

PERRIS UNION HIGH SCHOOL DISTRICT

AGREEMENT FOR PROFESSIONAL SERVICE PROVIDER SERVICES

THIS AGREEMENT, made and entered into this 20th day of September 2018 by and between the Perris Union High School District of Riverside County, California hereinafter referred to as “District,” and _____ hereinafter referred to as “Service Provider”.

WITNESSETH:

WHEREAS, it is the desire of the Governing Board of the District to contract with Service Provider to deliver SUPPLEMENTAL EDUCATIONAL SERVICES to eligible PUHSD students.

WHEREAS, in consideration of the mutual promises of the parties hereto, the District hereby retains the Service Provider upon the terms and conditions set forth, and the Service Provider hereby accepts said retention and agrees to render the services upon said terms and conditions.

1. **TERM:** The term of this Agreement shall be for a period commencing September 20, 2018, and terminating May 15, 2019, unless terminated earlier pursuant to Section 14.

2. **SCOPE OF WORK:** As directed by the District, the Service Provider agrees to the following:

A. Service Provider shall provide the following services:

➤ Student Learning Plan or agreed upon SLP

Student Learning Plan (SLP)

a. Development of and Approval of Student Learning Plans

A Student Learning Plan (SLP) shall be developed by the LEA in consultation with parents/guardians and provider for each LEA eligible student whose parent/guardian elects to receive supplementary services from the provider. No tutoring services to students may occur prior to the development and written approval of the Student Learning Plan (SLP) by the provider, parent, and LEA representative. Consultation with each student’s parent(s) or guardian(s) may include, but is not limited to, communication by telephone, e-mail, home visits, parent meetings and/or parent(s) or guardian(s) signature(s). The SLP must include evidence of this consultation. In the event a consultation with a parent or guardian does not take place, but the parent or guardian has selected an approved provider for the provision of services for their child, the LEA, or an approved provider acting on its behalf, must show evidence of good faith efforts to contact the parent or guardian for purposes of the consultation. The LEA, or an approved provider acting on its behalf, must develop an SLP for the student, even if the parent or guardian elects not to participate in the consultation.

b. All student learning plans will specifically address the academic needs of each individual student. Each student learning plan will include the following elements:

- 1) A description of the specific achievement goals to be addressed that are based upon the student’s area of need as identified from the California standards assessment results.
- 2) How the on-going (formative) progress will be assessed including what specific assessment tools will be used and how student progress on these specific assessment tools will be reported (i.e., percent correct in specific areas, improvement made from initial assessment to later assessment).
- 3) The timeline for the delivery of tutoring services. NOTE: For a student with disabilities, assessment will occur per the student’s Individual Education Program (IEP).
- 4) A description of the frequency, delivery method, and distribution of a written progress report developed by the provider to the parent, school liaison and district representative.
- 5) A description of the content (including materials to be used), frequency of services, type of services rendered (individual, small or large group), and location of services.
- 6) The total cost of the service (LEA’s SES per student rate) and the hourly charge of the provider. Parents/guardians shall not be charged for any services rendered under the Student Learning Plan (SLP) unless such services and charges are clearly identified in writing and agreed upon in advance in writing signed by the parents/guardians and LEA representative.

In no event shall the agreed upon charges obligate the LEA financially, nor shall the LEA incur any obligation or expense in excess of the state/federal reimbursement amount.

7) Termination of Services. A provider is reimbursed based upon attendance and the provider has a right to terminate services due to a lack of attendance. Within the Student Learning Plan the parties must agree on the number of days of allowable absences. The provider must contact in writing the parent and LEA prior to terminating services and give the parent an opportunity to resolve the issue. The provider will notify district and parent that services have been terminated. The LEA must follow up with a letter to parents indicating that services have been terminated.

8) (Optional) A LEA maintains the right to allow a parent the right to change to another provider, if the parent believes that the provider is unable to meet the agreed upon student goals.

9) The method of payment will be hourly based upon student attendance.

10) Changes to the Student Learning Plan (SLP) Changes in any student's Student Learning Plan (SLP) may only be made with the written consent of the LEA in consultation with parents/guardians. At any time during the term of this contract, the provider, LEA or the parents/guardians may request a review of a student's Student Learning Plan (SLP).

- Conduct criminal background checks through the California Department of Justice of all employees providing services to the district pursuant to Education Code 45125.1.
- Service Provider shall provide a signed certification stating that criminal background checks have been conducted and that no employee has been convicted of any serious or violent felonies, as specified in Penal Code Sections 1192.7(c) and 667.5(c), respectively.
- Service Provider shall also provide a list of all employees providing services to the district.
- Provide quality supplemental educational services to eligible students.
- Furnish tools, equipment, and materials and labor necessary to perform in a complete skillful and professional manner all those services described in attachment A.
- Work in partnership with school staff to coordinate tutoring as a continuation of school services.
- Follow the state standards as guidelines for the tutoring services.
- Affirm that tutoring services will be available at times and days of the week convenient to the students and their parents.
- Continually monitor the performance of tutors to ensure high quality of performance.
- Respect students of all cultural and ethnic backgrounds.
- Work closely with parents and school site staff to assist all students, particularly those with special needs.
- Develop in consultation with parent's specific achievement goals about how student's progress will be measured, a timetable for improving achievement, and a student's program based on standards.
- Provider shall make no changes in any student's Statement of Goals without written consent of District and student's parent.
- For each student to whom Provider gives services under this Agreement, Provider shall, on at least a monthly basis send the District and the student's parent written report describing the student's progress, including benchmark data. If requested by District or a parent.
- This agreement may be terminated by District at any time. To terminate this agreement, District shall give Provider twenty (20) calendar days' written notice prior to the date of the termination.
- Provider shall submit to District monthly invoices itemized by name and address of student, service provided, cumulative hours of each student and amount owed. Such invoices shall be submitted within thirty days of the rendering of services. District shall process payments to provider within forty-five (45) days of submission of such invoices.
- All student records shall be kept in a secure location preventing access by unauthorized individuals. Provider will maintain an access log delineating date, time, agency, and identity of any individual accessing student records who is not in the direct employ of the Provider. Provider shall not forward to any person other than parent or District any student record, including, but not limited to, to the student's identity, without the written consent of the parent and District. Upon termination of this agreement, Provider shall turn to the District all student records of District's eligible students to whom Provider has provided services under this agreement.
- Provider shall allow access to its facilities for periodic monitoring of each student's instructional program by District and shall be invited to participate in any review of each student's progress by

District. District representatives shall have access to observe each student at work, observe the instructional setting, interview Provider and review each student's progress.

- Provider shall provide access to all records and reports, or other matter relating to this agreement, upon request by District. Provider shall maintain fiscal records for five (5) years and shall keep them available for audit.
- All supplementary services given by Provider under this agreement shall be secular, neutral, and non-ideological in instruction and content.
- Conflict of Interest provider agrees to furnish to LEA (upon request) a valid copy of the most recently adopted partnership agreements or bylaws of the corporation and also a complete and accurate list of the Governing Board of Trustees (or Directors or Partners) and to timely update said information as changes in such governance occur. PROVIDER shall avoid any actual or potential conflict of interest on behalf of itself or its employees providing services hereunder, including, but not limited to, employment with LEA.
- Accident/Incident Report provider agrees to submit a written accident report to LEA within five (5) days of an accident or incident when a pupil has suffered an injury, injured another individual, or has been involved in an activity requiring notification of law enforcement or emergency personnel.

3. **DISTRICT DESIGNEE:** Service Provider shall provide its Services and Products to Dian Martin, Director of Learning Support Services, who is the District's designee in this matter ("District's Designee"). All Services and Products shall be subject to the approval of District's Designee.

4. **EXPENSES:** Service Provider agrees and understands that some travel may be required, at Service Provider's expense, to District school sites and/or to other locations. These travel expenses are not reimbursable and shall be considered to be an ordinary expense of this Agreement. Service Provider shall not invoice the District for travel time from home office to a District location.

The Service Provider shall assume all ordinary expenses incurred in the performance of this Agreement. Such ordinary expenses shall include, without limitation, document reproduction expenses, travel expenses, and telephone charges. Services and expenses that are above the ordinary and may be required shall not be reimbursable unless authorized in writing by the District's Designee, and shall be covered by addendum to this Agreement.

5. **SUBCONTRACTORS:** Service Provider shall hire any subcontractors needed to provide the Services and/or the Products, which subcontractors shall be subject to approval by the District. Any subcontractor(s) shall be at no additional expense to the District, and shall be paid from the Service Provider's own resources and billings.

6. **INDEPENDENT CONTRACTOR:** It is expressly understood and agreed to by both parties hereto that the Service Provider, and any of its employees or subcontractors while engaged in carrying out and complying with any of the terms and conditions of this Agreement, is an independent contractor and is not an officer, agent or employee of the District. Service Provider shall determine the means, method and details of providing the Services and/or the Products. Subject to this Agreement, Service Provider retains the right to provide similar or different Services or Products for others during the term of this Agreement. Service Provider shall pay all wages, salaries, benefits and other amounts due its employees and sub-Service Providers, and shall be responsible for all reports and obligations respecting its employees and sub-Service Providers.

7. **ASSIGNMENT:** Service Provider shall not assign this Agreement or any interests therein without the prior written approval of the District. Any such attempt to assign or sublet this Agreement without District approval shall be invalid.

8. **CONFIDENTIALITY:** Service Provider and all personnel designated by Service Provider to perform under this Agreement shall maintain the confidentiality of all information received while providing the Services and/or the Products. This requirement shall extend beyond the effective termination or expiration date of this Agreement.

9. **EXECUTION OF CONTRACT:** Service Provider shall not commence providing Services and/or the Products under this Agreement until it has provided evidence satisfactory to the District that it has secured all insurance required under this section and Exhibit "A". In addition, Service Provider shall not allow any subcontractor to commence work on any subcontract until it has provided evidence satisfactory to the District that the subcontractor has secured all insurance required under this section and Exhibit "A".

10. **INDEMNIFICATION:** Service Provider shall defend, indemnify and hold the District, its officials, officers, employees, volunteers and agents free and harmless from any and all claims, demands, causes of action, costs, expenses, liability, loss,

damage or injury, in law or equity, to property or persons, including wrongful death, in any manner arising out of or incident to any alleged acts, omissions or willful misconduct of Service Provider, its officials, officers, employees, agents, Service Providers and contractors arising out of or in connection with the performance of the Services and/or the Products or this Agreement, including without limitation the payment of all consequential damages and attorneys fees and other related costs and expenses. Service Provider shall defend, at Service Provider's own cost, expense and risk, any and all such aforesaid suits, actions or other legal proceedings of every kind that may be brought or instituted against District, its directors, officials, officers, employees, agents or volunteers. Service Provider shall pay and satisfy any judgment, award or decree that may be rendered against District or its directors, officials, officers, employees, agents or volunteers, in any such suit, action or other legal proceeding. Service Provider shall reimburse District and its directors, officials, officers, employees, agents and/or volunteers, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Service Provider's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by the District, its directors, officials officers, employees, agents or volunteers.

11. The Services and/or Products required for the performance of the Services under this Agreement must be provided to the District's Designee no later than ten (10) days before the expiration of the term of the Agreement or at intermediate dates as requested by District's Designee. Failure to do so will result in the District withholding payment of progress or final invoice of Service Provider until said Services and/or the Products are received by the District's Designee.

12. **FEE:** For Services and Products provided under the Agreement, the District will pay Service Provider up to a maximum of \$1,300.00 per pupil.

13. **PAYMENT TERMS:** Provider shall submit to District monthly invoices itemized by name and address of student, service provided, cumulative hours of each student and amount owed. Such invoices shall be submitted within thirty days of the rendering of services. District shall process payments to provider within forty-five (45) days of submission of such invoices. The District Purchasing Department will issue a purchase order for billing purposes to cover this Agreement. The purchase order number must be shown on each invoice.

The Service Provider shall, when requested by the District, invoice individual projects separately by line item showing the type and quantity of time expended on the specified project(s).

The Service Provider shall account for and invoice hours worked on this Agreement separately from any other Agreement between the parties. **All final billing will be due to the District no later than June 1, 2019.**

Service Provider shall provide all Services and Products under this Agreement in a skillful and competent manner, consistent with the standards generally recognized as being employed by others in the same profession in California. Service Provider represents and warrants that all employees and subcontractors have sufficient skill and experience to perform the Services and/or the Products assigned to them.

14. **TERMINATION:** This Agreement may be terminated by District, for any reason, during the life of this Agreement, by giving thirty (30) days' notice to Service Provider. Said notice shall be in writing and shall be delivered to the addresses listed for the Service Provider. Service Provider may terminate this Agreement only if District breaches this Agreement and shall give 30 days' written notice to District of its termination. Such notice shall be delivered to the District's Designee and shall set forth reasons for the termination.

15. **FISCAL YEAR:** Service Provider understands and agrees that this Agreement may involve services to be performed in different school fiscal years. While it is the intent of the District to utilize the Service Provider continuously throughout the term irrespective of fiscal year, Service Provider and District agree and acknowledge that all services in fiscal years subsequent to the fiscal year of Agreement execution is contingent upon availability of continued funding.

16. **AUTHORITY:** In accordance with California Education Code Section 17604, this Agreement is not valid or an enforceable obligation against the District until approved or ratified by motion of the Governing Board duly passed and adopted.

17. **ENTIRE AGREEMENT:** It is understood and agreed that this Agreement sets forth the entire understanding of the parties regarding the subject matter thereof, and no modification or amendment to this Agreement shall be binding unless said modification or amendment is in writing and duly executed with the same formality as this Agreement itself. This Agreement shall be binding on the successors and assigns of the parties.

18. **PERMITS & LICENSES:** Service Provider shall, during the term of this Agreement, obtain and maintain all licenses, certificates, permits and approvals of whatever nature that are legally required to provide the Services and/or Products.
19. **GOVERNING LAW:** This Agreement shall be governed by the laws of the State of California.
20. **COMPLIANCE:** Service Provider shall keep itself fully informed of and in compliance with all local, state and federal laws, rules and regulations in any manner affecting the provision of the Services and/or the Products, including all Cal/OSHA requirements, and shall give all notices required by law. Service Provider shall be liable for all violations of such laws and regulations in connection with providing the Services and/or the Products. If the Service Provider performs any work knowing it to be contrary to such laws, rules and regulations and without giving written notice to the District, Service Provider shall be solely responsible for all costs arising there from. Service Provider shall defend, indemnify and hold District, its officials, directors, officers, employees and agents free and harmless, pursuant to the indemnification provisions of this Agreement, from any claim or liability arising out of any failure or alleged failure to comply with such laws, rules or regulations.
21. **RECORDS:** Service Provider shall maintain complete and accurate records with respect to all costs and expenses incurred under this Agreement. All such records shall be clearly identifiable. Service Provider shall allow a representative of District during normal business hours to examine, audit, and make transcripts or copies of such records and any other documents created pursuant to this Agreement. Service Provider shall allow inspection of all work, data, documents, proceedings, and activities related to the Agreement for a period of three (3) years from the date of final payment under this Agreement.
22. **FINGERPRINTING:** This contract is subject to the provisions of Education Code Section 45125.1. Service Providers' employees are required to submit fingerprints to the Department of Justice where an employee may come into contact with students at any site. The Department of Justice will ascertain whether the employee has a pending criminal proceeding for a violent or serious felony or has been convicted of a violent or serious felony as they are defined in Penal Code Sections 667.5c and 1192.7c respectively. Service Provider shall not permit an employee to come in contact with students until the Department of Justice has ascertained that the employee has not been convicted of a felony as defined in Education Code Section 45122.1. Service Provider shall certify in writing to the District that none of its employees who may come in contact with students have been convicted of a felony as defined in Education Code Section 45122.2. District may request the removal of an employee from a site at any time. Failure to comply with this provision may result in termination of the Contract.
23. **NONDISCRIMINATION:** It is the policy of the District that in connection with all work performed under contracts, there be no discrimination against any prospective or active employee engaged in the work because of race, color, ancestry, national origin, religious creed, sex, age, or marital status. Each Contractor agrees to comply with applicable Federal and California laws including, but not limited to, The California Fair Employment Practice Act, beginning with Government Code Section 12900, Labor Code Section 1735, and Title 5, Division 1, Chapter 1, Subchapter 4 of the California Code of Regulations. In addition, each Contractor agrees to require like compliance by any subcontractors employed on the work by him.
24. **WORKERS' COMPENSATION:** In accordance with the provisions of Section 3700 of the Labor Code, Contractor shall secure the payment of compensation to his employees.
25. **WAIVER:** No waiver of any default shall constitute a waiver of any other default or breach, whether of the same or other covenant or condition. No waiver, benefit, privilege, or service voluntarily given or performed by a party shall give the other party any contractual rights by custom, estoppel, or otherwise.

Consultant has all requisite power and authority to conduct its business and to execute, deliver, and perform the Agreement. Each party warrants that the individuals who have signed this Agreement have the legal power, right, and authority to make this Agreement and bind each respective party.

IN WITNESS THEREOF, the parties hereto have executed this Agreement on the date written above:

SERVICE PROVIDER:

Type or Print Consultant's Name

Consultant's Signature

Date

Consultant's Address

City State Zip

Phone Fax

Consultant's Email Address

DISTRICT:

Type or Print District Approver's Name

District Approver's Signature

District Approver's Title

Date

EXHIBIT "A"

Insurance Requirements

A. Minimum Requirements. Service Provider shall, at its expense, procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Agreement by the Service Provider, its agents, representatives, employees or subcontractors. Service Provider shall also require all of its subcontractors to procure and maintain the same insurance for the duration of the Agreement. Such insurance shall meet at least the following minimum levels of coverage:

B. Minimum Scope of Insurance. Coverage shall be at least as broad as the latest version of the following: (A) *General Liability*: Insurance Services Office Commercial General Liability coverage (occurrence form CG 0001); (B) *Automobile Liability*: Insurance Services Office Business Auto Coverage form number CA 0001, code 1 (any auto); and (C) *Workers' Compensation and Employers' Liability*: Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.

C. Minimum Limits of Insurance. Service Provider shall maintain limits no less than: (A) *General Liability*: \$1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with general aggregate limit is used, either the general aggregate limit shall apply separately to this Agreement/location or the general aggregate limit shall be twice the required occurrence limit; (B) *Automobile Liability*: \$1,000,000 per accident for bodily injury and property damage; and (C) *Workers' Compensation and Employer's Liability*: Workers' compensation limits as required by the Labor Code of the State of California. Employers Liability limits of \$1,000,000 per accident for bodily injury or disease.

D. Professional Liability. [INCLUDE IF APPLICABLE] Service Provider shall procure and maintain, and require its sub-Service Providers to procure and maintain errors and omissions liability insurance appropriate to their profession. Such insurance shall be in an amount not less than \$1,000,000 per claim, and shall be endorsed to include contractual liability.

E. Insurance Endorsements. The insurance policies shall contain the following provisions, or Service Provider shall provide endorsements on forms supplied or approved by the District to add the following provisions to the insurance policies:

(1) General Liability. The general liability policy shall be endorsed to state that: (A) the District, its directors, officials, officers, employees, agents and volunteers shall be covered as additional insured with respect to the Services and/or the Products or operations performed by or on behalf of the Service Provider, including materials, parts or equipment furnished in connection with such work; and (B) the insurance coverage shall be primary insurance as respects the District, its directors, officials, officers, employees, agents and volunteers, or if excess, shall stand in an unbroken chain of coverage excess of the Service Provider's scheduled underlying coverage. Any insurance or self-insurance maintained by the District, its directors, officials, officers, employees, agents and volunteers shall be excess of the Service Provider's insurance and shall not be called upon to contribute with it.

(2) Automobile Liability. The automobile liability policy shall be endorsed to state that: (A) the District, its directors, officials, officers, employees, agents and volunteers shall be covered as additional insureds with respect to the ownership, operation, maintenance, use, loading or unloading of any auto owned, leased, hired or borrowed by the Service Provider or for which the Service Provider is responsible; and (B) the insurance coverage shall be primary insurance as respects the District, its directors, officials, officers, employees, agents and volunteers, or if excess, shall stand in an unbroken chain of coverage excess of the Service Provider's scheduled underlying coverage. Any insurance or self-insurance maintained by the District, its directors, officials, officers, employees, agents and volunteers shall be excess of the Service Provider's insurance and shall not be called upon to contribute with it.

(3) Workers' Compensation and Employers Liability Coverage. The insurer shall agree to waive all rights of subrogation against the District, its directors, officials, officers, employees, agents and volunteers for losses paid under the terms of the insurance policy which arise from work performed by the Service Provider.

(4) All Coverages. Each insurance policy required by this Agreement shall be endorsed to state that: (A) coverage shall not be suspended, voided, reduced or canceled except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the District; and (B) any failure to comply with reporting or other provisions of the policies,

including breaches of warranties, shall not affect coverage provided to the District, its directors, officials, officers, employees, agents and volunteers.

F. Other Requirements. All insurance required by this Section shall contain standard separation of insureds provisions. In addition, such insurance shall not contain any special limitations on the scope of protection afforded to the District, its directors, officials, officers, employees, agents and volunteers. Any deductibles or self-insured retentions must be declared to and approved by the District. Service Provider shall guarantee that, at the option of the District, either: (A) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the District, its directors, officials, officers, employees, agents and volunteers; or (B) the Service Provider shall procure a bond guaranteeing payment of losses and related investigation costs, claims and administrative and defense expenses. Insurance is to be placed with insurers with a current A.M. Best's rating no less than A:VIII, licensed to do business in California, and satisfactory to the District. Service Provider shall furnish District with original certificates of insurance and endorsements effecting coverage required by this Agreement on forms satisfactory to the District. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf, and shall be on forms provided by the District if requested. All certificates and endorsements must be received and approved by the District before work commences. The District reserves the right to require complete, certified copies of all required insurance policies, at any time.