



EAST SIDE UNION HIGH SCHOOL DISTRICT
Memorandum of Understanding
(MOU)

By this agreement made and entered into on the _____ day of _____, 20____, between the East Side Union High School District (hereinafter referred to as ESUHSD), and _____ (hereinafter referred to as Provider), in consideration of their mutual covenants, the parties hereto agree as follows:

A. DESCRIPTION OF SERVICES:

B. PURPOSE OF MOU:

C. DUTIES OF PROVIDER: The Provider agrees to provide the following services, materials, and/or products:

D. DISTRICT OBLIGATIONS: For the period of this agreement, the ESUHSD shall provide the following:

E. PERIOD OF MOU: The Provider's work as specified in this agreement shall commence on _____ and shall be completed on or before _____.

F. INSURANCE: Reference General Terms and Conditions, G.2.

_____ The evidence of insurance is attached. OR

_____ The insurance requirement of this contract is waived _____ (Risk Manager Approval)

G. GENERAL TERMS AND CONDITIONS:

1. **INDEMNIFICATION:** The Provider shall indemnify, defend, and save harmless the ESUHSD, its officers, agents, employees, and volunteers from any and against all claims, liabilities and losses of any kind (including but not limited to claims for personal injury, property damage or losses or damages of any kind) accruing or resulting to any and all persons, firms, or corporations and which arising in connection with or relate to the activities of Provider and Provider's officers, agents, employees and volunteers in the performance of, and the provision of

any services in connection with, this MOU. The obligations set forth in this Paragraph 1 shall survive the expiration or earlier termination of this MOU.

2. **INSURANCE:** The Provider will maintain general liability insurance, automobile coverage, and workers compensation coverage in such amounts determined by ESUHSD and as may be reasonably necessary to assure compliance with the Indemnification obligations herein above. The ESUHSD shall be named as additional insured on an endorsement with respect to the liability coverage. If the Provider is a medical professional, lawyer, architect, accountant, or engineer hired under this agreement, he/she shall maintain professional liability insurance covering his or her performance and operations. The Provider agrees to provide copies of the required policies of insurance and endorsements to ESUHSD. The requirement of this provision may be waived by the ESUHSD's Risk Manager; however, any waiver shall not affect the Provider's liability to the ESUHSD under the Indemnification provision.
3. **NON-DISCRIMINATION:** Provider shall not discriminate against any person based on race, color, religion, age, sex, gender, actual or perceived sexual orientation, national origin, disability as defined by the Americans With Disabilities Act or veteran's status in connection with the provision of any services under the MOU, and shall not discriminate against any employee or applicant for employment, nor against any subconsultant or applicant for a subcontract, based on race, color, religion, age, sex, gender, actual or perceived sexual orientation, national origin, disability as defined by the ADA or veteran's status.
4. **CONFLICT OF INTEREST:** The Provider represents that it is familiar with Section 1090 and Section 87100 et seq. of the Government Code of the State of California, and that it does not know of any facts that constitute a violation of said sections in relation to this MOU. The Provider represents that it has completely disclosed to District all facts bearing upon any possible interests, direct or indirect, which Provider believes any sub consultant, member of ESUHSD, or other officer, agent or employee of ESUHSD or any department presently has, or will have, in this Agreement, or in the performance thereof. Willful failure to make such disclosure, if any, shall constitute ground for termination of this Agreement by ESUHSD. The Provider agrees to comply with all conflict of interest codes and regulations adopted by East Side Union High School ESUHSD and its reporting requirements.

The Provider covenants that it and any sub consultant presently has no interest, and shall not have any interest, direct or indirect, which would conflict in any manner with the performance of Services required under this Agreement. Without limitation, The Provider represents to, and agrees with, ESUHSD that the Provider and its sub consultants have no present, and will have no future, conflict of interest between providing ESUHSD the services hereunder and any interest the Provider may presently have, or will have in the future, with respect to any other person or entity which has any interest adverse or potentially adverse to ESUHSD, as determined in the reasonable judgment of ESUHSD.

- a. The Provider agrees to sign and submit ESUHSD's standard Conflict of Interest forms as required by ESUHSD.

5. **LICENSE AND AUTHORITY:** The Provider will maintain all necessary licenses during the term of this agreement. If other than a natural person, Provider is duly authorized to enter into this agreement by its governing or controlling body. Evidence or copies of all necessary licenses must accompany this agreement.
6. **EQUIPMENT AND FACILITIES:** The Provider will provide all necessary equipment and facilities to render his/her services pursuant to this agreement, unless otherwise agreed to by the parties.
7. **USE OF ADDITIONAL WORKERS BY PROVIDER:** The Provider may, at the Provider's own expense, employ additional workers or other Providers as necessary for the completion of this agreement and shall maintain workers' compensation insurance as required by state law. The ESUHSD shall not control, direct, or supervise the Provider's additional workers or Providers in the performance of those services. The Provider assumes full and sole responsibility for the payment of all compensation and expenses of these additional workers or Providers and for all state and federal income tax, unemployment insurance, social security, disability insurance, and other applicable withholdings. The Provider shall not hire employees of the ESUHSD for performance of this agreement.

8. ASSIGNMENT: Without the written consent of the ESUHSD, this agreement is not assignable by the Provider.
9. SUCCESSORS AND ASSIGNS: This agreement shall be binding on the heirs, executors, administrators, successors, and assigns of the respective parties.
10. FINGERPRINTING AND CRIMINAL RECORDS CHECK AND OTHER CLEARANCES; HEALTH TESTING: Provider shall comply with all fingerprinting, background check and testing requirements under State and federal law including but not limited to the fingerprint requirements in Education Code section 45125.1, the testing requirements in Education Code section 49406 (tuberculosis), and the Activity Supervisor Clearance Certificate requirements in Education Code section 49024 (AB 1025) as to each employee/intern or other person which Provider desires to place in the Program. Verification of compliance with this section shall be provided in writing to the ESUHSD prior to Providers' activities at any ESUHSD facility or program and prior to contact with students.
12. GOVERNING LAW: The validity of this agreement and any of its terms or provisions as well as the rights and duties of the parties hereunder shall be governed by the laws of the state of California.
13. CHANGES OR ALTERATIONS: No changes, alterations, or variations of any kind to this agreement are authorized without the written consent of the ESUHSD.
14. HEADINGS: All section headings contained herein are for clarification and convenience of reference only and are not intended to limit the scope of any provision of the agreement.
15. TERMINATION: The ESUHSD may terminate this agreement for good cause (to be determined in the sole and absolute discretion of ESUHSD or its Superintendent) upon thirty (30) days advance written notice to Provider without the payment of any penalty or consideration of any kind to the Provider. In the event of such termination, the ESUHSD may proceed with the work in any manner deemed proper by the ESUHSD. The ESUHSD or its Superintendent may terminate or suspend this MOU immediately in the event the ESUHSD or its Superintendent determines that the presence of Provider and/or its staff, employees, or volunteers on any ESUHSD site creates or contributes to an unsafe or unhealthy environment at any such location.
16. SEVERABILITY: In the event any portion of this agreement shall be held by a Court to be invalid, such holding shall not invalidate the remainder of this agreement.
17. AMBIGUITY: The language herein shall be construed as jointly proposed and jointly accepted, and in the event of any subsequent determination of ambiguity, all parties shall be treated as equally responsible for such ambiguity.
18. COPYRIGHT: Any written or electronic media product produced as a result of this contract shall be a work for hire and shall be the property of the ESUHSD.
19. EXPENSES: The Provider shall be responsible for all costs and expenses incident to the performance of services for the ESUHSD, except as may otherwise be expressly provided by this agreement, including but not limited to: all costs of equipment provided by the Provider; all fees, fines, licenses, bonds or taxes required of or imposed against the Provider; and all other of the Provider's costs of doing business.
20. INDEPENDENT CONTRACTOR STATUS: This contract is by and between two independent contractors and is not intended to and shall not be construed to create the relationship of agent, servant, employee, partnership, joint venture, or association. In executing this agreement, the Provider certifies that no one who has or who will have any financial interest under this agreement is an officer or employee of ESUHSD. Additionally, as the Contractor is not an ESUHSD employee, ESUHSD is not responsible for obtaining workers' compensation insurance coverage for the Contractor.

H. Communications: Communications between the parties to this Agreement may be sent to the following addresses:

ESUHSD:

East Side Union High School District
830 N. Capitol Avenue
San Jose, CA 95133
ATTN: _____

Provider:

Company Name: _____
Address: _____
City: _____ St: _____ Zip: _____
ATTN: _____

I. UNDERSTANDING AND ACCEPTANCE OF THE PARTIES: This Agreement constitutes the entire understanding of the parties. The Provider's signatures below signify both an understanding and acceptance of the contract provisions.

J. ESUHSD REPRESENTATIVE

Signature: _____
Print Name: _____
Title: _____
Date Signed: _____
School / Dept.: _____
Address: _____

Phone / Fax: _____
E-Mail Address: _____

PROVIDER

Signature: _____
Print Name: _____
Title: _____
Date Signed: _____
Company Name: _____
Address: _____

Phone / Fax: _____
E-Mail Address: _____
Tax ID/IRS or SS #: _____

K. APPROVALS: This Agreement shall become effective upon its approval by the undersigned persons:

Principal/Director (all agreements) _____	Date: _____
Contracts/Risk Manager (all agreements for liability) _____	Date: _____
Associate Superintendent _____	Date: _____
Superintendent/Cabinet _____	Date: _____
Board of Trustees _____	Date: _____

EAST SIDE UNION HIGH SCHOOL DISTRICT

**WORKERS' COMPENSATION INSURANCE
PROVIDER'S
CERTIFICATE OF EXEMPTION**

I, _____, doing business as _____, hereby certify that I understand the requirements of the California Labor Code as they relate to Workers' Compensation Insurance. I certify that during life of this MOU, I shall not employ any person in any manner so as to become subject to the Workers' Compensation requirements. In case any work is sublet, I shall require my sub-Providers similarly to provide Workers' Compensation Insurance for the sub-Providers' employees, all in compliance with State laws.

I agree to fully protect and indemnify the East Side Union High School District (ESUHSD) from and against any and all injury and death claims arising out of the work performed for the ESUHSD. I agree to indemnify the ESUHSD for any penalties and losses resulting to it from failure of either I or my sub-Providers to take out and maintain such insurance.

If, after making this Certificate of Exemption, I should become subject to the Workers' Compensation provisions of the Labor Code, I agree to forthwith comply with such provisions or this contract shall be deemed revoked.

Signature _____
(Name) (Date)

Name (Print): _____

Title: _____

Address: _____

City, State: _____

Phone: _____

(Rev. 08/2004)

EAST SIDE UNION HIGH SCHOOL DISTRICT
SERVICE PROVIDERS/CONTRACTORS
(Please complete one form for each service provider.)

Attachment G

School: _____

Service Provider/Agency: _____

Agency Director: _____

Agency Contact: _____

Phone Number: _____

Service Provided: _____

MOU/Contract: Yes ☐ No ☐

Board Approved: Yes ☐ No ☐

Date Approved: _____

If yes, term of MOU/contract dates: _____

(ATTACH COPY OF MOU/CONTRACT)

Contract cost to the District: _____

List names of agency staff on campus with or without MOU:

Name/Phone Number	<i>Please check if INFINITE CAMPUS access is required</i>	<i>Provide agency's staff member's e-mail address if person wants to be included on ESUHSD distribution lists ESUHSD e-mail will be forwarded to staff member's listed e-mail address</i>	<i>For District Use Only</i>

Information submitted by: _____ Phone Number: _____

Principal/Director Approval: _____ Assoc Supt Approval: _____
(signature) (signature)