

OXNARD SCHOOL DISTRICT
Professional Services Agreement

[This Agreement is intended to be used for Professional services such as contracted accountants, auditors, educational consultants, nurses, psychologists, speech pathologists, therapists, etc.]

This Professional Services Agreement (the "Agreement") is made and entered into _____ by and between OXNARD SCHOOL DISTRICT (hereinafter referred to as "District" or "Local Educational Agency") and _____ (hereinafter referred to as "Provider."). District and Provider may be referred to herein individually as a "Party" and collectively as the "Parties."

Provider

Telephone Number

Street Address

E-mail Address

City, State, Zip code

Provider Tax Identification or Social Security Number

The Parties agree as follows:

Conditions. Provider will have no obligation to provide services until District returns a signed copy of this Agreement.

Services. Provider shall provide District with the services (the "Service") described on Exhibit A "Statement of Services" attached hereto and incorporated herein by this reference.

Provider, at Provider's sole cost and expense, shall furnish all tools, equipment, apparatus, transportation, labor, and material necessary to meet its obligations under this Agreement.

Additional Services. A written amendment to this Agreement shall be prepared by either party and executed by all of the Parties before any performance of additional Services or the District shall not be required to pay for the increased cost incurred for the changes in the Statement of Services.

Any such amendment to the Agreement shall not render ineffective or invalidate unaffected portions of this Agreement.

Term. The term of this Agreement shall commence on _____ and terminate on _____.

Termination or Amendment. This Agreement may be terminated or amended in writing at any time by mutual written consent of all of the parties to this Agreement and may be terminated by either party for any reason by giving the other party 60 days advance written notice. In the event of cancellation prior to completion of the specified services, all finished or unfinished projects, documents, data, studies, and reports prepared by the Provider under this agreement shall, at the option of the District, become District property. The Provider shall be entitled to receive just and equitable compensation for any satisfactory Services completed on such items prior to termination of the Agreement.

Payment and Expenses. All payments due to Provider under this Agreement are set forth in Exhibit B "Schedule of Fees" attached hereto and incorporated herein by this reference.

All payments due to Provider, as set forth in the Schedule of Fees, shall be paid by the District within 30 days of receipt of a proper, undisputed invoice from Provider, which invoice shall set forth in reasonable detail the Services performed and for which payment is sought. Provider shall not include a request for payment for any Service in more than one invoice. If payment for a Service is disputed, the Parties shall negotiate in good faith and any subsequent payment, adjustment or credit for said Service shall be made or given with reference to the original invoice.

Nature of Relationship. The Parties agree the relationship created by this Agreement is that of independent contractor. In performing the Services, Provider shall be, and at all times is, acting and performing as an independent contractor with District, and not as a partner, coventurer, agent, or employee of District, and nothing contained herein shall be construed to be inconsistent with this relationship or status. Provider is not granted any right or authority to assume or to create any obligation or responsibility, express or implied, on behalf of or in the name of District or to bind the District in any manner.

Provider understands and agrees that the Provider, agents, employees, or subcontractors of Provider are not entitled to any benefits normally offered or conveyed to District employees, including coverage under the California Workers' Compensation Insurance laws. Provider will be responsible for payment of all Provider employee wages, payroll taxes, employee benefits, and any amounts due for federal and state income taxes and Social Security taxes. These taxes will not be withheld from payments under this agreement.

Assignment and Subcontractors. Provider shall not assign, sublet, or transfer this Agreement or any rights or obligations under or interest in this Agreement without the prior written consent of the District, which may be withheld by the District in its sole and absolute discretion for any reason. Any attempted assignment, sublease, or transfer in violation of this Agreement shall be null and void, and of no force and effect. Any attempted assignment, sublet, or transfer in violation of this Agreement shall be grounds for the District, in its sole discretion, to terminate the Agreement.

Nothing contained herein shall prevent Provider from employing independent associates, subcontractors, and sub-consultants as Provider may deem appropriate to assist in the performance of services herein, subject to the prior written approval of the District.

Warranty. Provider hereby warrants to District that the Service shall be performed in a professional and workmanlike manner consistent with the highest industry standards.

Binding Effect. This Agreement shall inure to the benefit and shall be binding upon all of the parties to this Agreement, and their respective successors in interest or assigns.

Qualifications. Provider shall possess and in signing this Agreement warrants and represents that Provider has special skills, proficiency and expertise to render the Services described in this Agreement. Provider shall at all times keep all licenses current, be in good standing and notify District of any change in licensure or professional status, including disciplinary or licensure proceedings of any kind.

Compliance with Laws. Provider hereby agrees that Provider, officers, agents, employees, and subcontractors of Provider shall obey all local, state, and federal laws and regulations and adhere to professional and licensing standards of practice in the performance of this Agreement.

Provider shall be responsible for the safety of its employees and shall comply with California Code of Regulations Title 8, section 3205, COVID-19 Prevention.

Provider shall ensure that workers in school settings who are on-site supporting school functions are compliant with applicable California Public Health Department Orders and Guidance or other related mandates related to COVID-19, so long as such Orders and Guidance remain in effect.

Non-Discrimination and Equal Employment Opportunity. Provider represents and agrees that it does not and shall not discriminate against any employee or applicant for employment, company, individual or group of individuals, because of ancestry, age, sex, or disability (physical and mental, including HIV and AIDS), genetic information, gender identity, gender expression, marital status, medical condition, military or veteran status, national origin, race, religion, sex/gender, and sexual orientation.

Confidentiality. Provider agrees to maintain the confidentiality of all District and District-related data, information, and records including but not limited to student identifiable information and employee personnel information pursuant to all California and Federal statutory laws relating to privacy, confidentiality, and information security including but not limited to California Education Code sections 49060 – 49085, Pupil Records, and the Family Educational Rights and Privacy Act (FERPA), that currently exist or exist at any time during the term of this Agreement. All such records and information shall be considered confidential and kept confidential by Provider and Provider's officers, agents, employees, participants, vendors, or customers. Provider shall not disclose such data, information and records except to the District or in strict compliance with the provisions of all California and Federal statutory laws and upon prior written notice to the District.

Fingerprinting. Provider shall ensure that Provider and any employee who interacts with students, outside of the immediate supervision and control of the student's parent or guardian or a school employee, has a current valid criminal records summary as described in California *Education Code* section 44237. When Provider performs the criminal

background check, it shall immediately prevent any person representing the Provider who has been convicted of a violent or serious felony from accessing an District school or office site.

Governing Law and Venues. This Agreement shall be interpreted in accordance with the laws of the State of California. If any action is brought to interpret or enforce any term of this Agreement, the action shall be brought in state or federal court situated in the County of Ventura, State of California, or other location as mutually agreed by both parties.

Dispute Resolution. If any dispute arises out of or in connection with the Agreement, representatives of the Parties with authority to settle the dispute shall communicate, in person, electronically, or in writing within 30 days of written notice, in a good faith effort to resolve the dispute.

The parties agree that, in the event of any unresolved dispute under the agreement in which the amount sought is \$5,000.00 or less, any litigation to resolve the dispute shall be brought in the Ventura County Small Claims Court.

If the unresolved amount in dispute exceeds \$5,000.00, the parties agree that they will first submit the matter to a mutually agreed upon mediator. Notwithstanding the next section, Attorneys Fees, the cost of the mediator shall be borne equally by the parties.

Attorney Fees. In the event of any action or proceeding to interpret or enforce the terms of this Agreement, the prevailing party, as determined by the court or mediator, shall be entitled to recover its reasonable attorney fees and costs incurred in connection with such actions or proceeding.

Indemnification. To the fullest extent permitted by law, Provider agrees to defend, indemnify, and hold harmless District, its governing board, officers, administrators, managers, agents, employees, successors, assigns, independent contractors and/or volunteers from and against any and all claims, demands, monetary or other losses, loss of use, damages and expenses, including but not limited to, reasonable legal fees and costs, or other obligations or claims arising out of any liability or damage to person or property resulting from bodily injury, illness, communicable disease, virus, pandemic, or any other loss, sustained or claimed to have been sustained arising out of activities of the Provider or those of any of its officers, agents, employees, participants, vendors, customers or subcontractors of Provider, whether such act or omission is authorized by this Agreement or not. Provider also agrees to pay for any and all damage to the real and personal property of the District, or loss or destruction of such property, or damage to the Property done or caused by such persons. District assumes no responsibility whatsoever for any property placed on District premises by Provider, Provider's agents, employees, participants, vendors, customers or subcontractors. Provider further hereby waives any and all rights of subrogation that it may have against the District. The provisions of this Indemnification do not apply to any damage or losses caused solely by the intentional misconduct of the District or any of its governing board, officers, administrators, managers, agents, employees and/or volunteers.

This Indemnification shall survive termination of this Agreement, for any reason whatsoever, and binds each party's legal representatives, successors, and assigns.

Insurance. Provider, at its own cost and expense, shall procure and maintain during the term of this Agreement, policies of insurance for the following types of coverage:

- a. **Commercial General Liability Insurance.** Provider shall procure and maintain, during the term of this Agreement, not less than the following General Liability Insurance coverage in the amounts of \$1,000,000 per occurrence and \$2,000,000 aggregate.

Commercial General Liability insurance shall include products/completed operations, property damage, and personal and advertising injury coverage.

- b. **Automobile Liability.** Provider shall procure and maintain, during the full term of this Agreement following Automobile Liability Insurance including non-owned and leased automobiles, as applicable with the following coverage limits ~~[delete any coverages that are not applicable]~~:

Personal vehicles:	\$500,000.00 combined single limit or \$100,000.00 per person / \$300,000.00 per accident
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Commercial vehicles:	\$1,000,000.00 per accident for bodily injury and property damage
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- c. Workers' Compensation Insurance. Provider shall procure and maintain, during the term of this Agreement, Workers' Compensation Insurance, as required by California law, on all of its employees engaged in Services related to the performance of this Agreement. Provider shall procure and maintain Employers' Liability insurance coverage of \$1,000,000.

Absent proof of Workers' Compensation Insurance, Provider will submit a written statement to District requesting a waiver from this requirement and indicating the reason Workers' Compensation Insurance is not required.

- d. Professional Liability Insurance. Provider shall procure and maintain, during the term of this Agreement, Professional Liability (Errors and Omissions) insurance coverage in the amounts of \$1,000,000 per occurrence and \$2,000,000 aggregate
- e. Abuse and Molestation Insurance. If, in providing the Services, any employee, subcontractor or other person under the direction and control of Provider (each, a "Provider Party") will have an opportunity to interact with any District student outside of the immediate supervision and control of the student's parent or guardian or a certificated District employee, Provider shall procure and maintain, during the term of this Agreement, Abuse and Molestation coverage in the amounts of \$2,000,000 per occurrence and \$4,000,000 aggregate.

If Provider wishes to request a waiver of this requirement to provide Sexual Abuse and Molestation insurance coverage, it must submit a written statement to the District explaining why the Services will not provide an opportunity for any Provider Party to interact with any District student. This insurance coverage must be provided unless the District Representative under this Agreement authorizes the requested waiver by signing below:

WAIVER. Sexual Abuse and Molestation coverage is waived because no Provider Party will interact in any way (either in person or via an app or cloud application) with any District student:

District Representative: _____ Date: _____

- f. Broader Coverage. If the Provider maintains broader coverage and/or higher limits than the minimums shown above, the District requires and shall be entitled to the broader coverage and/or higher limits maintained by the Provider. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the District.
- g. Primary, Non-Contributory and Waiver of Subrogation. Provider's insurance is primary and will not seek contribution from any other insurance available to the District. Any insurance or self-insurance maintained by District shall be excess of the Provider's insurance and shall not contribute with it. This requirement shall also apply to any Excess or Umbrella Liability policies. Provider further hereby waives any and all rights of subrogation that it may have against the District. Required endorsements are listed below.
- h. Certificates of Insurance. Provider shall provide certificates of insurance to the District as evidence of the insurance coverage required herein no less than 15 days prior to commencing the proposed activity, and at any other time upon the request of the District. Certificates of insurance will be deemed invalid if proper endorsements are not attached. Certificates of such insurance shall be filed with the District on or before commencement of the services under this Agreement.
- i. Endorsements. Provider's Commercial General Liability insurance and Commercial Automobile Liability coverage and Abuse and Molestation coverage shall name the District, its governing board, officers, agents, employees, and/or volunteers as additional insureds. All endorsements specifying additional insureds for any of the Insurance Policies shall be as indicated below or an equivalent endorsement reasonably acceptable to the District.
 - 1) General Liability: CG 20 26 10 01
 - 2) Waiver of Subrogation: CG 24 04 05 09
 - 3) Primary, Non-Contributory: CG 20 01 01 13
 - 4) Commercial Automobile Liability (if necessary): CA 20 48 10 13

- j. Claims Made Policies. If any of the required policies provide coverage on a “claims made” basis:
 The Retroactive Date must be shown and must be before the date of the contract or the beginning of the Service.
 Insurance must be maintained, and evidence of insurance must be provided for at least five (5) years after completion of the Service.
 If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Provider must purchase “extended reporting” coverage for a minimum of five (5) years after completion of the Service.
- k. Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best’s rating of no less than A: VII, unless otherwise acceptable to the District.
- l. Failure to Procure Insurance. Failure on the part of Provider, or any of its subcontractors, to procure or maintain required insurance shall constitute a material breach of contract under which the District may immediately terminate this Agreement

Notice. Any notices required or permitted to be given under this Agreement shall be deemed fulfilled by written notice, demand or request personally served on (with proof of service endorsed thereon) or mailed to, or hereinafter provided) the party entitled thereto or on its successors and assigns, and may be given by:

- a. Personal delivery;
- b. Overnight commercial courier;
- c. Certified or registered prepaid U.S. mail, return receipt requested; or
- d. Electronic mail or electronic facsimile transmission; provided that if given electronically, an additional copy shall also be delivered by a, b, or c, above.

If mailed, such notice, demand, or request shall be mailed certified or registered mail, return receipt requested, and deposited in the United States mail addressed to such party at its address set forth below or to such address as either party hereto shall direct by like written notice and shall be deemed to have been made on the third (3rd) day following posting; or if sent by a nationally recognized overnight express carrier, prepaid, such notice shall be deemed to have been made on the next business day following deposit with such carrier. For the purposes herein, notices shall be sent to the District and the Provider as follows:

OXNARD SCHOOL DISTRICT
 Local Educational Agency

Attn: _____

Street

City, State, Zip Code

Provider

Attn: _____

Street

City, State, Zip Code

Nature of Agreement. This Agreement represents the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes any and all other agreements and communications however characterized, written or oral, between or on behalf of the parties hereto with respect to the subject matter hereof. This Agreement may only be modified by a written instrument signed by authorized representatives of each of the parties hereto.

Waiver. No claim or right arising out of a breach of this Agreement can be discharged in whole or in part by a waiver or renunciation of the claim or right unless such waiver is in writing.

Severability. It is intended that each paragraph of this Agreement shall be treated as separate and divisible, and in the event that any paragraphs are deemed unenforceable, the remainder shall continue to be in full force and effect so long as the primary purpose of this Agreement is unaffected

Counterpart Execution/Electronic Delivery. This Agreement may be executed in any number of counterparts which, when taken together, shall constitute one and the same instrument. Executed counterparts of this Agreement may be delivered by PDF email or electronic facsimile transmission and shall have the same legal effect as an “ink-signed” original.

Signature Authority. Provider represents and warrants that Provider has all requisite power and authority to conduct its business and to execute, deliver, and perform this Agreement.

IN WITNESS WHEREOF, the parties have executed this agreement as of the date first written above.

OXNARD SCHOOL DISTRICT
Local Educational Agency

Provider

By: _____
Signature

Signature

Name

Name

Title

Title

Street Address

Street Address

City, State, Zip Code

City, State, Zip Code

E-Mail Address

E-Mail Address

Telephone

Telephone

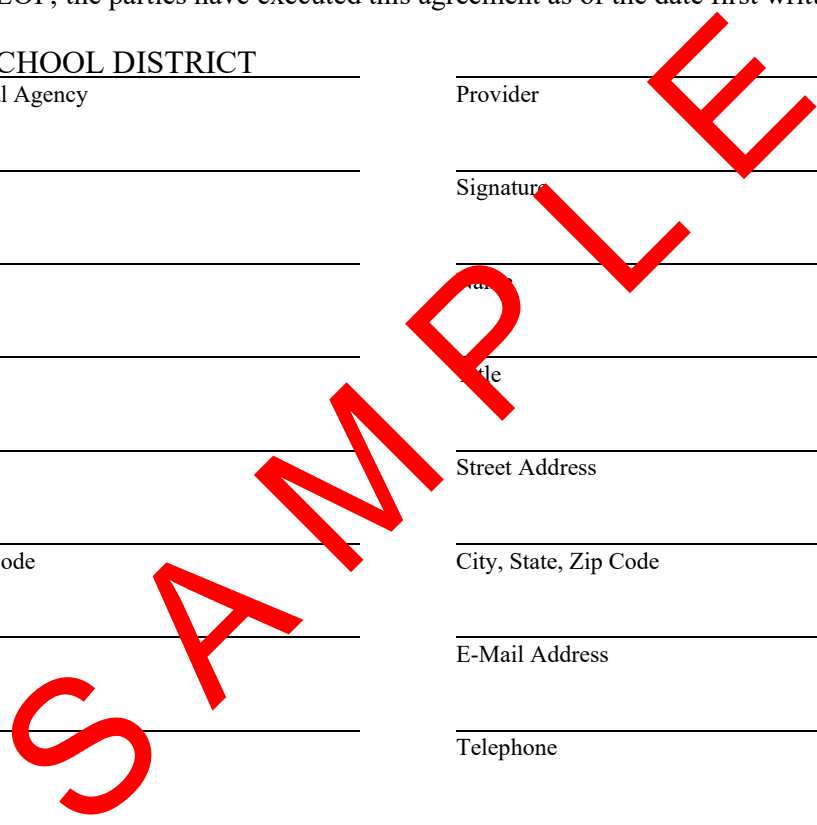


Exhibit A
Statement of Services

Description of Services:

Schedule:

SAMPLE

Exhibit B
Schedule of Fees

Fees:

Compensation for Services	\$ _____
Actual and Necessary Travel Expenses	\$ _____
Other Expenses	\$ _____
Total Amount not to Exceed	\$ _____
Deposit	\$ _____
Balance Due after Completion of Services	\$ _____

Proper invoicing is required. Receipts for expenses are required. Canceled checks are not accepted as receipts.

Payment Schedule:

Additional Costs or Expenses:

SAMPLE