

**SUPPLEMENTAL EDUCATIONAL SERVICES PROVIDER
AGREEMENT**

BETWEEN

AND

AUSTIN INDEPENDENT SCHOOL DISTRICT

THIS AGREEMENT is entered into on this the _____ day of _____, 20___, by and between _____ herein called “Contractor” and the Austin Independent School District, herein called “District.” The parties hereto agree as follows:

I. District agrees to contract with the Contractor and the Contractor agrees to personally perform in a manner satisfactory to the District the following services:

_____.

II. Compensation: The District agrees to pay Contractor for the above services when satisfactorily performed. Payment will be made according to the District’s published Accounts Payable schedule:

a. basis of fee \$_____ individual rate or \$_____ group rate

III. Taxes: A W-9 tax form must be on file with the District. If you have already submitted a W-9, it is not necessary to complete another one.

WHEREAS, the Contractor has been approved by the Texas Education Agency to provide educational services to students identified as meeting eligibility for the Supplemental Educational Services (SES) program as contained in the Texas Education Code; and

WHEREAS, the District has identified students meeting eligibility for the Supplemental Educational Services program along with facility space to accomplish the goals of the SES program; and

WHEREAS the Contractor and the District desire to cooperate in and facilitate the implementation of such Services;

NOW, THEREFORE, the Contractor and the District agree generally as follows:

The parties will set specific achievement goals for each student being served in the SES program.

The parties will describe the measurement for the student's progress along with a method for informing the students, parents and teachers.

A timetable for improving the student's achievement will be developed, along with the right to terminate this agreement if the provider fails to meet the student's goal for progress.

A method for payment for services is contained herein which also addresses the provision of missed SES sessions.

The Contractor will be prohibited from disclosing to any member of the public the identity of any student eligible for or receiving these SES services.

The Contractor will assure that SES services will be provided on a consistent basis and in accordance with all applicable local, state, and federal health, safety and civil rights laws.

The Contractor is to respond to the District's electronic, phone, or mail notification of any matters related to SES within three (3) business days (i.e., updated student rosters, SES updates, requests for reports and the like).

The Contractor agrees to abide by all District Policies regarding the hiring of teachers and/or staff as employees for their program.

The Contractor is responsible for assuring that all their employees are aware of all Texas Education Agency and District SES policies and guidelines. All employees and their actions will be considered representative of the Contractor as a whole

The Contractor agrees to abide by all Texas Education Agency SES guidelines as stated in the *Supplemental Educational Services (SES) Implementation Guidance (April 8,2009)* produced by the Texas Education Agency-Division of NCLB Program Coordination Office

The Contractor will abide by all assurances provided to the Texas Education Agency in the Provider's State-approved Supplemental Educational Services Application, and notify the District's State and Federal Accountability Office immediately, if at any time, the Provider can no longer certify or meet these assurances, and will comply with all requirements associated with the delivery of SES services.

The Contractor understands that this contract is void if (1) the contractor modified in any way (2) the Contractor is no longer a TEA Approved SES Provider.

IV. Recruitment of Students

- A. The Contractor *may not* complete any part of the SES student enrollment form. The parent or guardian must complete the application completely and**

return it to the school district by either submitting to the front office at the school in which the participating student attends, by postal mail, fax, or by submitting an online enrollment form. The contractor can submit an enrollment form for parents at participating schools front office or at the District's State and Federal Accountability Office.

- B. If parents are employed by the Contractor, in any capacity, the parents cannot work for the Contractor in the same building in which their children attend school.
- C. The Contractor agrees NOT to use or hire the district's students to recruit student into their SES program or work as tutors
- D. Contractors who show five (5) or more students enrolled in the EZSES not being served within the required timeline (See item XI-G.2 and item XI-G.3) and have not communicated the reason for delay of services to the District's State and Federal Accountability Office (See item VI-D) will be considered "unable to serve" and no new students will be enrolled in the Contractor's program. Student will be enrolled in their 2nd or 3rd choice and/or parent will be notified of the Contractor's "unable to serve" status.
- E. The Contractor agrees to get prior campus administrator approval for recruiting or information dissemination events at an individual campus. For events at other District facilities, Contractor agrees to get approval from the District's State and Federal Accountability Office. Contractor must report all recruiting events at District's facilities to the District's State and Federal Accountability Office prior to the event.
- F. Contractor agrees to give school administrators and/or staff at least a 2 business days notice, when needing to meet with school administrators or school staff regarding any aspect of SES.
- G. Tutoring sessions may not commence until the Contractor has received an Approval Packet from the District's State and Federal Accountability Office and SLPs have been entered and approved into the EZSES system.
- H. The Contractor understands that the first day of SES enrollment for the 2009/2010 Year is August 24, 2009 last day for SES enrollment forms to be submitted is May 26, 2010.

V. Use of Facilities and Equipment

- A. The Contractor may be permitted to use any District facility to perform the SES service by submitting an *AISD Building Use or Facility Use Application*
- B. The Contractor may use District equipment, with the approval of the campus administrator, such as computers, copiers, etc. if they are for the sole purpose of use by, and benefit for, the students and not for Contractor's administrative purposes.
- C. Use of campus equipment is subject to availability, is at the discretion of the individual campus administrator, and is not guaranteed.
- D. Contractor agrees to pay District Facility use or Equipment use fees when applicable.

- E. **The Contractor agrees that they are responsible for paying for any damages to district property which has been provided, including but not limited to classrooms, desks, computers, chalkboards.**

VI. Service Delivery

- A. **The Contractor must assign a Site Director who will ensure all students are supervised during the provision of SES sessions and until such time as parents or guardians pick them up from tutoring.**
- B. **The Contractor agrees to enforce all District and School rules and regulations regarding student conduct.**
- C. **The Contractor must provide to the District's State and Federal Accountability Office, a student roster with the corresponding tutor (s) for each campus and provide updated rosters as needed.**
- D. **In the event of a student involved incident during the tutoring at a District facility, the Contractor must immediately notify the campus principal or assistant principal on duty and the parent/guardian, as well as email an incident report to the District's State and Federal Accountability Office.**
- E. **The Contractor is solely responsible for the provision of all appropriate supplies, equipment, and facilities in a timely manner that meets all requires service delivery timelines**
- F. **Contractor agrees to promptly notify the student, parent, and the District's State and Federal Accountability Office of any anticipated delay in the delivery of services or performance under this contract and to provide full details of the delay and expected time of service delivery.**

VII. Student Learning Plans and Reporting of Progress

- A. **The Contractor will develop the Student Learning Plan (SLP), with parent input when requested, using the data that is provided by the District's State and Federal Accountability Office. If additional data is needed, the Contractor should contact the District's State and Federal Accountability Office for assistance at (512) 414-0012.**
- B. **The Contractor is required to send a signed copy of the SLP to the District's State and Federal Accountability Office and input the SLP to the EZSES system in order to receive approval of the SLP and to begin the tutoring services.**
- C. **The Contractor agrees to mail, fax, or email copy of signed student SLP plan within 5 days of SLP approval in the EZSES system. District will not pay for services provided until signed SLP is on file at the District's State and Federal Accountability Office.**
- D. **The Contractor will provide a hard copy progress report to the parent and teacher every month during the school year. The Project Coordinator will check EZSES for the progress reports.**

- E. Failure to achieve desired student progress as set out in the SLP/Achievement Goals will be grounds for termination of SES tutoring from Contractor. Progress is measured by (Contractor description)_____**
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VIII. Student Incentives

- A. The Contractor that chooses to offer an incentive to students must ensure that the cost is not equal to the per pupil allotment for tutoring, must be academic in nature, and in no event should the incentive exceed \$50.00 per student.**
- B. The Contractor that chooses to provide any technology (i.e., computers, cell phones, mp3 players, etc.) to participating students as part of their program must submit a description of their program and how the technology is needed for that program, so said technology is not identified as an incentive.**

IX. EZSES

- A. The Contractor must use the EZSES system for reporting and invoicing purposes (See item X-D)**
- B. The Contractor must enter student attendance by the end of each business week or Fridays. Failure to submit weekly attendance could result in reassignment of students due to inactivity and loss of payment for services rendered. Student transfers, when granted, will be done on the first day of the business week or Tuesdays.**
- C. The Contractor must report any problems with the EZSES system to the District's State and Federal Accountability Office at (512) 414-0012.**

X. Invoicing and Payments

- A. Payments will be made by the District based upon a per-session/hour basis and representative of a "fee for service" amount only. There is no "up front" money paid in this arrangement between Contractor and District.**
- B. Funds will only be used to pay for actual tutoring services, not baseline assessments or pre/post tests. The District will not pay for classes where students are not present.**
- C. The amount of services per student may not exceed District's required rate per child allotment. Parents or guardians, however, may choose to supplement the Provider services at their own expense. Contractor is responsible for communicating allocation status to parents. The Contractor agrees to inform Parents when the student's Per Pupil Allocation has been exhausted.**

- D. Contractor agrees to, on or before the 5th of each month, for previous month, (unless the 5th falls on the weekend then the invoice should be submitted no later than the first business day after the 5th) submit the student sign in sheets or system log in/out sheets for SES sessions with proper student signature per session, input attendance for final week for previous month, input monthly progress into EZSES system, and submit invoice via EZSES system. Such invoices shall be submitted within thirty (30) days of rendering services. Invoices submitted more than thirty (30) days after services are rendered are subject to non-payment. Any invoice submitted without sufficient attendance documentation may be subject to non-payment.

XI. General Requirements

- A. The term of this contract shall begin on the date that this Contract is fully executed by both parties and will be effective through June 30, 2010.
- B. Contractor or Contractor employees working with students must have a cleared Criminal Background Check, at the SES Provider's expense, before beginning tutoring sessions. Contractor agrees to provide copies of background checks to the District's State and Federal Accountability Office before tutors begin working with students.
- C. Contractor must ensure that its employees/staff understand they are working as individual contractors and are required to look solely to the Contractor for any wages, benefits or claims.
- D. Contractor must provide a \$1,000,000/\$3,000,000 general liability insurance policy, and a \$1,000,000/\$1,000,000 professional liability/worker's compensation/auto insurance policy.
- E. Contractor and each of the Contractor's employees must agree to abide by the confidentiality provisions surrounding the use and dissemination of student educational records and information as contained in the federal *Family Educational Rights & Privacy Act (FERPA)*. Contractor also agrees that he/she may be held professionally and personally liable for violation of this Act.
- F. Any data provided by the District or that is found in EZSES is to be used for the sole purpose of the SES program for students who are already set up to receive SES services with the Contractor. If Contractor needs to provide additional information regarding services, setting up information sessions on or off campus, or disseminating any information to one, some or all students found on the EZSES system, the Contractor must receive prior approval from the District's State and Federal Accountability Office.
- G. Provider agrees to use all District required reporting documents and adhere to District timelines, including:
1. Creating and Inputting the Student Learning Plan (SLP) into EZSES within 10 days of receiving student approval packets.
 2. Providing districts with signed SLP with required signatures (Provider, Parent (when applicable)) within 5 business days or SLP approval on EZSES.

3. Signed Student Attendance Sheets or Log in/out sheets should be submitted to District's State and Federal Accountability Office as well as all needed EZSES data for progress and invoicing should be inputted on or by the 5th of each month for the previous month.
 4. Commencing tutoring of approved students within 10 working days of receiving the approval packet. *If the student is not served after the expiration of 10 working days, then the student will be assigned to his/her next selected provider on the application.*
 5. Immediate reporting of problems regarding students' attendance, communication, progress, facilities, etc. to Project Coordinator and parents.
- H. The District is under no obligation to and does not agree to provide student transportation to and from tutoring being provided by the Contractor.

XII. Termination of Contract

The Contractor shall fully and timely complete all work covered by this Agreement. This Agreement may be terminated by the District if for any reason the Contractor shall fail to fulfill in a timely and proper manner the obligations under this Agreement, in which event the District may terminate the Agreement by giving written notice of such termination and the effective date of the termination. In the event of termination prior to completion of the Agreement, the Contractor shall be entitled to just and equitable compensation for any satisfactory work completed to the date of termination. The District may also terminate this contract at any time without cause by the furnishing of a five (5) day written notice from the Senior Financial Administrator to the Contractor, but the Contractor will be paid an amount which bears the same ratio to the total compensation as the services actually performed to the total services of this Agreement, less any compensation previously paid. Both parties agree to annually review the Agreement at least 60 days prior to its termination date to determine whether the SES tutoring will continue. If the parties are in agreement, they shall execute a signed written letter to that effect and provide copy of the same to the other.

XIII. Contractor and Hold Harmless Agreement

It is agreed that Contractor is an independent contractor (not an employee of the District, not a substitute employee of the District, nor a business owned or operated by a district employee) and shall be solely responsible for payment of his/her employees and shall provide the insurance amounts as set out above to protect himself from liability for injuries or damages to his employees and the students he/she serves and shall be further solely responsible for the withholding and/or payment of any taxes or contributions imposed by any federal, state or local governmental entity by the reason of employment. The Contractor agrees to hold the District harmless from any and all liability that the District may incur, including without limitation, damages of every kind and nature, out-of-pocket costs and legal expenses, incurred by reason of the Contractor's negligence or breach of this Agreement.

XIV. Felony Conviction Notice

Texas Education Code 44.034(a), Notification of Criminal History states “a person or business entity that enters into a contract with a school district must give advance notice to the district if the person or an owner operator of the business entity has been convicted of a felony. The notice must include a general description of the conduct resulting in the conviction of a felony.” Subsection (b) states “a school district may terminate a contract with a person or entity if the district determines that the person or business entity failed to give notice as required by Subsection (a) or misrepresented the conduct resulting in the conviction. The district must compensate the person or business entity for services performed before the termination of the contract.” This notice is not required of a publicly-held corporation. If notice is required of the Provider, then such Certification is to be completed at the bottom of this Agreement.

XVI. Governing Law

This Agreement shall be governed by the laws of the State of Texas. Venue for any causes of action shall lie in Travis County, Texas. Provider agrees to abide by all local ordinances and state and federal laws in the provision of its services to the eligible and approved students, including but not limited to, the Americans with Disabilities Act, Section 504 of the 1973 Rehabilitation Act, the Family Educational Rights & Privacy Act and Title IX of the Education Amendments of 1972.

By signing below, the Contractor certifies that he or she is not an employee of the District. This includes individuals that are not: (a) currently working due to the District’s break/holiday for students and employees; (b) a substitute employee for the District; or (c) a business owned or operated by a District employee.

As the requestor for these contracted services, I understand and approve the terms of this contract, and assure that contracted services have not begun before a purchase order has been issued.

Contractor Information:

Business Name or D/B/A _____
Address: _____ City, State, Zip: _____
Telephone () _____ Fascimile () _____
Social Security Number: _____ - _____ - _____ OR Taxpayer ID Number _____ - _____
Email Adress _____

Signature of Contractor _____

I, the undersigned Contractor or agent for the firm named above, certify that the information concerning notification of felony convictions has been reviewed by me and the following information furnished is true to the best of my knowledge. **The Contractor must complete the following information in accordance with state law.**

Please sign only one:

- A. My firm is a publicly-held corporation, therefore, this reporting requirement is not applicable.

Signature of Contractor _____ Date _____

OR

- B. My firm is not owned nor operated by anyone who has been convicted of a felony.

Signature of Contractor: _____ Date: _____

OR

- C. My firm is owned or operated by the following individual(s) who has/have been convicted of a felony.

Name of Felon(s): _____ Date: _____
(attach additional sheet if necessary)

Details of Conviction(s):

(attach additional sheet if necessary)

Signature of Contractor: _____ Date: _____

See Contract Execution Authorization Table for authority to sign contracts and agreements.

Less than \$10,000:

Principal or Department Head

Associate Superintendent or Supervisor (optional if Compliance Officer signs and is not also line 1)

_____ Date _____
Grants Compliance Officer (if grant funds are involved)

Between \$10,000 and \$50,000:

_____ Date _____
Principal or Department Head

_____ Date _____
Associate Superintendent or Supervisor

_____ Date _____
Chief Academic Officer

_____ Date _____
Chief Financial Officer

_____ Date _____
General Counsel

_____ Date _____
Superintendent

Note: Consulting Agreements over \$25,000 require attached *Suspension and Debarment Certification*
Over \$50,000 (requires Board approval)

_____ Date _____
Principal or Department Head

_____ Date _____
Associate Superintendent or Supervisor

_____ Date _____
Chief Academic Officer

_____ Date _____
Chief Financial Officer

_____ Date _____
General Counsel

_____ Date _____
Superintendent

_____ Date _____

Board President

Board Policy CH Regulation, Purchasing and Acquisitions, states that purchases of \$10,000 or more generally require formal bids and advertising. Purchases of this magnitude must be made through the Purchasing Office.

ROUTING

In addition to the above approvals, this Consulting Agreement should be routed in the following order (follows IFAS PR approval routing):

- _____ Grants Accounting (if grant funds are involved), Carruth A370
- _____ Finance, Carruth A370
- _____ Purchasing Office, Carruth A330

SUSPENSION AND DEBARMENT CERTIFICATION

Federal Law (A-102 Common Rule and OMB Circular A-110) prohibits non-federal entities from contracting with or making subawards under covered transactions to parties that are suspended or debarred or whose principals are suspended or debarred. Covered transactions include procurement contracts for goods or services equal to or in excess of \$25,000 and all nonprocurement transactions (e.g., subawards to subrecipients).

Contractors receiving individual awards of \$25,000 or more and all subrecipients must certify that their organization and its principals are not suspended or debarred by a federal agency.

Before an award of \$25,000 or more can be made to your firm, you must certify that your organization and its principals are not suspended or debarred by a federal agency.

I, the undersigned agent for the firm named below, certify that neither this firm nor its principals are suspended or debarred by a federal agency.

VENDOR'S NAME: _____

Signature of Company Official: _____

Date Signed: _____

Printed name of company official signing above: _____