



MEMORANDUM OF AGREEMENT

Between

Educational Service District 123 (ESD 123)

3924 West Court Street • Pasco, WA 99301

AND

Kennewick School District

1000 W. 4th Avenue • Kennewick, WA 99336

In consideration of the premises and mutual promises herein, the parties hereto agree to enter into a contractual arrangement with the following terms and conditions: *See Attachment A for additional terms which are an integral part of this agreement.*

A. Purpose: The purpose of this Agreement is to provide the following related special education services:

Teacher of the Deaf – up to 16 days

B. Responsibilities of ESD 123:

- 1) Work cooperatively with District for the facilitation and implementation of this project.
- 2) Invoice District once per month.

C. Responsibilities of District/Contractor:

- 1) Compensate ESD 123 for services within 30 days of invoice receipt.
- 2) Comply with the terms of service as per Attachment A of this document.

D. Following its approval by the authorized signatory for the District/Contractor this agreement shall commence and be effective for the period beginning September 1, 2023 and shall terminate at midnight on August 31, 2024, with the exception of Sections III and V on page 2, which will continue to bind the parties, their heirs, and successors.

PAYMENT PROVISIONS

Contract Fees not to exceed \$14,368.00

In witness whereof, the District/Contractor and the ESD 123 have read, understand, and executed this entire agreement.

Educational Service District 123

DocuSigned by:

Steve McCullough 5/30/2023 | 4:31 PM PDT
52D6C828A9B14B6
Steve McCullough, ESD 123 Superintendent

ESD 123 Revenue

1207.71.0000.8240

ESD 123 Budget Account Code(s)

District/Contractor

DocuSigned by:

Dr. Traci Pierce 6/12/2023 | 9:00 AM PDT
E9284A11E98F4C6
Authorized Signatory for District/Contractor
Name: Dr. Traci Pierce
Title: Superintendent

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I. INDEPENDENT CONTRACTOR STATUS OF DISTRICT/CONTRACTOR

District/Contractor and District/Contractor's employees shall perform all duties pursuant to this Contract as an independent contractor. The District/Contractor certifies they are filing a schedule of expenses with the Internal Revenue Service, has established an account with the Washington State Department of Revenue and other appropriate state taxing agencies, and is maintaining a separate set of records for their business.

II. PROHIBITION AGAINST ASSIGNMENT

Neither this contract nor any interest therein may be assigned by either party without first obtaining the consent of the other party.

III. SUPPLANT

No use of funds from this agreement shall be used to supplant existing programs.

IV. OWNERSHIP OF WORK PRODUCTS AND RESTRICTION AGAINST DISSEMINATION

If the District/Contractor is required by this Contract to develop a concept of product for ESD 123, then all correspondence, papers, documents, reports, files, film work products (inclusive of intellectual concepts and properties), and all copies thereof which are received or developed by the District/Contractor and District/Contractor's employee(s) and agent(s) in the course of performing, or as incident thereto, District/Contractor duties pursuant to the agreement shall, immediately upon receipt, preparation, or development, become the exclusive property of ESD 123 in perpetuity of any and all purposes. All items described above shall be provided to and left with the ESD 123.

When ESD 123 obtains such rights, the District/Contractor and District/Contractor's employees and agent(s) shall not, without prior written approval of ESD 123, either during the term of this agreement or at any time thereafter, directly or indirectly disclose or give to any person, firm, partnership, corporation, agency, or political subdivision; any state or federal governmental; any educational agency, institution, or organization any portion of the above-described items and properties or any information acquired in the course of or as an incident to the performance of contracted duties hereunder, for any purpose or reason.

V. COPYRIGHT

ESD 123 shall be responsible for the acquisition of any necessary copyright releases for materials used in the performance of services under this Contract. This shall not include materials originated under this Contract to which ownership belongs to ESD 123.

VI. INDEMNIFICATION

The District/Contractor and the ESD 123 agree to mutually indemnify and hold each other harmless for any and all claims which hereafter arise on the part of any and all persons as a direct or indirect result of the District/Contractor or the ESD 123 employees or agents' performance or failure to perform duties pursuant to this Contract.

VII. MALPRACTICE INSURANCE

All Contractors providing services to minors must have valid malpractice insurance coverage. Upon request by ESD 123, Contractor must be able to show evidence of such coverage.

VIII. TERMINATION

This Contract may be terminated by the Superintendent upon written notification thereof to the District/Contractor. In the event of termination by the ESD, District/Contractor shall be entitled to an equitable proration of the total compensation provided herein for uncompensated services which have been performed as of the termination.

IX. VERBAL AGREEMENTS

This written Contract constitutes the mutual agreement of the District/Contractor and the ESD as a whole. No alternation or variation of the terms of this Contract and no oral understandings or agreements not incorporated herein, unless made in writing between the parties hereto, shall be binding.

X. APPLICABLE LAW

The laws of the State of Washington shall govern this Contract.

XI. NONDISCRIMINATION

No person shall, on the grounds of race, creed, color, national origin, gender, or handicapping condition be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under activities performed pursuant to this Contract.

XII. SUSPENSION AND DEBARMENT

District/Contractor hereby certified, by signing this agreement, it is not on the Excluded Parties List Report, that they, nor their Principals, are presently debarred, suspended, proposed for debarment, or declared ineligible, or voluntarily excluded for the award of agreements by any Federal governmental agency or department. (Principals, for purposes of this certification, mean officers; directors; owners; partners; and persons having primary management or supervisory responsibilities within a business entity). District/Contractor shall provide immediate written notice to ESD 123 if, at any time during the term of this Contract, including any renewals hereof, it learns that its certification was erroneous when made or has become erroneous by reason of changed circumstances.

ATTACHMENT A - Service Estimate, Terms and Fee Schedule

1. Terms of Service

Consortium employees will provide instructional and non-instructional services to District. ESD 123 will work with District prior to the start date to develop a schedule of services mutually agreeable to all parties. *Total cost of service is detailed on Attachment B.*

2. Travel

Mileage costs are calculated as a part of the base rate. Related service staff travel time will be included in the eight-hour day as non-instructional time.

3. Caseload/Workload

ESD 123 and school district recognize that load estimates are made with the best available information in the spring of the school year prior. ESD 123 will provide estimate adjustments prior to October 1 of each school year. Any fluctuation greater than five percent of the load estimate will trigger a renegotiated service plan. In cases of estimate reduction, ESD 123 will in good faith attempt to provide services elsewhere. ESD 123 will also work in good faith to attempt to meet any increased need with available personnel. ESD 123 and District understand individual services providers possess full loads prior to the start of the school year and the individual provider will not provide service above the estimated load requirement for more than 20 school days.

4. Service Logs

District recognizes ESD 123 providers often work in multiple districts and service logs will provide brief information designed only to verify service and meet state audit requirements. Providers will log: the date served, the building served, the student initials, the amount of instructional time, the amount of non-instructional time, and the amount of travel time completed during their duties. Instructional time includes specially designed instruction, related services, or supplementary aids/services provided in a school-based setting. Non-instructional services include IEP/report writing, consultation, meetings, assessment & evaluations, or lesson or material prep either completed either in a school setting or off a school setting. Districts requiring more information will pay a different rate for services to be negotiated prior to of each school year. ESD 123 will not address alternative logging formats after October 1 of each school year except for instances where the Safety Net Committee or State Auditor Office would require alternative formatting. These requests will only be considered if District is in possession of a written request from either above-named entity.

5. Service Delivery

District recognizes the type of service purchased is primarily consultative in nature. Service may be conveyed on-site (and must be on-site in the case of direct related service to pupil) and may be conveyed off-site in the form of Zoom, telephone, e-mail, lesson planning, research and materials generation.

6. Consortium Rates

If District makes requests for adding consortium staff during the regular school year and ESD 123 can employ these staff, these staff will be employed at the ESD Consortium Rate for the current school year. If ESD 123 offers employment to personnel on a "Personal Services Contract" and the prospective contractor charges more than the consortium rate, ESD 123 and District will need to have

agreement on the new rate before a personal services contract can be developed with the new rate. ESD 123 will work diligently to maintain consortium services at the established rates, with few exceptions.

7. Training of Support Personnel

District will supply agreed upon clerical support on the first day of student service. District will also agree to support any mutually required training for staff (certified and classified) to assist in purveying related services.

8. Increase in Service

Increases in service over estimated amounts must be a mutual agreement between superintendents or designees.

9. Reduction in Services

District terminates or seeks to reduce a related service agreement during the regular school year, ESD 123 will make every effort to fulfill the related service agreement, or portion thereof, with another district or agency. If ESD 123 is unable to fill this agreement with another district or agency, ESD 123 will continue to charge District until another district or agency retains the related service agreement, or until the agreement is completed.

10. Termination

ESD 123 reserves the right to terminate all or portions of related service if ESD 123 determines through investigation, District is unable to comply with the above terms. Termination will be conducted in writing and provide 30 calendar days of notice, enabling District to seek other service options.

11. Billing

ESD 123 will process a monthly billing for contracted services based upon an agreed number of days of service with the respective District, multiplied by the daily consortium rate. The monthly billing will reflect an average cost to District over a nine-month period, or longer if agreed upon between agencies. ESD 123 will maintain the employee service logs in verification of services rendered to the respective District. These logs can be made available to the respective Special Education Directors or Business Managers, upon request.

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ATTACHEMENT B:

Special Education Cost Estimate for Kennewick School District

2023 – 2024 School Year

Service	Days (Hours)	Daily Rate	Total
Teacher of the Deaf	16 (128)	\$898.00	\$14,368.00
GRAND TOTAL			\$14,368.00

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