

**MEDFORD SCHOOL DISTRICT 549C
PROFESSIONAL SERVICES AGREEMENT**

This agreement is between the Medford School District 549C, hereafter called the District, and _____, hereafter called _____ or Contractor.

1. Effective Date and Duration – This agreement shall become effective on _____. Unless earlier terminated or extended, this agreement shall expire when _____ completed performance has been accepted by the District or on _____. However, such expiration shall not extinguish or prejudice the District's right to enforce this agreement with respect to: (i) any breach of a Contractor warranty; or (ii) any default or defect in Contractor performance that has not been cured. Upon satisfactory performance by _____, the parties may choose to extend the term of the Professional Services Agreement for additional _____ year terms and shall do so by executing a renewal agreement annually.

2. Statement of service to be provided by _____

Embedded Math Professional Development:

[REDACTED]

3. Consideration

1. The District agrees to pay [REDACTED] for all work performed under this agreement and shall not exceed \$ [REDACTED] per year.
2. Interim payments may be made to [REDACTED] following the District's review and approval of billings submitted by [REDACTED]. [REDACTED] will also submit copies of other billings for work performed under the agreement when such bills are to be paid by other parties. These other billings are not subject to the maximum compensation amount set forth above.

3. [REDACTED] shall not submit billings for, and the District will not pay, any amount in excess of the maximum compensation amount set forth above. If this maximum compensation amount is increased by amendment of this agreement, the amendment must be fully effective before [REDACTED] performs work subject to the amendment. No payment will be made for any services performed before the beginning date or after the expiration date of this agreement. This agreement will not be amended after the expiration date.

4. _____ shall submit monthly billings for work performed. The billings shall describe all work performed with particularity, by whom it was performed, and shall itemize and explain all expenses for which reimbursement is claimed. The billings also shall include the total amount billed to date by _____ prior to the current invoice. Billings shall be sent to the Student Wellness Coordinator.

5. _____ acknowledges and agrees that the District selected _____, and is entering into this agreement, because of the special qualifications of _____ ' key personnel. In particular, the District, through this agreement, is engaging the expertise, experience, judgment, and personal attention of key personnel. _____ ' key personnel shall not delegate performance of the management powers and responsibilities he/she is required to provide under this agreement to another (other) Contractor employee(s) without first obtaining the written consent of the District. Further, _____ shall not re-assign or transfer the key person (personnel) to other duties or positions such that the key personnel are no longer available to provide the District with his/her (their) expertise, experience, judgment, and personal attention, without first obtaining the District's prior written consent to such re-assignment or transfer. In the event _____ requests that the District approve a re-assignment or transfer of the key personnel, the District shall have the right to interview, review the qualifications of, and approve or disapprove the proposed replacement(s) for the key person (personnel).

6. In order to provide a safe environment for the education of students in the District's care, and in accordance with District policies GCDA/GDDA and GCDA/GDDA-AR, _____ agrees that _____ and any personnel of _____ shall be required to undergo a nationwide criminal background check prior to providing any services under this Agreement. In addition, in the event that _____ and/or any personnel of _____ may come into direct, unsupervised contact with students in the course of providing services under this Agreement, then _____ and any such personnel of _____ shall be required to undergo a fingerprint check. _____ shall be responsible for the costs of such background checks and any fingerprint processing fees. The District shall be provided with fingerprint results for _____ and any personnel of _____ who may come into direct, unsupervised contact with students in the course of providing services under this Agreement. If a positive criminal

history is reported for _____ or any Personnel of _____, the District shall make a final determination as to whether that particular individual will be allowed to provide services under this Agreement. _____ also acknowledges and agrees that, during the term of this Agreement, _____ will notify the person executing this Agreement on behalf of the District, in writing, of any arrest, indictment, conviction, no contest or guilty plea, or other adjudication of _____ and/or any personnel of _____ for any felony or any other offense listed in ORS 342.143 or any offense that is substantially equivalent to any of the crimes listed in ORS 342.143. _____ agrees to provide such notification within seven (7) calendar days. The requirement of this paragraph shall not apply if the District determines, in its sole discretion, that _____ and any personnel of _____ will not have more than limited contact with students. In making such determination, the District shall be entitled to consider, among other circumstances deemed relevant by the District, the length of time _____ and _____' personnel will be on school grounds, whether students will be in proximity with the site where _____ and _____' personnel will be providing services, and whether _____ and _____' personnel will be providing services alone or under the supervision of other District personnel. _____ acknowledges and agrees that a criminal history record and, if applicable, fingerprint check acceptable to the District, in its sole discretion, is a condition of this Agreement. _____ will immediately remove any personnel from any District property or sites in cases where the District determines, in its sole discretion that removal of such personnel is in the District's best interest.

4. Amendments – The terms of this agreement shall not be waived, altered, modified, supplemented or amended, in any manner whatsoever, except by written instrument signed by the parties. Agreement work may be extended by written amendment signed by the parties.

5. Agreement Provisions for Personal Services

1. Independent Contractor

- i. _____ shall perform the work required by this agreement as an independent contractor. Although the District reserves the right (a) to determine (and modify) the delivery schedule for the work to be performed and (b) to evaluate the quality of the completed performance, the District cannot and will not control the means or manner of _____' performance. _____ is responsible for determining the appropriate means and manner of performing the work.

- ii. _____ represents and warrants that employees of _____:
 - a. are not employees of the Medford School District and

- b. meets the specific independent contractor standards of ORS 670.600, as certified on the Independent Contractor Certification Statement attached as Exhibit B and by this reference made a part hereof. No employee of _____ is not an “officer”, “employee”, or “agent” of the District.

2. Subcontracts and Assignments; Successors in Interest – _____ shall not enter into any subcontracts for any of the work required by this agreement, or assign or transfer any of its interest in this agreement, without the prior written consent of the District. The provisions of this agreement shall be binding upon and shall inure to the benefit of the parties hereto, and their respective successors and assigns, if any.

3. No Third Party Beneficiaries – The District and _____ are the only parties to this agreement and are the only parties entitled to enforce its terms. Nothing in this agreement gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this agreement.

4. Termination

- i. This agreement may be terminated at any time by mutual consent of both parties, or by the District upon 30 days’ notice, in writing and delivered by certified mail or in person.
- ii. In addition, the District may terminate or modify this agreement, in whole or in part, effective upon delivery of written notice to _____, or at such latter date as may be established by the District, under any of the following conditions:
 - a. If the District funding from federal, state, or other sources is not obtained and continued at levels sufficient to allow for the purchase of the indicated quantity of services;
 - b. If federal or state regulations or guidelines are modified, changed, or interpreted in such a way that the services are no longer allowable or appropriate for purchase under this agreement or are no longer eligible of the funding proposed for payments authorized by this agreement; or
 - c. If any license or certificate required by law or regulation to be held by _____ to provide the services required by this agreement is for any reason denied, revoked, suspended or not renewed.
- iii. Time is of the essence of _____’ performance of each and every obligation and duty under this agreement. The District, by written notice to _____ of default or breach, any at any time terminate the whole or any part of this agreement:
 - a. If _____ fails to provide services called for by this agreement within the time specified herein or any extension thereof; or
 - b. If _____ fails to perform any of the other provisions of this agreement, or so fails to pursue the work as to endanger performance of this agreement in accordance with its terms, and after

receipt of written notice from the District, fails to correct such failures within 10 business days or such other period as the District may authorize or require.

- c. The rights and remedies of the District provided in subsection c, above, are not exclusive and are in addition to any other rights and remedies provided by law or under this agreement.
- iv. Termination or modification of this agreement pursuant to subsections i or ii, above, shall be without prejudice to any obligations or liabilities of either party already accrued prior to such termination or modification. However, upon receiving a notice of termination (regardless whether such notice is given pursuant to subsections i, ii, or iii of this section 4), _____ shall immediately cease all activities under this agreement, unless expressly directed otherwise by the District in the notice of termination. Further, upon termination, _____ shall deliver to the District all agreement documents, information, works-in-progress and other property that are or would be deliverables had the agreement been completed.

5. Records Maintenance; Access – _____ shall maintain full fiscal records relating to this agreement in accordance with generally accepted accounting principles. In addition, _____ shall maintain any other records pertinent to this agreement in such a manner as to clearly document _____, _____ performance hereunder. _____ acknowledges and agrees that the Medford School District and their duly authorized representative shall have access to such fiscal records and to all other books, documents, papers, plans and writing of _____ that are pertinent to this agreement for the purpose of performing examinations and audits, and making excerpts and transcripts. All such fiscal records, books, documents, papers, plans, and writings shall be retained by _____ and kept accessible for a minimum of three (3) years, except as required longer by law, following final payment and termination of this agreement, or until the conclusion of any audit, controversy or litigation arising out of or related to this agreement, whichever date is later.

6. Compliance with Applicable Law – _____ shall comply with all federal, state, and local laws and ordinances applicable to the work under this agreement, including, without limitation, the provisions of ORS 279C. Without limiting the generality of the foregoing, _____ expressly agrees to comply with: (i) Title VI of the Civil Rights Act of 1964; (ii) Section V of the Rehabilitation Act of 1973; (iii) The Americans with Disabilities Act of 1990 (Pub L No. 101-336), and all regulations and administrative rules established pursuant to those laws; and (iv) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations.

7. Foreign Contractor – If _____ is not domiciled in or registered to do business in the State of Oregon, _____ shall promptly provide to the Oregon Department of Revenue and the Secretary of State Corporation Division all information required by those agencies relative to this Agreement.

_____ shall demonstrate its legal capacity to perform these services in the State of Oregon prior to entering into this agreement.

- 8. Governing Law; Venue** – This agreement shall be governed by and construed in accordance with the laws of the State of Oregon. Any claim, action, or suit between the District and _____ that arises out of or relates to performance of this agreement shall be brought and conducted solely and exclusively within the Circuit Court of Jackson County for the State of Oregon. Provided however, that if any such claim, action, action, or suit may be brought only in a federal forum, it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon.
- 9. Indemnity** – _____ shall defend, save, hold harmless, and indemnify the Medford School District, their officers, employees, agents and members, from all claims, suits, or actions of whatsoever nature resulting from or arising out of the activities of _____ or its officers, employees, subcontractors, or agents under this agreement.
- 10. Insurance** – _____ shall provide insurance as indicated on Exhibit A, attached hereto and by this reference made a part hereof.
- 11. Ownership of Work Product** – All work products of _____ that result from this agreement (“the work products”) are the exclusive property of the District. In addition, if any of the work products contain intellectual property of _____ that is or could be protected by federal copyright, patent, or trademark laws, _____ hereby grants the District a perpetual, royalty-free fully paid-up, nonexclusive and irrevocable license to copy, reproduce, deliver, publish, perform, dispose of, use and re-use, in whole or in part, and to authorize others to do so, all such work products, including but not limited to databases, templates, materials, training manuals and other training materials and any other information, designs, plans, or works provided or delivered to the District or produced by _____ under this agreement.
- 12. Force Majeure** – Neither the District nor _____ shall be held responsible for delay or default caused by fire, riot, acts of God, or war where such cause was beyond, respectively, the District’s or _____’ reasonable control. _____ shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon the cessation of the cause, diligently pursue performance of its obligations under this agreement.
- 13. Severability** – 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.

- 14. Waiver** – The failure of the District to enforce any provision of this agreement shall not constitute a waiver by the District of that or any other provision.
- 15. Execution and Counterparts** – This agreement may be executed in several counterparts, each of which shall be an original, all of which shall constitute but one and the same instrument.
- 16. Use of Chemicals** – With respect to chemicals used during the course of the Work, _____ will implement and enforce a program to inventory and properly store and secure all chemicals that may be used or present at the District site, maintain available for inspection all material data safety sheets, and comply with all regulations required by law for the storage, use, and disposal of chemicals. This program will incorporate and include the District’s Hazard Communication Program and be subject to approval of and modification by the District. The program must provide for notification of all personnel of potential chemical hazards. Review of these hazards must be included in _____’ safety training program. _____ shall submit to the District a list of all Hazardous Materials to be brought by _____ or its Subcontractors onto the District’s property, including the purpose for their use on the Project.
- 17. Recycling** – As required by ORS 279.555, in the performance of this agreement _____ shall use, to the maximum extent economically feasible, recycled paper.
- 18. Other Requirements** – In addition to Exhibits A and B, other requirements, if any, are attached as Attachment A and by this reference made a part, hereof.
- 19. Merger Clause** – **THIS AGREEMENT AND ATTACHED EXHIBITS CONSTITUTES THE ENTIRE AGREEMENT BETWEEN THE PARTIES. NO WAIVER, CONSENT, MODIFICATION OR CHANGE OF TERMS OF THIS AGREEMENT SHALL BIND EITHER PARTY UNLESS IN WRITING AND SIGNED BY BOTH PARTIES. SUCH WAIVER, CONSENT, MODIFICATION OR CHANGE, IF MADE, SHALL BE EFFECTIVE ONLY IN THE SPECIFIC INSTANCE AND FOR THE SPECIFIC PURPOSE GIVEN. THERE ARE NO UNDERSTANDINGS, AGREEMENTS, OR REPRESENTATIONS, ORAL OR WRITTEN, NOT SPECIFIED HEREIN REGARDING THIS AGREEMENT. _____, BY SIGNATURE OF ITS AUTHORIZED REPRESENTATIVE, HEREBY ACKNOWLEDGES THAT HE/SHE HAS READ THIS AGREEMENT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.**

CONTRACTOR DATA AND CERTIFICATION

Name (tax filing): _____

Address:

Citizenship, if applicable: Non-resident alien _____yes _____no

Business Designation (check one):

____Corporation _____Partnership Federal Tax ID#____-_____
____Sole Proprietorship Governmental/Non-Profit Federal Tax ID# 93-0605594

Above payment information must be provided prior to contract approval. This information will be reported to the Internal Revenue Service (IRS) under the name and taxpayer I.D. number submitted. (See IRS 1099 for additional instructions regarding taxpayer ID numbers.) Information not matching IRS records could subject _____ to 31 percent backup withholding.

Certification: I, under penalties of perjury, do hereby certify that (a) the number shown on this form is my correct taxpayer ID (or I am waiting for the number to be issued to me) and (b) I am not subject to backup withholding because (i) I am exempt from backup withholding or (ii) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (iii) the IRS has notified me that I am no longer subject to backup withholding.

I, the undersigned also (a) agree to perform the work required by Exhibit A in accordance with the terms and conditions (listed on the front and back side hereof and made part of this agreement by reference); (b) certify under penalty of perjury that I/my business am not/is in violation of any Oregon tax laws; and (c) certify I am an independent contractor as defined in ORS 670.600.

Contractor's Authorized Agent: _____
Signature/Title Date

Print Name

Contractor:
Contact Person: _____
Address: _____
Address: _____
Phone: _____
Email Address: _____



Medford School District: _____
Brad L. Earl – Assistant Superintendent of Operations Date

Medford School District549C
900 Kenyon St.
Medford, OR 97501

EXHIBIT A
INSURANCE REQUIREMENTS

During the term of this agreement, _____ shall maintain in force at its own expense, each insurance noted below:

1. Required by District of contractors with one or more workers, as defined by ORS 656.027.

Workers' Compensation insurance in compliance with ORS 656.017, which requires subject employers to provide Oregon workers' compensation coverage for all their subject workers.

2. Required by District Not Required by District.

Professional Liability insurance with a combined single limit, or the equivalent, of not less than \$200,000, \$500,000, \$1,000,000, or \$2,000,000 each claim, incident or occurrence. This is to cover damages caused by error, omission or negligent acts related to the professional services to be provided under this agreement.

3. Required by District Not Required by District.

General Liability insurance with a combined single limit, or the equivalent, of not less than \$1,000,000 each occurrence for Bodily Injury and Property Damage. It shall include contractual liability coverage for the indemnity provided under this agreement. It shall provide that the Medford School District are Additional Insured but only with respect to _____' services to be provided under this Agreement;

4. Required by District Not Required by District.

Automobile Liability insurance with a combined single limit, or the equivalent, of not less than Oregon Financial Responsibility Law (ORS 806.060), \$200,000, \$500,000, or \$1,000,000 each accident for Bodily Injury and Property Damage, including coverage for owned, hired or non-owned vehicles, as applicable.

5. Notice of cancellation or change. There shall be no cancellation, material change, reduction of limits or intent not to renew the insurance coverage(s) without 30 days written notice from _____ or its insurer(s) to Medford School District;

6. Certificates of insurance. As evidence of the insurance coverages required by this agreement, _____ shall furnish acceptable insurance certificates to Medford School District prior to its issuance of a Notice to Proceed. If requested, complete copies of insurance policies, trust agreements, etc. shall be provided to the District. _____ shall be financially responsible for all pertinent deductibles, self-insured retentions and/or self-insurance.

EXHIBIT B

CERTIFICATION STATEMENT FOR CORPORATION OR INDEPENDENT CONTRACTOR
(Contractor complete A or B below)

A. CONTRACTOR IS A CORPORATION.

CORPORATION CERTIFICATION: I, undersigned, authorized to act on behalf of entity designated below, hereby certify under penalty of perjury that entity is a corporation.

Signature _____ Date _____ Entity _____

B. CONTRACTOR IS INDEPENDENT.

Contractor certifies he/she meets the following standards:

1. I am registered under ORS chapter 701 to provide labor or services for which such registration is required.
2. I have filed federal and state income tax returns in the name of my business or a business Schedule C as part of the personal income tax return, for the previous year, for labor or services performed as an independent contractor in the previous year.
3. I represent to the public that the labor or services are to be provided by my independently established business as four (4) or more of the following circumstances exist. **(Please check four or more of the following:)**
 - A. The labor or services are primarily carried out at a location that is separate from my residence or is primarily carried out in a specific portion of my residence, which is set aside as the location of the business.
 - B. Commercial advertising or business cards are purchased for the business, or I have a trade association membership;
 - C. Telephone listing is used for the business that is separate from the personal residence listing.
 - D. Labor or services are performed only pursuant to written contracts.
 - E. Labor or services are performed for two or more different persons within a period of one year.
 - F. I assume financial responsibility for defective workmanship or for service not provided as evidenced by the ownership of performance bonds, warranties, errors and omission insurance or liability insurance relating to the labor or services to be provided.

Contractor Signature: _____ Date: _____

C. DISTRICT APPROVAL:

ORS 670.600 Independent contractor standards. As used in various provisions of ORS chapters 316, 656, 657 and 701, an individual or business entity that performs labor or services for remuneration shall be considered to perform the labor or services as an "independent contractor" if the standards of this section are met. **State District certifies the contracted work meets the following standards:**

1. _____ is free from direction and control over the means and manner of providing the labor or services, subject only to the specifications of the desired results.
2. _____ is responsible for obtaining all assumed business registrations or professional occupation licenses required by state law or local ordinances.
3. _____ furnishes the tools or equipment necessary for the contracted labor or services.
4. _____ has the authority to hire and fire employees to perform the labor or services.
5. Payment to _____ is made upon completion of the performance or is made on the basis of a periodic retainer.

District Signature: _____ Date: _____