

Professional Services Agreement

This Professional Services Agreement, hereinafter referred to as the "AGREEMENT" is made and entered into as of the 31st day of July, 2023 by and between Oakland Military Institute Preparatory Academy with a physical location of 3877 Lusk St, Oakland, CA 94608, hereinafter referred to as "CLIENT" and El Paseo Children's Center, Inc., a corporation formed under the laws of the State of California, whose physical address is 74-075 El Paseo Drive, Suite A2B, Palm Desert, CA 92260, hereinafter referred to as "AGENCY". AGENCY or CLIENT may sometimes be referred to hereinafter individually as "Party" or be collectively referred to as "Parties".

RECITALS

WHEREAS, AGENCY operates as a Non-Public Agency in the State of California and employs individuals, hereinafter referred to as "PERSONNEL", to provide special education assessments and related services; and

WHEREAS, CLIENT desires to engage AGENCY to provide special educational and related services to its students; and

WHEREAS, AGENCY is agreeable to providing PERSONNEL to provide services on the terms and conditions set forth in this Agreement.

NOW, THEREFORE, the Parties, for the consideration stated herein, mutually agree to enter into this AGREEMENT subject to the following terms and conditions:

- 1.) Services.** AGENCY will, upon request by CLIENT, provide licensed PERSONNEL to provide the special educational and related services listed in "Exhibit A Services Provided", hereinafter referred to as "SERVICES", subject to availability of qualified Personnel.
- 2.) Term.** The term of this AGREEMENT will begin on 4th day of August, 2023, and shall continue until the 30th day of June, 2024. This AGREEMENT shall not automatically renew.
- 3.) Compensation.** AGENCY will provide SERVICES under this AGREEMENT at the rates based on the rate sheet. AGENCY will invoice when testing is completed.

3.1 Invoice Method. AGENCY will submit invoices to CLIENT via one or both of the following method(s):

US Mail: Accounting
Oakland Military Institute
3877 Lusk St
Oakland, CA 94608

Email:

accounting@omiacademy.org

3.2 Payment. All amounts due to AGENCY are due and payable within thirty (30) days from date of invoice.

CLIENT will send all payments to the following address:

El Paseo Children's Center, Inc.
74-075 El Paseo Drive, Suite A2B
Palm Desert, CA 92260

3.3 Late Payment. Invoices not paid within thirty (30) days from issue date will accumulate interest, until paid, at the rate of one and one-half percent (1.5%) per month on the unpaid balance, equating to an annual percentage rate of eighteen percent (18%) or the maximum rate permitted by applicable law, whichever is less.

4.) AGENCY Responsibilities.

4.1 PERSONNEL. AGENCY will supply CLIENT with PERSONNEL who meet the following criteria:

4.1.1 Possess current state license/registration and/or certification, as applicable and appropriate for the SERVICES provided to students of CLIENT.

4.1.2 Meet AGENCY and CLIENT conditions of employment regarding health clearance (to include proof of pre-employment TB skin testing), provision of professional references, background checks, and any other applicable hiring criteria, documentation of which will be kept in the AGENCY employee file.

4.2 Fingerprinting / Criminal Background Check. The fingerprinting and criminal background investigation requirements of Education Code section 45125.1 apply to AGENCY's SERVICES under this AGREEMENT and AGENCY certifies its compliance with these provisions as follows: "AGENCY certifies that the AGENCY has complied with the fingerprinting and criminal background investigation requirements of Education Code section 45125.1 with respect to all AGENCY's PERSONNEL who may have contact with CLIENT's students in the course of providing SERVICES pursuant to the AGREEMENT, and the California Department of Justice has determined that none of the PERSONNEL has been convicted of a felony, as that term is defined in Education Code section 45122.1."

4.3 Insurance. AGENCY will maintain (at its sole expense) a valid policy of insurance evidencing general and professional liability coverage of not less than \$1,000,000 per occurrence and \$3,000,000 in aggregate covering sole negligent acts or omissions which may give rise to liability for SERVICES under this Agreement. AGENCY shall maintain worker's compensation coverage of not less than \$1,000,000 per occurrence. AGENCY will provide a certificate of insurance evidencing such coverage upon request by CLIENT.

4.4 Wages, Taxes, and Employee Benefits. AGENCY acknowledges that as being an independent contractor that it agrees that it is the sole responsibility of AGENCY for payment of all wages, of all applicable federal, state and local taxes or contributions, including unemployment insurance, social security, worker's compensation and related costs related to employing PERSONNEL.

5.) CLIENT Responsibilities.

5.1 Non-performance. If CLIENT concludes, in its sole discretion, that any PERSONNEL provided by AGENCY have engaged in misconduct, or have been negligent, CLIENT may require the PERSONNEL to leave the premises and will notify AGENCY immediately in writing, providing in reasonable detail the reason(s) for such dismissal, and may provide AGENCY with a right to cure such situation, in AGENCY's sole discretion. CLIENT's obligation to compensate AGENCY for such individual's services will be limited to the amount of SERVICES provided. AGENCY will not reassign the individual to CLIENT without prior approval of the CLIENT. If AGENCY requests feedback, CLIENT shall provide feedback in a timely manner.

5.2 Compliance with Regulatory Standards. In all instances where PERSONNEL are supervised by CLIENT, CLIENT shall be required to document and develop an incident report of any injury, illness, or ailment experienced by PERSONNEL at the CLIENT workplace in accordance with applicable federal, state and local laws, rules and regulations.

5.3 Insurance. CLIENT will maintain at its sole expense a valid policy of insurance evidencing general and professional liability coverage of not less than \$1,000,000 per occurrence and \$3,000,000 in aggregate covering acts or omissions which may give rise to liability in connection with SERVICES under this AGREEMENT. CLIENT will give AGENCY prompt written notice of any material change in CLIENT coverage. CLIENT will provide evidence of such insurance to AGENCY upon AGENCY'S request.

5.4 Non-Solicitation / Conversion Fee. AGENCY agrees to not directly or indirectly, personally or through an agent or agency, solicit, hire or contract with or employ any of AGENCY's PERSONNEL while evaluating, considering, interviewing of such PERSONNEL prior to providing SERVICES or while providing SERVICES during the TERM of the AGREEMENT. An exception to this prohibition may be agreed to only in writing by the Parties. If CLIENT enters into an employer-employee relationship with PERSONNEL or refers PERSONNEL to a third party for employment before the end of the TERM, CLIENT agrees to pay AGENCY a Conversion Fee in the amount equal to 25% of the annual salary, which is calculated by the number of instructional days multiplied by the number of hours per day PERSONNEL works multiplied by the hourly billable rate indicated on "Exhibit A - Services Provided Schedule" Conversion Fee must be paid to AGENCY within 30 days of CLIENT hiring AGENCY's PERSONNEL.

5.5 Right to Dismiss. CLIENT may request the dismissal of any PERSONNEL for any reason; provided, however, that AGENCY shall have the right to cure such dismissal, in AGENCY'S sole discretion. CLIENT agrees to notify AGENCY of any such action immediately in writing, providing in reasonable detail the reason(s) for such dismissal. CLIENT shall be obligated to compensate AGENCY for such individual's services limited to the number of hours actually worked.

- 6.) Independent Contractor.** AGENCY and CLIENT are independent legal entities. Nothing contained in this AGREEMENT will be construed to create the relationship of employer and employee, or principal and agent, or any relationship other than that of independent parties contracting with each other solely for the purpose of carrying out the terms of this AGREEMENT. Neither AGENCY nor CLIENT nor any of their respective agents or employees shall control or have any right to control the activities of the other party in carrying out the terms of this AGREEMENT.
- 7.) Confidential Information.** Both Parties may receive information that is proprietary to or confidential to the other Party or its affiliated companies and their clients. Both Parties agree to hold such information in strict confidence and not to disclose such information to third Parties or to use such information for any purpose whatsoever other than performing under this AGREEMENT or as required by law. No knowledge, possession, or use of CLIENT's confidential information will be imputed to AGENCY as a result of PERSONNEL's access to such information.
- 8.) Availability of Personnel.** The Parties agree that AGENCY's duty to supply Personnel on request of CLIENT is subject to the availability of qualified PERSONNEL. The failure of AGENCY to provide PERSONNEL or the failure of CLIENT to request PERSONNEL results in no penalty to CLIENT or any Party claiming by or through it and shall not constitute a breach of this AGREEMENT.
- 9.) Non-discrimination.** Neither AGENCY nor CLIENT will discriminate on the basis of age, race, color, national origin, religion, sex, disability, being a qualified disabled veteran, being a qualified veteran of the Vietnam era, or any other category protected by law.
- 10.) Limitation of Liability.** Neither AGENCY nor CLIENT will be responsible for special, indirect, incidental, consequential, or other similar damages, including but not limited to lost profits, that the other Party may incur or experience in connection with this AGREEMENT or the SERVICES provided, however caused, even if such Party has been advised of the possibility of such damages. In no event shall AGENCY be liable to CLIENT in an amount that exceeds the fees paid to AGENCY by CLIENT pursuant to the terms of this AGREEMENT.

11.) Indemnification. AGENCY agrees to indemnify and hold harmless CLIENT, its directors, officers, employees, and agents from and against any and all claims, actions, or liabilities which may be asserted against them by third Parties in connection with the sole gross negligent performance of AGENCY, its directors, officers, employees, or agents under this AGREEMENT only.

CLIENT agrees to indemnify and hold harmless AGENCY, its directors, officers, shareholders, employees, and agents from and against any and all losses, damages, claims, actions, or liabilities, and expenses connected therewith (including reasonable attorney's fees) which may be asserted against them by third Parties arising out of any act or inaction of CLIENT, its directors, officers, employees, or agents under this AGREEMENT.

12.) Confidentiality. The Parties agree to keep the terms and conditions of this AGREEMENT, and any information exchanged or obtained hereunder is strictly confidential, and not to disclose such information and materials to any third Party, except pursuant to a court order or applicable law, rule or regulation.

12.1 HIPAA Compliance. In instances where AGENCY receives Protected Health Information, herein referred to as "PHI" in connection with the Services provided to CLIENT, AGENCY and CLIENT agree that they shall each:

12.1.1 Comply with the applicable provisions of the Administrative simplification section of the Health Insurance Portability and Accountability Act of 1986, as codified at 42 U.S.C. §1320d through d-8, hereinafter referred to as "HIPAA".

12.1.2 Adhere to all requirements of any regulation promulgated thereunder.

12.1.3 Not use or further disclose any PHI concerning a patient other than as permitted by this AGREEMENT, the requirements of HIPAA and/or applicable- federal regulations. AGENCY shall implement appropriate safeguards to prevent the use or disclosure of a patient's PHI other than provided for by this AGREEMENT.

12.1.4 Promptly report any violations, use and/or disclosure of a client/patient's PHI not provided for by this AGREEMENT as soon as practicable, upon becoming aware of the improper violation(s), use and/or disclosure.

12.2 Breach of Confidentiality. In the event that either Party is in breach of any provision(s) of this Article of the AGREEMENT, it shall immediately advise the opposite Party and take steps to remedy such breach, including, but not limited to protecting against the consequences of any disclosure or use of PHI in violation of this AGREEMENT. Both Parties acknowledge that use or disclosure of the PHI, in any manner inconsistent with this AGREEMENT, may result in irreparable and continuing damage and that the Party damaged by the disclosure shall have the right to seek legal and equitable relief, including injunctive relief, without the necessity of posting bond or other security necessary to protect against any such breach or threatened breach, including, without limitation, injunctive relief.

13.) Compliance with Laws. AGENCY and CLIENT agree that all SERVICES provided pursuant to this AGREEMENT shall be performed in compliance with all applicable federal, state, or local rules and regulations.

14.) No Agency Created. AGENCY agrees and understands that no authority exists pursuant to this AGREEMENT for AGENCY to enter into any third Party contract, assume any obligation, or to make any representation to third Parties on behalf of, or which may bind CLIENT.

15.) No Rights in Third Parties. This AGREEMENT does not create any rights in, or inure to the benefit of, any third Party except as expressly provided herein.

- 16.) Authority to Bind Parties.** Neither Party in the performance of any and all duties under this AGREEMENT, except as otherwise provided in this AGREEMENT, has any authority to enter into any third Party contract, assume any obligation, bind the other Party to any agreements or undertakings, or make any representation to third Parties on behalf of, or which may bind the other Party.
- 17.) Assignment.** Neither Party may assign, transfer, convey any of [his or her] rights, interest, nor delegate the performance of any of [his or her] duties under this AGREEMENT without the prior written consent of the other Party.
- 18.) No Unauthorized Use of Names.** Neither Party will use the other's name in any advertisement, promotion, business card, etc. without the other Party's prior written consent.
- 19.) Non-Waiver.** The failure of the CLIENT to seek redress for violation of, in any one or more instances to insist upon strict performance of any of term or condition of this AGREEMENT or to exercise any option herein conferred shall not be deemed or construed as a waiver or relinquishment of such term or condition, or prevent a subsequent similar act from constituting a violation of such term or condition. The waiver by either Party of any breach of any term, covenant, or condition herein contained shall not be deemed to be a waiver of such term, covenant, condition, or any subsequent breach of the same or any other term, covenant, or condition herein contained.
- 20.) Severability.** In the event that one more of the terms, conditions or provisions of this AGREEMENT is held, in whole or in part, by a court of competent jurisdiction to be invalid, void, or unenforceable, then only that provision will be omitted and the remaining provisions will nevertheless continue in full force and effect, and shall not be affected, impaired or invalidated in any way.
- 21.) Survival.** All provisions that logically ought to survive termination of this AGREEMENT shall survive.
- 22.) Governing Law.** The rights, duties, and obligations of the Parties, along with the terms and conditions of this AGREEMENT shall be governed by the laws of the State of California. The Parties further agree that any action or proceeding brought to enforce the terms and conditions of this AGREEMENT shall have venue in Riverside County, California.
- 23.) Conflicts.** The terms of this AGREEMENT shall control over any conflicting terms in any referenced agreement or document.
- 24.) Provision of Law Clause.** Each and every provision of law clause required by law to be inserted in the AGREEMENT shall be deemed to be inserted herein and the AGREEMENT shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not currently inserted, then upon application of either Party the AGREEMENT shall forthwith be physically amended to makes such insertion or correction.
- 25.) Cumulative Rights.** Any specific right or remedy provided in this AGREEMENT will not be exclusive but will be cumulative of all other rights and remedies.
- 26.) Attorney's Fees, Expenses, Costs.** If either Party hereto becomes involved in litigation arising out of this AGREEMENT or the performance thereof, the court in such litigation, or in a separate suit, shall award reasonable costs and expenses, including attorney fees, the court will not be bound by any court fee schedule, but shall, if it is in the interest of justice to do so, award the full amount of the costs, expenses, and attorney fees paid or incurred in good faith.

27.) Force Majeure. Neither Party shall be held responsible or liable for any delay or failure of performance of any part of this AGREEMENT to the extent such delay or failure is caused by or result of Acts of Nature (including fire, flood, earthquake, storm, or other natural disaster), explosion, war, invasion, act of foreign enemies, hostilities (whether war is declared or not), terrorist activities, civil war, rebellion, revolution, insurrection, military or usurped power or confiscation, embargo, government sanction, riot, labor dispute, strike, lockout, interruption or failure of electricity, or other similar causes beyond its control and without the fault or negligence of the delayed or nonperforming Party. The affected Party will notify the other Party in writing within ten (10) days after the beginning of any such cause that would affect its performance. Notwithstanding, if a Party's performance is delayed for a period exceeding thirty (30) days from the date the other Party receives notice under this paragraph, the non-affected Party will have the right, without any liability to the other Party, to terminate this AGREEMENT.

28.) Notices. Any and all notices, demands, or other communications required or desired to be given hereunder by any Party shall be in writing and shall be validly given or made to the other Party if personally served, or if deposited in the United States mail, certified or registered, postage prepaid, return receipt requested. If such notice or demand is served personally, notice shall be deemed constructively made at the time of such personal service. If such notice, demand or other communication is given by mail, such notice shall be conclusively deemed given three (3) business days after deposit thereof in the United States mail addressed to the Party to whom such notice, demand or other communication is to be given as follows:

If to Client: Oakland Military institute College Preparatory Academy
 3877 Lusk St.
 Oakland, CA 94608

If to Agency: Attn: Brent Cooper
 El Paseo Children's Center, Inc.
 74-075 El Paseo Drive, Suite A2B
 Palm Desert, CA 92260

Either Party may change the address to which notices are sent by sending written notice of such change of address to the other Party.

29.) Calculation of Time. For the purposes of this AGREEMENT, "days" refers to calendar days and "business days" refers to exclusively to weekdays excluding federal, state or local holidays observed by CLIENT.

30.) Termination. Either Party may revoke and otherwise terminate this AGREEMENT according to the specific terms and/or conditions listed below. Either Party must notify the other Party in writing of their intention to take such action. Any such writing shall be sent to the other Party by United States mail, certified or registered, postage prepaid, return receipt requested.

30.1 Without Cause. Either Party may, upon thirty (30) days' notice, with or without reason, terminate this AGREEMENT. Upon this termination, CLIENT shall only be obligated to compensate AGENCY for SERVICES satisfactorily rendered by PERSONNEL to the date of termination. Written notice by either Party according to specifics of Paragraph 28 "Notices" shall be sufficient to stop further performance of SERVICES by AGENCY's PERSONNEL.

30.2 With Cause. Either Party may terminate this AGREEMENT upon giving notice of intention to terminate for cause. Written notice shall contain the reason for such intention to terminate and unless within three (3) business days after service of such notice the condition or violation has ceased, or satisfactory arrangements for the correction thereof be made, this AGREEMENT shall upon the expiration of the three (3) business days cease and terminate and CLIENT shall compensate AGENCY only for SERVICES satisfactorily rendered to the date of termination. Written notice by either Party according to specifics of Paragraph 28 "Notices" shall be sufficient to stop further performance of SERVICES by AGENCY's PERSONNEL. Cause shall include:

30.2.1 Material violation of this AGREEMENT by either Party; or

30.2.2 Any act by either Party exposing the other Party to liability to others for personal injury or property damage; or

30.2.3 Either Party ceases conducting business in the normal course, becomes insolvent, makes a general assignment for the benefit of creditors, suffers or permits the appointment of a receiver for its business or assets or shall avail itself of, or become subject to, any proceedings under the Federal Bankruptcy Act or any other statute of any state relating to insolvency or the protection of rights of creditors, then at the option of AGENCY this AGREEMENT shall terminate and be of no further force and effect.

30.3 Immediate Termination. Either Party may terminate this AGREEMENT immediately without prior notice, and upon this termination, CLIENT shall only be obligated to compensate AGENCY for SERVICES satisfactorily rendered by PERSONNEL to the date of termination, if AGENCY or its PERSONNEL or CLIENT or its employees commits an act of fraud, dishonesty, or any other act of negligent, reckless or willful misconduct that causes harm, financial loss, or other illegal acts that negatively affects the other Party.

31.) Headings, Captions and Interpretations. Paragraph or Section headings in this AGREEMENT are used solely for convenience, and shall not to be considered a part of this AGREEMENT and are not intended to be a full and accurate description of the contents hereof. No provision of this AGREEMENT shall be interpreted for or against a Party because that Party or its legal representative drafted such provisions, and this AGREEMENT shall be construed as if jointly prepared by the Parties.

32.) Incorporation of Recitals and Exhibits. The Recitals and each Exhibit attached hereto are hereby incorporated herein by reference.

33.) Entire Agreement, Counterparts and Amendments. This AGREEMENT and any exhibits attached hereto sets forth and constitutes the entire AGREEMENT and understanding among the Parties with respect to the subject matter hereof. This AGREEMENT may be executed in any number of counterparts, each of which will be deemed to be the original, but all of which shall constitute one and the same document. This AGREEMENT supersedes any and all prior or contemporaneous understandings, negotiations, correspondence, undertakings, promises, covenants, arrangements, communications, representations and agreements, whether oral or written, with respect to the Services contemplated, and may be amended or modified only by a written instrument executed by both Parties to the AGREEMENT.

34.) Signature and Acceptance.

34.1 Signature Authority. Each Party has the full power and authority to enter into and perform this AGREEMENT, and the person signing this AGREEMENT on behalf of each Party has been properly authorized and empowered to enter this AGREEMENT.

34.2 ACCEPTANCE OF AGREEMENT. YOU ACKNOWLEDGE THAT YOU HAVE READ THIS AGREEMENT AND AGREE TO ALL ITS TERMS AND CONDITIONS. YOU HAVE INDEPENDENTLY EVALUATED THE DESIRABILITY OF THE SERVICE AND ARE NOT RELYING ON ANY REPRESENTATION AGREEMENT, GUARANTEE OR STATEMENT OTHER THAN AS SET FORTH IN THIS AGREEMENT.

The Parties hereto have executed this AGREEMENT by and through their duly authorized representatives on the dates indicated below.

Oakland Military Institute Preparatory Academy

(CLIENT)

(Authorized CLIENT Representative's Name)

(CLIENT's Representative's Signature)

(Title)

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Phone Number

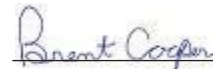
(Date Signed)

El Paseo Children's Center Inc.

(AGENCY)

Brent Cooper

(Name of Authorized Representative for AGENCY)



(AGENCY's Representative's Signature)

CEO

(Title)

(760) 342-4900

Phone Number

July 31, 2023

(Date Signed)