT may record, post and maintain upon the School Site a notice of non-responsibility. DKK shall not encumber by any security instrument, all or a part of DKK's interest under this License without the prior written consent of DISTRICT, and upon such terms and conditions as DISTRICT may require.

Section 5. Destruction or Damage.

(A) In the event damage to any School Site or Facility by fire, earthquake, force of nature, elements, or other casualty, prevents DKK from carrying out its Program, this Agreement shall remain in full force and effect. DISTRICT shall endeavor to reasonably provide alternative Facilities for DKK's Program, but only to the extent other facilities are available. Should this not be reasonably possible, a pro-rata deduction of Facility Fees shall be allowed DKK for such part of DISTRICT property as shall be rendered unusable by DKK in the conduct of its business during the time such part is not usable. Upon suitable repairs such that DKK may again use the relevant School Site or Facility for its Program ("Suitable Repairs"), the Facility Fees shall be adjusted back to the level it was prior to the damage.

(B) If Suitable Repairs cannot, in the opinion of DISTRICT, be completed within ninety (90) days of damage, or alternative reasonable Facilities for DKK's Program cannot be made available, either Party may elect, upon thirty (30) days' written notice to the other Party, to terminate use of the relevant School Site where the damage occurred. The Facility Fee for such School Site shall be eliminated as of the 31st day following such notice.

Section 6. Insurance.

(A) At all times during the term of this Agreement, DKK, at its sole expense, shall procure and maintain the following types of insurance coverage:

1. Comprehensive General Liability Insurance against any and all damages and liability, including, but not limited to, attorneys' fees, and other costs and expenses on account of or arising out of injuries to or the death of any person or damage to DISTRICT property, however occasioned in or about the property, in the minimum amount of five million dollars (\$5,000,000.00).
2. Insurance against damage by fire and other perils, adequate in the amount to cover damages to DKK's furnishing and equipment located on each School Site.
3. Workers' Compensation Insurance in amounts and as required by law.

(B) The insurance required under this Section and all renewals thereof shall be issued by companies qualified and doing business in the State of California. Such company shall be approved by DISTRICT, with such approval to not be unreasonably withheld.

(C) All insurance required under this Section shall name DISTRICT and DKK as the Parties insured. Each policy shall expressly provide the following:

1. The policy shall not be cancelled or altered in any such manner as to affect the coverage afforded thereby without sixty (60) days' prior written notice to DISTRICT;
2. The coverage shall be primary and non-contributing with any insurance carried by DISTRICT;
3. Any loss shall be payable notwithstanding any act of negligence of DISTRICT that might otherwise result in forfeiture of coverage; and
4. The word "insured" as used in each policy, is used severally and not collectively and insurance coverage thereunder shall apply as though a separate policy were issued to each insured.
5. Name DISTRICT as an additional insured.

(D) Each policy of insurance required to be carried under this Section, or duplicate or certificate thereof, shall be delivered to DISTRICT for retention by DISTRICT. In the event that DKK fails to insure or fails to furnish DISTRICT such policy, duplicate or certificate, DISTRICT may upon fifteen (15) days' written notice to DKK, elect to terminate this Agreement.

(E) DISTRICT and DKK shall obtain from their respective insurers under all policies required to be held herein and maintained by either of them at any time during the term of this Agreement, a waiver of all rights of subrogation which the insurer of one Party may have against the other Party, provided such waiver is available. The cost of obtaining the waiver shall be borne by the

Party who bears the cost of the insurance policy to which such waiver is attached. DISTRICT and DKK shall each indemnify the other against any loss or expense resulting from the failure to obtain the waiver, provided such waiver is available.

Section 7. Indemnification.

DKK hereby waives any and all claims against DISTRICT for damages to any property or injury to or death of any person in, upon, or about the property arising at any time and from any cause other than by reason of the sole willful misconduct of DISTRICT, its employees or contractors. DKK shall defend, indemnify and hold DISTRICT, its agents, employees and Trustees harmless from claims arising from any damage to any property, or injury or death of any person arising from the use of the property by DKK, except as is caused by the sole willful misconduct of DISTRICT, its employees or contractors. The foregoing indemnity obligations of DKK shall include incurred attorneys' fees, investigation costs, and all other reasonable costs and expenses incurred by DISTRICT from the first notice that any claim or demand is to be made or may be made. The provisions of this Section shall survive the termination of this Agreement with respect to any damage, injury or death occurring prior to such termination.

Section 8. Entry by DISTRICT.

(A) DISTRICT may enter School Site used by DKK at any reasonable time to:

1. Inspect the same;
2. Make repairs and/or modifications provided that all such work shall be done as promptly as reasonably possible and so as to cause as little interference with the normal operations of DKK as possible.

(B) DKK hereby waives any and all claims for damages for any injury or inconvenience or interference with DKK operations, any loss of occupancy, or any other loss occasioned by such entry.

Section 9. Assignments.

DKK shall not assign this Agreement or any rights granted herein, or permit the use of the property by any Party other than DKK, without DISTRICT's prior written consent, which consent shall not be unreasonably withheld.

Section 10. Default.

(A) The occurrence of any one or more of the following events shall constitute default and material breach of this Agreement by DKK:

1. If DKK shall default in its obligation to pay any fees due hereunder and such failure shall continue for more than fourteen (14) days after written notice from DISTRICT;

2. If DKK shall materially fail to perform any other term hereof and such failure shall continue for more than thirty (30) days after written notice from DISTRICT, and DKK shall not within such period commence with due diligence the curing of such default, or having commenced shall fail or neglect to continue to cure the default;
3. If DKK shall admit in writing its inability to pay its debts as they become due or shall file a petition in bankruptcy, or shall be adjudicated as bankrupt or insolvent, or shall file a petition seeking any reorganization or any similar relief;
4. If this Agreement or any asset of DKK shall be levied upon, and any attachment or execution of such attachment is not vacated within ten (10) days.

Section 11. Termination or Revocation.

(A) This Agreement shall be deemed for all purposes a revocable license. The Agreement may be terminated by either Party at any time for convenience. Any such termination shall become effective on the ninety (90th) calendar day following the date the terminating Party gives written notice to the other Party of the termination.

(B) The Agreement may be terminated by either Party at any time for cause by providing the defaulting Party with written notice of termination. "Cause" shall consist of a material breach of any provision of this Agreement and the failure of the breaching Party to cure the breach within fifteen (15) days of being notified of the breach (or such other period, if expressly provided in this Agreement). If DISTRICT terminates the Agreement for cause, then DISTRICT may bring an action to recover from DKK any unpaid Fees and any other amount necessary to compensate DISTRICT for all detriment proximately caused by DKK's failure to perform its obligations under this Agreement. DISTRICT may bring an action, in addition to or in lieu of this action, to reenter and regain possession of the School Site.

(C) Should DISTRICT in its sole discretion determine that the School Site is needed by DISTRICT for school purposes, or for the expansion or modification of the School Site, or for any other reason DISTRICT may deem necessary, DISTRICT shall provide DKK with no less than ninety (90) days' advance written notice of its intent to cancel or terminate this Agreement for the specified School Site. This Agreement may also be terminated for any other reason set forth in any other paragraph of this Agreement. DKK and DISTRICT will carefully consider the needs of students and families when considering a termination date.

(D) Upon the effective date of termination of the Agreement, DKK and DKK's agents, officers, employees, volunteers and independent contractors shall immediately vacate the School Site. Upon termination, DKK shall be responsible for the cost for repair of damages (beyond ordinary wear and tear) to the School Site caused by DKK or those under DKK's control. DKK shall make such payment to DISTRICT within thirty (30) days of receipt of an invoice for such costs.

(E) The remedies given to DISTRICT in this Article shall not be exclusive, but shall be cumulative with and in addition to all remedies now or hereafter allowed by law and elsewhere provided in this Agreement.

Section 12. Relief.

The remedies provided herein are in addition to any other remedies available to DISTRICT in law or equity, by statute or otherwise.

Section 13. Possessory Interest Tax.

The use of government property by a nongovernmental agency or entity may give rise to possessory interest taxes levied by the local taxing jurisdiction. In the event such taxes are levied against DKK, DKK agrees to pay such taxes to the extent required by law for the use of the property described herein.

Section 14. No Right to Sublicense.

DKK shall not have the right to sublicense all or any portion of any School Site without DISTRICT's prior written consent. In the event that DISTRICT approves a sublicense, DKK shall ensure that the sublicensee adheres to the terms of this Agreement. Under all circumstances, DKK shall retain all duties and obligations under this Agreement and may not assign them in any manner to the sublicensee.

Section 15. Miscellaneous.

(A) If DKK fails to vacate the School Site after termination or revocation of this Agreement, DKK shall be deemed a trespasser which shall entitle DISTRICT to all remedies in equity and law, including damages, to remove DKK as a trespasser, including the use of unlawful detainer proceedings if DISTRICT so chooses.

(B) The waiver by DISTRICT or DKK of any agreement, condition, or provision contained herein shall not be deemed to be a waiver of any subsequent breach of the Agreement, nor shall any custom or practice which may exist between the Parties in the administration of the terms hereof be construed as a waiver or modification of the terms of the Agreement. DISTRICT and DKK shall retain the right to demand performance by the other Party in strict compliance with the terms hereof.

(C) There are no oral agreements between DKK and DISTRICT affecting this Agreement, and this Agreement supersedes and cancels any and all previous negotiations, arrangements, agreements and understandings, if any, between DISTRICT and DKK (except such terms explicitly intended to survive in prior facility use agreements between the Parties). There are no representations between DISTRICT and DKK other than those contained herein.

(D) If any provision of this Agreement is found to be illegal or unenforceable, such finding shall not affect any other provision of this Agreement. In the event that the entire Agreement is found to be unenforceable, then the entire Agreement shall immediately terminate.

(E) This Agreement shall be governed by and construed in conformance with the applicable laws of the State of California, and venue shall be in the County of Yolo.

(F) All notices, consents, demands or other communications from one Party to the other given pursuant to or required by the terms of this Agreement or under the laws of the State of

California shall be deemed to have been delivered when deposited in the United States Mail, certified or registered, or dispatched by recognized private courier, with proof of mailing and delivery confirmation obtained, and addressed to DKK or DISTRICT at the respective addresses specified below.

Matt Best, Deputy Superintendent
Davis Joint Unified School District
526 B. St.
Davis, Ca. 95616

Lynda Yancher, Executive Director
Davis Kids Klub
417 Mace Blvd.
Davis, Ca. 95618

Section 16. Compliance with Applicable Laws.

This Agreement shall comply with all federal, state and local laws, rules, regulations and ordinances that are now or may in the future become applicable.

IN WITNESS WHEREOF, this Agreement has been duly executed by each party as of the date and year first above written.

DAVIS JOINT UNIFIED SCHOOL DISTRICT

By: _____
Title: Bruce Colby, Chief Business Officer _____
00235-00005/4268680.1

DAVIS KIDS KLUB

By: _____
Title: _____