

**GRANT AGREEMENT
FOR SCHOOL YEAR and SUMMER YOUTH PROGRAMS
DULUTH AREA YMCA / TRUE NORTH AMERICORPS**

THIS AGREEMENT, by and between the **CITY OF DULUTH**, a municipal corporation of the County of St. Louis, State of Minnesota, hereinafter referred to as "**City**", and the **DULUTH AREA FAMILY YMCA** located at 302 West First Street, Duluth, MN, 55802 hereinafter referred to as "**YMCA**"

RECITALS

WHEREAS, the City, working in cooperation with the YMCA, requested a budget and work plan for the YMCA to operate citywide youth services programming in the following manner: place members at selected afterschool programs, City Park and Recreation sites, and local schools with the intent to address the summer learning gap, provide out-of-school-time education and improve access to outdoor education and recreational opportunities.

WHEREAS, YMCA submitted a budget and work plan to the City regarding said programming.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the Parties hereto agree as follows:

1. ADMINISTRATION

1.1. The City's Manager of Parks and Recreation or designee shall administer this Agreement on behalf of the City, and the YMCA's Chief Executive Officer or designee shall administer this Agreement on behalf of the YMCA.

2. SERVICES/PROGRAM

- 2.1.1. The following services will be provided by YMCA: (a) place and train 25-30 AmeriCorps members ("Members") in full time equivalent (FTE) positions throughout the City of Duluth to service youth within afterschool programs, the Park and Recreation system and at local schools; (b) facilitate summer youth programs at multiple locations which provide a safe, structured environment for recreational activities, and (c) provide youth with educational opportunities using the best practices of Out of School Time (OST) to improve access to outdoor education and recreation opportunities as well as reading and math skills (the "Program").
- 2.1.2. The following shall be delivered by the YMCA through the Program:
- (a) Provide active outdoor programming at all True North AmeriCorps sites listed on attached Exhibit A.
 - (b) Design and implement Outdoor Leadership Institute, in partnership with the YMCA's Youth Outdoors-Duluth, focused on getting youth active and engaged in outdoor education. The Outdoor Leadership Institute will train and coach Members throughout their service year on principles of high-quality youth development and outdoor education, and standard curriculum that is accessible and culturally relevant for youth in Duluth.
 - (c) Place a minimum of eight Members at youth serving agencies across the community. Members will support youth through mentoring and leadership of recreation, outdoor education and academic support and enrichment activities.
 - (d) Place a minimum of five Members at Duluth Park sites in the summer months and one full-time member will provide support to City of Duluth Parks & Recreation Division in the summer months to strengthen access to Parks & Recreation equipment and services.
 - (e) Place a minimum of fourteen Members in Duluth schools with at least 35 percent of their service supporting afterschool and summer programming. Building relationships with youth during the school day through classroom support and academic interventions, Members will carry that relationship to the afterschool and summer program supporting youth through mentoring and leadership of recreation, outdoor education and academic support and enrichment.
 - (f) Provide properly trained and licensed YMCA staff (when necessary) in sufficient numbers to adequately provide the Program and appropriately supervise Members at selected sites.

- (g) Provide those items including equipment and supplies required for the daily operation of the Program.

3. LOCATION OF SERVICES

- 3.1 The Program will be held at various locations all of which shall be open to the public and accessible (the "Premises"). The YMCA is responsible for securing permission from the appropriate officials for access to each Premise location to administer the Program, whether it is owned by the City of Duluth, a local school, or non-profit agency.

4. FEES, REPORTING AND TAXES

- 4.1 It is agreed between the parties that YMCA's maximum annual fee for this Agreement shall not exceed the sum of One hundred twenty thousand and 00/100 dollars (\$120,000) inclusive of all expenses associated with the Program, payable from Fund 205-130-1219-5310 (Parks, Community Resources, Parks Operating, Contract Services). YMCA shall submit invoices for services not more frequently than quarterly to the attention of the Manager of Parks and Recreation. Payments will be made upon receipt and review of the quarterly performance measurement reports submitted to the Manager of Parks and Recreation and receipt of reasonable substantiation as required by the Manager of Parks and Recreation.
- 4.2 YMCA shall file with the City Auditor an annual itemized statement showing all YMCA income and expenses related to the operation of the Program. The statement shall be filed not later than May 1 of each year this Agreement remains in effect and shall include all required financial information from the previous calendar year. The statement shall also include a designation of the official contact person responsible for the administration of this Agreement along with addresses and phone numbers. A current copy of YMCA's By-Laws and Articles of Incorporation shall be provided to the City before this Agreement takes effect.
- 4.3 YMCA agrees that, as provided in Minnesota Statutes 16C.05, Subd. 5, all YMCA books, records, documents, and accounting procedures and practices related to the operation of the Program are subject to examination by the City and/or the State Auditor for six (6) years from the date of execution of this agreement. Upon twenty-four (24) hours advance notice by City, YMCA shall provide all requested financial information.
- 4.4 YMCA shall pay or cause to be paid all lawful taxes and governmental charges in a timely manner. YMCA shall further be obligated to pay any sales and use taxes imposed by any governmental entity entitled to impose such taxes on or before the date they are due and to file all required reports and forms in proper form related thereto on or before their due date; provided that nothing shall prevent YMCA from contesting in good faith, any such payment requirement except as such contest would negatively affect the City's rights under this Agreement.

5. TERM AND TERMINATION OF AGREEMENT

- 5.1 Notwithstanding the date of execution of this Agreement, this Agreement shall be deemed to commence on August 1, 2017 and shall continue through July 31, 2020 unless earlier terminated as provided for herein.
- 5.2 This Agreement may be terminated by either party without cause by serving ninety (90) days written notice upon the other.
- 5.3 Should the YMCA be in default or violation of any of the provisions of this Agreement, the City may, by written notice to the YMCA setting forth the date thereof, terminate this Agreement.

6. COMMUNICATIONS

- 6.1 The parties agree that a full and complete exchange of information is necessary for a successful relationship, and each party agrees to communicate openly and regularly with the other with regard to any services or other activities contemplated under this Agreement.
- 6.2 Communication and marketing efforts, including promotional materials, used to highlight the work of this agreement should recognize the City of Duluth as a partner and utilize our City logo, as appropriate.
- 6.3 YMCA agrees to provide the City with final annual reports by October 31, 2018; October 31, 2019; and October 31, 2020, identifying the following:
 - 6.3.1 Number of students served during the school year, with a breakdown between school-based and after-school programming
 - 6.3.2 Number of students served during the summer

- 6.3.3 Number of students participating in outdoor education opportunities
- 6.3.4 Demographics of students served, including eligibility for free and reduced lunch, race and gender, and location at which they were served.
- 6.3.5 Performance Measures indicating (1) improved reading and math proficiency using school benchmark testing scores, (2) improvement in academic engagement (attitudes) as measured by pre/post surveys using responses to the Engagement in Learning Outcome Area of the Survey of Afterschool Youth Outcomes (SAYO) developed by the National Institute on Out of School Time (NIOS), (3) impacts of outdoor education programming regarding changes in resiliency, affinity for nature, self-confidence, and perception of outdoor mentors at positive, caring adults as measured by Youth Outdoors-Duluth pre/post surveys.

7. INSURANCE

- 7.1 YMCA shall procure and maintain continuously in force a policy of insurance covering all of its activities under the Program on the Premises. A Comprehensive General Liability Insurance policy shall be maintained in force by YMCA throughout the term of this Agreement in an amount not less than One Million Five Hundred Thousand Dollars (\$1,500,000.00) for bodily injuries and in an amount not less than One Million Five Hundred Thousand Dollars (\$1,500,000.00) for property damage or One Million Five Hundred Thousand Dollars (\$1,500,000.00) single limit coverage per occurrence. Such coverage shall include all YMCA activities occurring during the Program or on or within the Premises whether said activities are performed by employees or agents under contract to YMCA. Such policy of insurance shall be approved by the City Attorney and shall contain a condition that it may not be cancelled without thirty (30) days written notice to the City of Duluth. The City of Duluth shall be named as an additional insured on said policy of insurance required by this paragraph.
- 7.2 YMCA shall also provide evidence of Statutory Minnesota Workers Compensation Insurance.
- 7.3 YMCA shall provide to City Certificates of Insurance evidencing such coverage with 30-day notice of cancellation, non-renewal or material change provisions included. The City does not represent or guarantee that these types or limits of coverage are adequate to protect the YMCAs interests and liabilities.
- 7.4 The City reserves the right to require YMCA to increase the coverages set forth above and to provide evidence of such increased insurance to the extent that the liability limits as provided in Minn.Stat. Sec. 466.04 are increased.
- 7.5 The City does not intend to waive any legal immunities, defenses, or liability limits that may be available.
- 7.6 When using the "Accord" Certificate form cancellation provisions, the words "endeavor to" on Line 2 must be deleted. As an additional insured under the contract, the City has contractual rights far exceeding that of a certificate holder. Therefore, additional named insured endorsement shall read as follows: "This policy insures the named insured and the City of Duluth and will be primary and not contributory with City of Duluth coverage." The City of Duluth is an additional insured not subject to the "other insurance" condition or other policy terms which conflict with the agreement between the named insured and the City of Duluth.
- 7.7 The 2004 edition of ISO Additional Insured Endorsement CG 20 10 is not acceptable. If the CG 20 10 is used, it must be a pre-2004 edition.
- 7.8 The City shall not be liable to YMCA for any injury or damage resulting from any defect in the construction or condition of the Premises, nor for any damage that may result from the negligence of any other person whatsoever.

8. HOLD HARMLESS

- 8.1 YMCA agrees to indemnify, save harmless, and defend the City and its officers, agents, servants and employees from and against any and all claims, suits, loss, judgments, costs, damage and expenses asserted by any person by reason of injury to or death of any and all persons, including employees or agents of the City or YMCA, and including any and all damages to property to whomsoever belonging, including property owned by, leased to, or in the care, custody, and control of YMCA, arising out of, related to or associated with the operation of the Program or use of the Premises by YMCA or performance of its obligations under this Agreement.

9. CITY ACCESS

9.1 City shall have the right to monitor or observe the Program at any time.

10. RELATIONSHIP

10.1 It is agreed by both parties that nothing herein contained is intended or should be construed in any manner as creating or establishing a relationship of co-partners between the parties hereto or of constituting YMCA or any of its officers, agents, servants, and employees as an officer, agent, servant, representative or employee of the City for any purpose or in any manner whatsoever. YMCA's officers, agents, servants, employees, and volunteers shall not be considered as employees of the City, and any and all claims which may or might arise under the Workers' Compensation Act of the State of Minnesota, and any claims whatsoever on behalf of said officers, agents, servants, employees and volunteers arising out of employment, including, without limitation, claims of discrimination, shall in no way be the responsibility of the City. YMCA's officers, agents, servants, employees and volunteers shall not be entitled to any compensation or right or benefits from the City of any kind whatsoever, including but not limited to, vacation pay, Workers' Compensation, Unemployment Insurance, disability pay, severance pay, etc.

11. THIRD PARTY BENEFICIARIES

11.1 No provision of this Agreement shall inure to the benefit of any third person so as to constitute any such person as a third-party beneficiary of this Agreement or of any one or more of the terms hereof, or otherwise give rise to any cause of action in any person not a party hereto.

12. SEVERABILITY

12.1 The parties agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid.

13. NOTICES

13.1 Unless otherwise provided herein, notice to the City or YMCA shall be sufficient if sent by regular United States mail, postage prepaid, addressed to the parties at the addresses hereinafter set forth or to such other respective persons or addresses as the parties may designate to each other in writing from time to time.

City of Duluth
Parks and Recreation Division
Attention: Parks Manager
411 West First Street
Duluth, MN 55802

Duluth Area Family YMCA
Attention: True North AmeriCorps
302 West First Street
Duluth, MN 55802

14. GENERAL PROVISIONS

14.1 YMCA must comply with the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13, as it applies to all data provided by the City under this contract, and as it applies to all data created, collected, received, stored, used, maintained or disseminated by YMCA under this contract. The civil remedies of Minnesota Statutes Section 13.08 apply to the release of the data referred to in this clause by YMCA. If YMCA receives a request to release the data referred to in this clause, YMCA must immediately notify the City and consult with the City as to how YMCA should respond to the request. YMCA's response to the request must comply with applicable law.

14.2 YMCA agrees to operate the Program in compliance with the United States Constitution, and with the laws, rules and regulations of the United States, State of Minnesota, St. Louis County, and the City of Duluth.

- 14.3 This Agreement, together with all of its paragraphs, terms and provisions is made in the state of Minnesota and shall be construed and interpreted in accordance with the laws of the State of Minnesota. The appropriate venue and jurisdiction for any litigation hereunder shall be in a court located in St. Louis County, Minnesota. However, litigation in the federal courts involving the parties shall be in the appropriate federal court within the State of Minnesota.
- 14.4 YMCA agrees to procure at YMCA expense all licenses and permits necessary for carrying out the provisions of this agreement.
- 14.5 YMCA agrees that it shall neither assign nor transfer any rights or obligations under this Agreement without prior written approval of the City.
- 14.6 The waiver by the City or YMCA of any breach of any term, covenant, or condition herein contained, shall not be deemed to be a waiver of any subsequent breach of same or any other term, covenant, or condition herein contained.
- 14.7 Nothing in this Agreement shall be construed as a waiver by the City of any immunities, defenses, or other limitations on liability to which the City is entitled by law, including but not limited to the maximum monetary limits on liability established by Minnesota Statutes, Chapter 466.
- 14.8 This Agreement embodies the entire understanding of the parties and there are no further or other agreements or understandings, written or oral, in effect between the parties relating to the subject matter hereof.

CITY OF DULUTH

By: _____
Mayor

ATTEST:

City Clerk
Date: _____


Approved as to form:


City Attorney

Countersigned:

City Auditor

Duluth AREA FAMILY YMCA

By: 
Its Chief Executive Officer
Printed Name Toni Christensen

Its: 
Board Officer
Printed Name Andy Wheeler