

EMMETT INDEPENDENT SCHOOL DISTRICT #221

Wayne Rush, Superintendent

RESIDENTIAL FACILITY PAYMENT AGREEMENT FOR EDUCATIONAL SERVICES Pursuant to Idaho Code §33-1002B

This Educational Services Agreement ("Agreement") is entered into between **Emmett Independent School District No. 221**, a body corporate and politic of the State of Idaho, whose address is 400 S. Pine Street, Emmett, Idaho 83716 (the "School District"), and **Cherry Gulch, Inc.**, an Idaho Corporation organized and existing under and by virtue of the laws of the State of Idaho, whose address is 3770 E Black Canyon Hwy, Emmett, ID 83617 (together with its agents, employees, and affiliates, "Residential Facility"). The School District and Residential Facility may be referred to herein individually as a "Party" or collectively as the "Parties."

RECITALS

Whereas, Idaho Code § 33-1002B(4) provides that school-age special education students from outside the state of Idaho, who are residing in a licensed public or private residential facility (hereinafter referred to as "residential facility") in Idaho shall be provided education services if requested by the residential facility, provided that the School District shall sign a contract with the residential facility, which shall delineate the education services to be provided by the School District and the amount to be paid by the residential facility;

Whereas, Idaho Code § 33-1002B(5) provides that school-aged non-special education children from outside the state of Idaho, who are residing in a residential facility in Idaho may be provided education services if requested by the residential facility, provided that the School District shall sign a contract with the residential facility, which shall delineate the education services to be provided by the School District and the amount to be paid by the residential facility; and

Whereas, Idaho Code § 33-1002B (4) and (5) exclude the out-of-state students from receiving any state funding;

Whereas, Idaho Code § 33-1002B (4) and (5) require that the residential facility shall pay the full cost of providing the education services;

Whereas, the Residential Facility is a licensed private facility within the State of Idaho, requesting education services from the School District for students placed from outside the State of Idaho;

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Whereas, the School District is willing and able to provide education services to students from the Residential Facility pursuant to Idaho Code § 33-1002B and this Agreement; and

Whereas, the Residential Facility understands and agrees that the Exhibit(s) and Cost/Rate Schedules attached hereto and incorporated herein by reference set forth the full cost for education for each individual out-of-state student as determined by the School District pursuant to Idaho Code § 33-1002B.

NOW THEREFORE, in consideration of the foregoing Recitals, which are contractual and the promises and the mutual benefits, representations, covenants, undertakings, acknowledgements, and agreements hereinafter contained, it is hereby agreed by the Parties as follows:

AGREEMENT

RESIDENTIAL FACILITY AGREES:

- (1) To pay the full cost of education for each student as set forth in Exhibit A within thirty (30) days of receipt of an invoice from the School District;
- (2) To provide to the School District with all signed parent/guardian consent/authorization forms (e.g. Power of Attorney, FERPA consent, etc.);
- (3) To provide any other documentation when reasonably requested by the School District including, but not limited to (1) a list of prior schools attended by the student(s); (2) complete student educational records including special education records, if applicable and requested; and (3) progress reports for student(s) with an IEP;
- (4) To designate a regular and/or emergency contact person and provide contact information to the School District, which shall be attached hereto upon execution of this Agreement and shall be updated in a timely manner if staffing changes;
- (5) To promptly notify the School District of any changes to the Residential Facility's contact information or to a student's education or educational record;
- (6) To register students in the School District no later than five (5) school days following the start of the school's trimester; and
- (7) To provide reasonable assistance in facilitating communication between School District and the student, parent/guardian, and other providers and agencies.

SCHOOL DISTRICT AGREES:

- (1) To provide reasonable and prompt notification of meetings and other appointments in which Residential Facility will have the opportunity to participate;
- (2) To charge Residential Facility for the full cost of education for each individual out-of-state student as set forth in Exhibit A; and
- (3) To provide educational programs, including regular and special education and related services as appropriate, to students properly registered by the Residential Facility;

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- (4) To designate a regular and/or emergency contact person and provide contact information to the Residential Facility, which shall be attached hereto upon execution of this Agreement and shall be updated in a timely manner if staffing changes;
- (5) To request relevant student records directly from students' prior educational institution(s); and
- (6) To ensure that students enrolled by virtue of this agreement shall have the same access to things such as, but not limited to, classes, programs, extracurricular activities, testing, as any other student, with any fees for such activities that are normally assessed to parents and/ or guardians to instead be assessed to the Residential Facility.

GENERAL TERMS AND CONDITIONS

DURATION OF AGREEMENT

The period of this Agreement will commence on the 1st day of July, 2015, and remain in effect until the 30th day of June 2016 ("Term"). This Agreement shall not exceed twelve (12) calendar months. If both Parties wish to renew this Agreement following the expiration of the original Term, Residential Facility agrees to notify the School District by May 1 of its desire to renew this Agreement for a new term. The Parties agree to thereafter conduct good faith negotiations to develop a new agreement to replace this Agreement. In the event such a new agreement is not agreed to before the regularly scheduled Board Meeting in the month of June, this Agreement shall terminate at the end of the Term set forth herein.

TYPE OF SERVICES

This agreement shall cover both Non-Special Education (i.e. Regular/General) and Special Education Services when requested by Residential Facility.

Residential Facility acknowledges and agrees that the provision of Special Education Services pursuant to this Agreement is only upon the condition that the School District has been given the opportunity to provide input on any federally required education programs or plans for any student receiving special education services.

CONFIDENTIALITY

Residential Facility acknowledges its obligation to comply with all federal and state laws regarding privacy, including, the Family Educational Rights and Privacy Act (FERPA) and the Idaho Student Data Accessibility, Transparency, and Accountability Act of 2014 (Idaho Data Accountability Act). Residential Facility agrees that all information regarding services provided pursuant to this Agreement, including, but not limited to, the student's identity and the nature of services rendered, shall be confidential. Residential Facility is prohibited from disclosing any information obtained as a result of this Agreement to any individual not authorized and directed by the School District,

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or without the consent of the parent/guardian or the student, if 18 years of age or older and rights have transferred to the student.

COMPENSATION/BILLING

The Residential Facility shall be solely and fully responsible to pay the School District for all education services provided under this Agreement and shall compensate the School District as set forth in the rate schedules attached hereto for each individual student. The Parties to this Agreement acknowledge that the cost/rate schedules may change based on individual student needs throughout a school year. Additional cost/rate schedules may be submitted by the School District to the Residential Facility during the term of this Agreement in the event new out-of-state students begin residing at the Residential Facility and registered for education services with the School District.

In the event an out-of-state student leaves the Residential Facility during the term of this Agreement, the Residential Facility shall notify the School District within five (5) business days. If an out-of-state student leaves the Residential Facility, the School District will review the rate schedule for that student and identify whether any additional funds for that student are owed by the Residential Facility. The School District shall charge the Residential Facility for the full cost and days for which the student was enrolled and received educational services from the School District; except that Residential Facility acknowledges that it may be charged for full costs associated with disciplinary proceedings, if applicable. Special education fees will be prorated based on the cost to the School District.

The School District will submit a trimester statement based on the attached cost/rate schedules and will allow thirty (30) days for payment from the date the invoice is submitted to the Residential Facility.

SUCCESSORS AND ASSIGNS

This Agreement is binding upon, and inures to the benefit of, successors and permitted assigns to the Agreement.

AMENDMENT

This Agreement may be amended at any time with the prior written, mutual consent of both Parties. Any and all amendments to this Agreement shall be in writing.

TERMINATION

This Agreement, including any and/or all attached Exhibits, may be terminated prior to the expiration of the Term upon written, mutual consent of both Parties. Upon the expiration or termination of this Agreement for any reason, all amounts owed to the School District under this

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Agreement, which accrued before such termination or expiration, will be immediately due and payable under the terms of this Agreement.

DEFAULT

Suspension or expulsion of a student receiving services pursuant to this Agreement shall not constitute a "Default" under this Agreement. Any of the following shall constitute a "Default" under this Agreement:

- (1) Failure by the Residential Facility to pay any payments required to be paid as specified herein;
- (2) Failure of either party to observe and perform any covenant, condition, or agreement on its part to be observed or performed with respect to this Agreement, for a period of thirty (30) days after written notice specifying such failure and requesting it be remedied is given by the non-defaulting party;
- (3) Should any statement or representation made by either party in or pursuant to this Agreement or its execution, delivery, or performance shall prove to have been false, incorrect, misleading, or breached in any material respect on the date when made;

Upon default by either party, the non-defaulting party may, upon written notice, cancel this Agreement immediately and may pursue any and all available legal and equitable remedies. The defaulting party shall be liable for any and all expenses that are incurred by the non-defaulting party as a result thereof, including, but not limited to, procuring substitute performance, legal fees, and other losses incurred due to the default.

TIME OF PERFORMANCE

Time is of the essence in this Agreement; therefore, all times for performance of the obligations, as stated herein, shall be strictly complied with by the Parties.

NON-WAIVER BREACH

The failure of Residential Facility or the District to insist upon strict performance of any of the terms of this Agreement, or to exercise any option herein conferred in any or all instances, shall not constitute a waiver or relinquishment of any such term, but the same shall be and remain in full force and effect, unless such waiver is evidenced by the prior written consent of Residential Facility or the District.

NON-DISCRIMINATION

The Parties hereby agree that no person shall be excluded from, denied participation in, or otherwise subjected to discrimination on the grounds of race, color, creed, national origin, sex, age, or disability in performance of this Agreement.

FORCE MAJEURE

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Neither Party shall be held liable to the other Party for delays or failure of performance where such is caused by supervening conditions beyond that Party's control, including acts of God, civil disturbance, war, riot, fire, flood, strikes, or labor disputes. The delayed party shall use its best efforts to minimize the delays so caused, and notify the other party promptly upon the occurrence of any such event, and inform the other party of its plans to resume performance.

GOVERNANCE

This Agreement shall be governed by the laws of the State of Idaho.

ATTORNEY FEES

If either party defaults in any manner, or fails to fulfill any or all provisions of this Agreement, and if the non-defaulting party hires an attorney to exercise its rights upon such default or failure, or if the Parties are involved in any litigation, including any proceedings in bankruptcy, the prevailing party shall be entitled to recover reasonable attorney fees from the other party. This paragraph shall be enforceable by the Parties notwithstanding any rescission, forfeiture, or other termination of this Agreement.

HEADINGS; SEVERABILITY

Section headings are used for convenience only and shall not affect the scope, meaning, or intent of this Agreement or any provisions herein. In the event any term or provision of this Agreement shall be held invalid or unenforceable in any situation in any competent jurisdiction, such holding will not affect the validity or enforceability of the remaining terms and provisions of this Agreement.

CONSTRUCTION

The Parties acknowledge that they have had the opportunity to consult and review this Agreement with an attorney. Accordingly, this Agreement is to be construed as the joint and equal work product of each party, and may not be interpreted more or less favorably in respect to either party on account of its preparation or drafting.

COMPLETE STATEMENT OF TERMS

This Agreement, including all exhibits and schedules attached hereto, constitute the entire agreement between the Parties and shall supersede all previous oral or written proposals, negotiations, commitments, and all other communications between the Parties.

NOTICES

Any notice under this Agreement shall be in writing and be delivered in person or by public or private courier services (including U.S. Postal Services) or certified mail with return receipt requested or by facsimile. All notices shall be addressed to the Parties at the following addresses or at such other addresses as the Parties may from time to time direct in writing:

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400 Pine St. Suite 1, Emmett, ID. 83617 Phone (208) 365-6301 Fax (208) 365-2961 www.emmettschools.org

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The District: Emmett Independent School District No. 221
400 S. Pine Street
Emmett, Idaho 83716

The Residential Facility: Cherry Gulch
P.O. Box 678
Emmett, ID 83617

COUNTERPARTS; ELECTRONIC SIGNATURES

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and together shall constitute one and the same agreement, with one counterpart being delivered to each party hereto. The Parties agree that this Agreement and related documents may be accepted in electronic form (e.g., by scanned copy of the signed original documents, an electronic or digital signature or other means of demonstrating assent) and each Party's acceptance will be deemed binding on the Parties.

IDAHO PUBLIC RECORDS LAW

Residential Facility understands and acknowledges that any information furnished between the Parties may be subject to the Idaho Public Records Act, Idaho Code §§ 74-101 through 74-126. The Parties agree to consult one another prior to releasing potentially confidential, privileged, or exempt documents.

AUTHORITY

Each Party represents and warrants that it has the full power and authority to enter into this Agreement and to carry out the transactions contemplated by it, and has taken all action necessary to authorize the execution, delivery, and performance of the Agreement. Each person signing this Agreement warrants that s/he has full power and authority to bind the entity or agency under which her/his signature appears.

[END OF TEXT – SIGNATURE PAGE FOLLOWS]

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IN WITNESS WHEREOF, the Parties have executed this Agreement as of the last signature date below.

RESIDENTIAL FACILITY

(Company) Cherry Gulch
Signature: [Signature]
Printed Name: Andrew Sapp
Its: Founder / CEO
Date: 1/29/16

SCHOOL DISTRICT

Emmett Independent School District #221

Signature: [Signature]
Printed Name: Wayne Rush
Its: Superintendent
Date: 2-4-2016

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EXHIBIT A

Secondary General Education Student / 2015-2016

POTENTIAL EDUCATIONAL SERVICES AND ASSOCIATED COSTS				INDIVIDUAL STUDENT
General Education Costs – EHS	High School, full time student - 5 courses per trimester	Per year	\$ 6,278	
General Education Costs – EHS	High School, part time student	Per course	\$ 418	
Professional Technical Costs – PRTA	PRTA, full time student - 5 courses per trimester	Per Year	\$ 7,694	
Professional Technical Costs – PRTA	PRTA, part time student	Per course	\$ 512	
Total				

The purpose of the spreadsheet above is to provide the full costs associated with providing a general education at Emmett High School and Payette River Technical Academy. Additional fees associated with participation in school activities will be assessed based on the student's participation in specific activities. Some courses such as PE and Welding require special clothing items. These can be purchased through the school or at other locations.

Student Activity Fees – Based on Participation – Not all Fees listed				INDIVIDUAL STUDENT
Driving Car to School	Parking Sticker	Per year	\$ 5.00	
PE Class Clothes	If Purchased Through School	For Clothes	\$ 20.00	
Yearbook		Per Year	\$ 53.00	
Activity Card	Optional for High School Activities	Per Year	\$ 32.00	
Activity Fee	For Participation in Sports	Per Sport	\$ 50.00	
Coveralls for Shop Classes	If Purchased Through School	Per Pair	\$ 20.00	
Total				

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EXHIBIT A (cont'd)

Secondary Special Education Student / 2015-2016

Following are costs associated with educating a special education student in the Emmett Independent School District #221. These services are in addition to general education costs and are assessed services as required on the students IEP.

POTENTIAL EDUCATIONAL SERVICES AND ASSOCIATED COSTS				INDIVIDUAL STUDENT
Special Ed Teacher Salary	Average salary / Benefits and average case load per student	per year	\$4,583	
Paraprofessional Salary	Average Salary/benefits / one-on-one aid / prorated other services	per year	\$29,306	
Behavior Intervention (IBI) or PSR	Dependent on student needs	per hour	\$28	
Nursing	Dependent on student needs	per hour	\$52	
Assistive Technology Evaluation	Dependent on student needs	per hour	\$45	
IEP Meetings	Per hour amount	per hour	\$300	
Occupational Therapy	Evaluation Est. 1 to 2 hours	per hour	\$65	
School Psychologist	Academic Evaluation Est. 2 ½ hrs. Full Evaluation Est. 4-5 hrs.	per hour	\$48	
Speech Language Pathologist	Evaluation Est. 4hrs	per hour	\$55	
Social Worker	Dependent on Student needs	per hour	\$45	
Physical Therapy	Evaluation Est. 1 ½ hours	per hour	\$65	
Transportation with special education bus if needed	\$3.66 per mile / 6 mile one way	per mile / # students		
Counseling	Private contractor	per hour	\$65	
Orientation & Mobility	Dependent on student needs	per hour	\$35	
Deaf Sign Language	Dependent on Student needs	per hour	\$75	
Consultation Service	Consulting teacher per hour amt.	per hour	\$45	
Behavior Services – Consult or Assessment	District Psychologist or Special Education Teacher will provide service	per hour	\$48	
ESY	based on needs			
Other				
Total				

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EXHIBIT B
CONTACT INFORMATION

Cherry Gulch

Regular and Emergency Contact Designee for Cherry Gulch

Primary Contact – Academic Director, Lindsey Olsen

Office phone: 208-365-3437

Email: lindseyo@cherrygulch.org

Alternate Contact:

Dr. Andy Sapp

Email: drsapp@novitasacademy.org

Office phone: 208-954-5085

Emmett Independent School District No. 1

Primary Contact – Bob Hyde, Principal

Office Phone: 208-365-2921

Email: bhyde@isd221.net

Registration Contact – Becky Webb, Registrar

Office Phone: 208-365-2921

Email: bwebb@isd221.net

Secondary Contact – Rich Winegar, Vice Principal

Office Phone: 208-365-2921

Email: rwinegar@isd221.net