

VENDOR: South County Cal-SOAP

TAX I.D. NUMBER: 77-0123255

1. TERM

This Agreement is effective on July 1, 2019 and terminates on June 30, 2020 or upon completion of services, whichever occurs first.

VENDOR shall not undertake any work under this Agreement until this Agreement is reviewed and approved by the DISTRICT's Board of Education, and VENDOR is in receipt of a signed Agreement.

2. TERMINATION

2.1 Without cause by DISTRICT. DISTRICT may, at any time, with or without reason, terminate this Agreement and compensate VENDOR only for services satisfactorily rendered to the date of termination. Written notice by DISTRICT shall be sufficient to stop further performance of services by VENDOR. Notice shall be deemed given when received by the VENDOR no later than three (3) days after the day of mailing, whichever is sooner.

2.2 Without cause by VENDOR. VENDOR may, upon thirty (30) day notice, with or without reason, terminate this Agreement. Upon this termination, DISTRICT shall only be obligated to compensate VENDOR for services satisfactorily rendered to the date of termination. Written notice by VENDOR shall be sufficient to stop further performance of services to DISTRICT. VENDOR acknowledges that this thirty (30) day notice period is acceptable so that the DISTRICT can attempt to procure the services from another source.

2.3 With cause by DISTRICT. DISTRICT may terminate this Agreement upon giving of written notice of intention to terminate for cause. Cause shall include:

2.3.1. Material violation of this Agreement by the VENDOR; or

2.3.2. Any act by VENDOR exposing the DISTRICT to liability to others for personal injury or property damage; or

2.3.3. VENDOR is adjudged bankrupt, VENDOR makes a general assignment for the benefit of creditors or a receiver is appointed on account of VENDOR'S insolvency.

Written notice by DISTRICT shall contain the reasons for such intention to terminate and unless within three (3) calendar days after that notice the condition or violation shall cease, or satisfactory arrangements for the correction thereof be made, this Agreement shall upon the expiration of the three (3) calendar days cease and terminate. In the event of this termination, the DISTRICT may secure the required services from another VENDOR. If the expense, fees, and/or costs to the DISTRICT exceed the cost of providing the services pursuant to this Agreement, the VENDOR shall immediately pay the excess expense, fees, and/or costs to the DISTRICT upon the receipt of the DISTRICT'S notice of these expenses, fees, and/or costs. The foregoing provisions are in addition to and not a limitation of any other rights or remedies available.

3. SUBCONTRACT OR ASSIGNMENT

Neither party shall assign, delegate or subcontract any part of this Agreement without the written consent of the other party.

4. INTERPRETATION

In the event of any conflict or inconsistency between VENDOR'S agreement or documents and this MORGAN HILL UNIFIED SCHOOL DISTRICT SERVICES AGREEMENT, the MORGAN HILL UNIFIED SCHOOL DISTRICT SERVICES AGREEMENT shall prevail and supersede all other agreements or contract language.

5. INDEPENDENT CONTRACTOR STATUS

In the performance of the services to be provided, VENDOR is an independent contractor with the authority to control and direct the performance of the details of the work, and this Agreement shall not be construed to create the relationship of agent, employee, partnership, joint venture, or association. VENDOR understands and agrees that it and all of its employees are not employees of the DISTRICT and are not entitled to benefits to which DISTRICT employees are normally entitled, including, but not limited to, State Unemployment Compensation, Workers' Compensation, vacation or sick pay.

6. TAX REPORTING / PAYMENT

VENDOR shall assume full responsibility for payment of all federal, state, and local taxes or contributions, including, but not limited to, Unemployment Insurance, Social Security and Income Taxes with respect to VENDOR'S employees. Pursuant to IRS regulations, the DISTRICT shall provide VENDOR in IRS identified tax classification with an annual statement of compensation on the appropriate federal forms (currently IRS Form 1099 Misc.).

7. REGULATIONS

VENDOR shall comply with all federal, state, and local laws, ordinances, regulations, permit requirements, and Board of Education's policies and regulations in performance of this Agreement, including as set forth herein at Paragraph 8.

8. FINGERPRINTING AND CRIMINAL RECORDS CHECK

The Fingerprinting/Criminal Background Investigation Certification must be completed and attached to this Agreement prior to the VENDOR performing any of the services as listed in Item 12 of this Agreement. DISTRICT retains authority to remove any VENDOR employee from DISTRICT site upon the determination that he/she has not complied with this fingerprinting and background check requirement, or has been convicted of a violent or serious felony, as defined in Education Code §45122.1. VENDOR must notify the DISTRICT and remove any employee immediately should the VENDOR learn that an employee working on a DISTRICT site has been convicted of a serious or violent felony, or sex offense. Failure to provide notice as required above may result in cancellation of this Agreement by DISTRICT and further legal action by the DISTRICT where applicable.

9. GOVERNING LAW

This Agreement shall be governed under the laws of the State of California. VENDOR hereby consents to the jurisdiction of the state or federal courts of Santa Clara County, California.

10. MISCELLANEOUS

This Agreement contains the entire agreement between DISTRICT and VENDOR and supersedes any and all prior discussions, understandings, and negotiations, whether oral or in writing. This Agreement may not be modified or amended unless in writing and signed by both parties.

11. INSURANCE AND INDEMNIFICATION

VENDOR agrees to defend, indemnify, and hold harmless the DISTRICT, its Board of Education, officers, employees and agents, individually and collectively, from and against all costs, losses, claims, demands, suits, actions, payments, liabilities and judgments, including attorneys fees, arising from personal or bodily injuries, property damage or otherwise, regardless of and however caused that may arise for any reason from VENDOR'S performance of this Agreement.

VENDOR must keep in full force and effect a policy or policies of Workers' Compensation Insurance in the amount or amounts required by applicable law.

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During the term of this Agreement, VENDOR shall procure and maintain general liability, automobile liability, and professional liability (errors and omissions) from a California licensed insurer acceptable to DISTRICT with per-occurrence limits of \$1 Million unless otherwise specified by the DISTRICT. VENDOR shall provide DISTRICT with a Certificate(s) of Insurance evidencing such coverage. High risk activities may require additional coverage as determined by the DISTRICT. Certificate Holder is Morgan Hill Unified School District. VENDOR shall also provide an Additional Insured Endorsement, naming Morgan Hill Unified School District as Additional Insured. Such insurance coverage shall be primary insurance and any insurance or self-insurance maintained by the DISTRICT shall be non-contributory. These certificates shall contain a provision that coverage afforded under the policy will not be cancelled or allowed to expire until at least thirty (30) days prior written notice has been delivered to the DISTRICT.

12. DESCRIPTION OF SERVICES (SCOPE OF WORK)

VENDOR shall supply all required payment and performance bonds and shall pay employees applicable prevailing wages in accordance with state and federal law where required. VENDOR shall furnish, at its own expense, all labor, materials, equipment and other items necessary to carry out the terms of this Agreement. VENDOR shall provide the following services to DISTRICT:

Counseling, tutoring, and college-going activities as described in Form A.

(Additional pages may be added and shall be marked Exhibit "A" and are incorporated herein by this reference).

13. COMPENSATION AND EXPENSES

DISTRICT agrees to pay the VENDOR for services satisfactorily rendered pursuant to this Agreement at the rate of \$ _____ per flat rate for a total fee not to exceed \$ 134,165.00. District shall pay VENDOR according to the following terms and conditions:

- 13.1. Payment shall be made for all undisputed amounts in installment payments within thirty (30) days after the VENDOR submits an invoice to the DISTRICT. VENDOR will only be paid after the MHUSD Board of Education has approved/ratified this Agreement.
- 13.2. VENDOR invoices will be subject to verification that services have been rendered and subject to written approval by Heather Nursement, Director Supplemental Programs.
- 13.3. DISTRICT shall not be liable to VENDOR for any costs or expenses paid or incurred by VENDOR in performing services for DISTRICT including but not limited to travel, professional development related expenses, duplication, etc.
- 13.4. VENDOR shall not increase prices during the term of this Agreement.
- 13.5. All invoices must be submitted within 30 days of rendering services. DISTRICT reserves the right to reject invoices submitted for payment more than 30 days after services are performed.

14. OWNERSHIP OF WORK PRODUCT

VENDOR agrees all work prepared or produced during the course of this Agreement and arising from the

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services rendered (see Paragraph 12) shall be owned by and assigned to DISTRICT as its sole and exclusive property.

15. AUDIT

VENDOR shall establish and maintain books, records, and systems of account, in accordance with generally accepted accounting principles, reflecting all business operations of VENDOR transacted under this Agreement. VENDOR shall retain these books, records, and systems of account during the Term of this Agreement and for five (5) years thereafter. VENDOR shall permit the DISTRICT, its agent, other representatives, or an independent auditor to audit, examine, and make excerpts, copies, and transcripts from all books and records, and to make audit(s) of all billing statements, invoices, records, and other data related to the services covered by this Agreement. Audit(s) may be performed at any time, provided that the DISTRICT shall give reasonable prior notice to VENDOR and shall conduct audit(s) during VENDOR'S normal business hours, unless VENDOR otherwise consents.

16. CERTIFICATES / PERMITS / LICENSES

VENDOR and all VENDOR'S employees or agents shall secure and maintain in force such certificates, permits and licenses as are required by law in connection with the furnishing of services pursuant to this agreement.

17. CONFIDENTIALITY

VENDOR and all VENDOR'S agents, personnel, employee(s), and/or subcontractor(s) shall maintain the confidentiality of all information received in the course of performing the services. This requirement to maintain confidentiality shall extend beyond the termination of this Agreement.

18. NOTICE

Any notice required or permitted to be given under this Agreement shall be deemed to have been given, served, and received if given in writing and either personally delivered or deposited in the United States mail, registered or certified mail, postage prepaid, return receipt required, or sent by overnight delivery service, or facsimile transmission, addressed as follows:

<p><u>DISTRICT</u> Morgan Hill Unified School District 15600 Concord Circle Morgan Hill, CA 95037</p> <p>ATTN: _____</p>	<p><u>VENDOR</u> <u>South County Cal-SOAP</u> <u>750 W. 10th Street</u> <u>Gilroy, CA 95020</u></p> <p>ATTN: <u>Erin Gemar</u></p>
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19. ATTORNEY FEES / COSTS

Should litigation be necessary to enforce any terms or provisions of this Agreement, then each party shall bear its own litigation and collection expenses, witness fees, court costs and attorney's fees.

20. COMPLETION

The work completed herein must meet the approval of the DISTRICT and shall be subject to the DISTRICT'S general right of inspection and supervision, in a manner consistent with VENDOR'S status as an independent contractor, to secure the satisfactory completion thereof. Work must be completed in good workmanship like manner and in accordance with the generally accepted standard of care in the industry.

21. SEVERABILITY

If any provision of this Agreement shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining portions hereof shall not in any way be affected or

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impaired thereby, except where enforcement is inconsistent with the parties' intent.

22. RELEASE, DISCHARGE OR WAIVER

No release, discharge or waiver of any provision hereof shall be enforceable against or binding upon either party hereto unless in writing and executed by both parties hereto. Neither the failure to insist upon strict performance of any of the agreements, terms, covenants or conditions hereof, nor the acceptance of monies due hereunder with knowledge of a breach of this Agreement, shall be deemed a waiver of any rights or remedies that either party hereto may have or a waiver of any subsequent breach or default in any of such agreements, terms, covenants or conditions.

23. EXECUTION IN COUNTERPARTS

This Agreement may be executed in several counterparts each of which shall be an original and all of which shall constitute but one and the same agreement.

Any party signing this Agreement on behalf of the VENDOR hereby represents that he/she is duly authorized by the VENDOR to execute this Agreement and that the VENDOR has agreed to be bound by the provisions hereof.

South County Cal-SOAP ("VENDOR")

Signature: *Erin Gemar*

Name: Erin Gemar

Title: Project Director

Date: *June 24, 2019*

MORGAN HILL UNIFIED SCHOOL DISTRICT ("DISTRICT")

Signature: _____

Date: _____

Name: Kirsten Perez

Title: Assistant Superintendent, Business Services

Date of Board Approval _____

Notwithstanding the effective date of this Agreement set forth in Paragraph 1, this Agreement shall not be considered accepted, approved or otherwise effective until 1) Board approval and 2) the required approvals and certifications have been implemented, provided by, or submitted to the DISTRICT, as appropriate.

Form A	MOU with Morgan Hill - \$134,165	hrs/wk	Total weeks	Cost to MHUSD	NOTES
1	32 hrs/wk advising at LOHS	32	35	\$34,000.00	Credentialed hourly counselors @ LOHS
2	28 hrs/wk advising at Ann Sobrato HS	28	35	\$30,000.00	Credentialed hourly counselor @ ASHS
3	18 hrs/wk advising at Central HS	18	35	\$18,000.00	Hourly counselor or advisor @ Central HS
4	12 hrs/wk tutoring at 2 high schools	12	32	\$3,264.00	After school tutoring
6	Cal-SOAP Parent Workshops at 3 H.S. (1/month)	0	0	\$0.00	Included in Advising/Counseling hours & Administrative Costs
7	IGTC for all 5TH GRADERS	0	567 5th graders	\$21,665.00	19-20 there are approx 567 5th graders. The estimated cost per student is \$38.21 and includes: t-shirt, activity book, in-class lesson, bus, food, chaperones.
8	CMIH for all 8th graders in MHUSD	31	n/a	\$0.00	Over 600 8th graders present for a 1-hour presentation. A total of 4 different presenters for the 4 schools.
9	College Fairs (LOHS & GHS)	0	n/a	\$0.00	Included in Administrative Costs
10	Cal-SOAP Main Office @ LOHS	0	38	\$14,736.00	Additional Cal-SOAP staff to cover the CCC @ LOHS = Cal-SOAP Main Office; supervision during and after school hours; meetings with principal; classroom presentations, SAT Prep on site, Recruitment & Coordination for all programs, workshops, and evening events.
11	Professional development & training for all Cal-SOAP staff & site reps	0	0	\$0.00	Included in Administrative Costs
12	Sustainability Fees			\$12,500.00	\$500 for Elementary/MS; \$500 for K-8/\$2500 per high school
TOTALS				\$134,165.00	