## SAN RAFAEL CITY SCHOOL DISTRICT

## INDEPENDENT CONTRACTOR AGREEMENT FOR SPECIAL SERVICES

This Independent Contractor Agreement for Special Services ("Agreement") is made as of the 12th day of October 2015, between the San Rafael City School District ("District") and Huckleberry Youth Programs ("Contractor") (together, "Parties").

WHEREAS, the District is authorized by Section 53060 of the California Government Code to contract with and employ any persons for the furnishing of special services and advice in financial, economic, accounting, engineering, legal or administrative matters, if such persons are specially trained and experienced and competent to perform the special services required; and

WHEREAS, the District is in need of such special services and advice; and

WHEREAS, the Contractor is specially trained and experienced and competent to perform the special services required by the District, and such services are needed on a limited basis;

NOW, THEREFORE, the Parties agree as follows:

1. **Services.** The Contractor shall provide the services as described in **Exhibit "A,"** attached hereto and incorporated herein by this reference ("Services" or "Work"):

2. **Term.** Contractor shall commence providing services under this Agreement on October 12, 2015, and will diligently perform as required and complete performance by June 30, 2016.

3. **Submittal of Documents.** The Contractor shall not commence the Work under this Contract until the Contractor has submitted and the District has approved the certificate(s) and affidavit(s), and the endorsement(s) of insurance required as indicated below:

| | |
|---|---|
| X | Signed Agreement |
| X | Workers' Compensation Certificate |
| X | Criminal Background Investigation Certification |
| X | Insurance Certificates and Endorsements |
| _____ | W-9 Form |
| _____ | _____ |
| _____ | _____ |

4. **Compensation.** District agrees to pay the Contractor for services satisfactorily rendered pursuant to this Agreement a total fee not to exceed Seven Thousand Five Hundred Dollars ($7,500.00). District shall pay Contractor according to the following terms and conditions:

   4.1. Payment for the Work shall be made for all undisputed amounts in installment payments within thirty (30) days after the Contractor submits an invoice to the District for Work actually completed and after the District's written approval of the Work, or

the portion of the Work for which payment is to be made.

5. **Expenses**. District shall not be liable to Contractor for any costs or expenses paid or incurred by Contractor in performing services for District, except as follows:

6. **Independent Contractor**. Contractor, in the performance of this Agreement, shall be and act as an independent contractor. Contractor understands and agrees that he/she and all of his/her employees shall not be considered officers, employees, agents, partner, or joint venture of the District, and are not entitled to benefits of any kind or nature normally provided employees of the District and/or to which District's employees are normally entitled, including, but not limited to, State Unemployment Compensation or Worker's Compensation. Contractor shall assume full responsibility for payment of all federal, state and local taxes or contributions, including unemployment insurance, social security and income taxes with respect to Contractor's employees.

7. **Materials**. Contractor shall furnish, at his/her own expense, all labor, materials, equipment, supplies and other items necessary to complete the services to be provided pursuant to this Agreement, except as follows:

8. **Standard of Care**. Contractor's services will be performed, findings obtained, reports and recommendations prepared in accordance with generally and currently accepted principles and practices of his/her profession for services to California public school districts.

9. **Originality of Services**. Contractor agrees that all technologies, formulae, procedures, processes, methods, writings, ideas, dialogue, compositions, recordings, teleplays and video productions prepared for, written for, or submitted to the District and/or used in connection with this Agreement, shall be wholly original to Contractor and shall not be copied in whole or in part from any other source, except that submitted to Contractor by District as a basis for such services.

10. **Copyright/Trademark/Patent**. Contractor understands and agrees that all matters produced under this Agreement shall become the property of District and cannot be used without District's express written permission. District shall have all right, title and interest in said matters, including the right to secure and maintain the copyright, trademark and/or patent of said matter in the name of the District. Contractor consents to use of Contractor's name in conjunction with the sale, use, performance and distribution of the matters, for any purpose and in any medium.

11. **Audit**. Contractor shall establish and maintain books, records, and systems of account, in accordance with generally accepted accounting principles, reflecting all business operations of Contractor transacted under this Agreement. Contractor shall retain these books, records, and systems of account during the Term of this Agreement and for three (3) years thereafter. Contractor 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 Contractor and shall conduct audit(s) during Contractor's normal business hours, unless Contractor otherwise consents.

12. **Termination.**

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

12.2. **With Cause by Contractor.** Contractor may, upon sixty (60) days notice, with or without reason, terminate this Agreement. Upon this termination, District shall only be obligated to compensate Contractor for services satisfactorily rendered to the date of termination. Written notice by Contractor shall be sufficient to stop further performance of services to District. Contractor acknowledges that this sixty (60) day notice period is acceptable so that the District can attempt to procure the Services from another source.

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

12.3.1. material violation of this Agreement by the Contractor; or

12.3.2. any act by Contractor exposing the District to liability to others for personal injury or property damage; or

12.3.3. Contractor is adjudged a bankrupt, Contractor makes a general assignment for the benefit of creditors or a receiver is appointed on account of Contractor'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 Contractor. If the expense, fees, and/or costs to the District exceed(s) the cost of providing the service pursuant to this Agreement, the Contractor shall immediately pay the excess expense, fees, and/or costs to the District upon the receipt of the District's notice of these expense, fees, and/or costs. The foregoing provisions are in addition to and not a limitation of any other rights or remedies available to District.

12.4. At the time of any termination of the contract, all District employee data shall be returned to the District and all District employee information shall be purged from the

contractor's system and records.

13. **Indemnification.** To the furthest extent permitted by California law, Contractor shall, at its sole expense, defend, indemnify, and hold harmless the District, the State of California, and their agents, representatives, officers, consultants, employees, trustees, and volunteers (the "indemnified parties") from any and all demands, losses, liabilities, claims, suits, and actions (the "claims") of any kind, nature, and description, including, but not limited to, personal injury, death, property damage, and consultants' and/or attorneys' fees and costs, directly or indirectly arising out of, connected with, or resulting from the performance of the Agreement or from any activity, work, or thing done, permitted, or suffered by the Contractor in conjunction with this Agreement, unless the claims are caused wholly by the sole negligence or willful misconduct of the indemnified parties. The District shall have the right to accept or reject any legal representation that Contractor proposes to defend the indemnified parties.

14. **Insurance.**

14.1. The Contractor shall procure and maintain at all times it performs any portion of the Services the following insurance with minimum limits equal to the amount indicated below.

14.1.1. **Commercial General Liability and Automobile Liability Insurance.** Commercial General Liability Insurance and Any Auto Automobile Liability Insurance that shall protect the Contractor, the District, and the State from all claims of bodily injury, property damage, personal injury, death, advertising injury, and medical payments arising performing any portion of the Services. (Form CG 0001 and CA 0001)

14.1.2. **Workers' Compensation and Employers' Liability Insurance.** Workers' Compensation Insurance and Employers' Liability Insurance for all of its employees performing any portion of the Services. In accordance with provisions of Section 3700 of the California Labor Code, the Contractor shall be required to secure workers' compensation coverage for its employees. If any class of employee or employees engaged in performing any portion of the Services under this Agreement are not protected under the Workers' Compensation Statute, adequate insurance coverage for the protection of any employee(s) not otherwise protected must be obtained before any of those employee(s) commence performing any portion of the Services.

14.1.3. **Professional Liability (Errors and Omissions).** Professional Liability (Errors and Omissions) Insurance as appropriate to the Contractor's profession.

| **Type of Coverage** | **Minimum Requirement** |
|---|---|
| **Commercial General Liability Insurance**, including Bodily Injury, Personal Injury, Property Damage, Advertising Injury, and Medical Payments<br>Each Occurrence | <br><br>$ 1,000,000 |

| | |
|---|---|
| General Aggregate | $ 1,000,000 |
| **Automobile Liability Insurance - Any Auto**<br>Each Occurrence<br>General Aggregate | <br>$ 1,000,000<br>$ 1,000,000 |
| **Professional Liability** | $ 1,000,000 |
| **Workers Compensation** | Statutory Limits |
| **Employer's Liability** | $ 1,000,000 |

14.2. **Proof of Carriage of Insurance**. The Contractor shall not commence performing any portion of the Services until all required insurance has been obtained and certificates indicating the required coverages have been delivered in duplicate to the District and approved by the District. Certificates and insurance policies shall include the following:

14.2.1. A clause stating: "This policy shall not be canceled or reduced in required limits of liability or amounts of insurance until notice has been mailed to the District, stating date of cancellation or reduction. Date of cancellation or reduction shall not be less than thirty (30) days after date of mailing notice."

14.2.2. Language stating in particular those insured, extent of insurance, location and operation to which insurance applies, expiration date, to whom cancellation and reduction notice will be sent, and length of notice period.

14.2.3. An endorsement stating that the District and the State and their agents, representatives, employees, trustees, officers, consultants, and volunteers are named additional insureds under all policies except Workers' Compensation Insurance, Professional Liability, and Employers' Liability Insurance. An endorsement shall also state that Contractor's insurance policies shall be primary to any insurance or self-insurance maintained by District.

14.2.4. All policies shall be written on an occurrence form.

14.3. **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.

15. **Assignment**. The obligations of the Contractor pursuant to this Agreement shall not be assigned by the Contractor.
16. **Compliance with Laws**. Contractor shall observe and comply with all rules and regulations of the governing board of the District and all federal, state, and local laws, ordinances and regulations. Contractor shall give all notices required by any law, ordinance, rule and regulation bearing on conduct of the Work as indicated or specified. If Contractor observes that any of the Work required by this Contract is at variance with any such laws, ordinance, rules or regulations, Contractor shall notify the District, in writing, and, at the sole option of the District, any necessary changes to the scope of the Work shall be made and this Contract shall be appropriately amended in writing, or this Contract shall be terminated effective upon Contractor's receipt of a written termination notice from the District. If Contractor performs

any work that is in violation of any laws, ordinances, rules or regulations, without first notifying the District of the violation, Contractor shall bear all costs arising therefrom.

17. **Permits/Licenses.** Contractor and all Contractor's employees or agents shall secure and maintain in force such permits and licenses as are required by law in connection with the furnishing of services pursuant to this agreement.

18. **Employment with Public Agency.** Contractor, if an employee of another public agency, agrees that Contractor will not receive salary or remuneration, other than vacation pay, as an employee of another public agency for the actual time in which services are actually being performed pursuant to this Agreement.

19. **Anti-Discrimination.** It is the policy of the District that in connection with all work performed under Contracts there be no discrimination against any employee engaged in the work because of race, color, ancestry, national origin, religious creed, physical disability, medical condition, marital status, sexual orientation, gender, or age and therefore the Contractor agrees to comply with applicable Federal and California laws including, but not limited to the California Fair Employment and Housing Act beginning with Government Code Section 12900 and Labor Code Section 1735. In addition, the Contractor agrees to require like compliance by all its subcontractor(s).

20. **Fingerprinting of Employees.** The Contractor shall comply with the provisions of Education Code Section 45125.1 regarding the submission of employee fingerprints to the California Department of Justice and the completion of criminal background investigations of its employees. The Contractor shall not permit any employee to have any contact with District pupils until such time as the Contractor has verified in writing to the governing board of the District that the employee has not been convicted of a felony, as defined in Education Code Section 45122.1. The Contractor's responsibility shall extend to all employees, subcontractors, agents, and employees or agents of subcontractors regardless of whether those individuals are paid or unpaid, concurrently employed by the District, or acting as independent contractors of the Contractor. Verification of compliance with this section and the Criminal Background Investigation Certification that may be required with this Agreement, shall be provided in writing to the District prior to each individual's commencement of employment or performing any portion of the Services and prior to permitting contact with any student.

21. **District's Evaluation of Contractor and Contractor's Employees and/or Subcontractors.** The District may evaluate the Contractor in any way the District is entitled pursuant to applicable law. The District's evaluation may include, without limitation:

    21.1. Requesting that District employee(s) evaluate the Contractor and the Contractor's employees and subcontractors and each of their performance.

    21.2. Announced and unannounced observance of Contractor, Contractor's employee(s), and/or subcontractor(s).

22. **Limitation of District Liability**. Other than as provided in this Agreement, District's financial obligations under this Agreement shall be limited to the payment of the compensation provided in this Agreement. Notwithstanding any other provision of this Agreement, in no event, shall District be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including, but not limited to, lost profits or revenue, arising out of or in connection with this Agreement for the services performed in connection with this Agreement.

23. **Confidentiality**. The Contractor and all Contractor'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.

24. **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:

| **District** | **Contractor** |
|---|---|
| San Rafael City School District | Huckleberry Youth Programs |
| 310 Nova Albion Way | 361 Third St. #G |
| San Rafael, CA 94903 | San Rafael, CA 94901 |
| ATTN: Ms. Chris Thomas | ATTN: Jasmine Stevenson |
| Chief Business Officer | |

Any notice personally given or sent by facsimile transmission shall be effective upon receipt. Any notice sent by overnight delivery service shall be effective the business day next following delivery thereof to the overnight delivery service. Any notice given by mail shall be effective three (3) days after deposit in the United States mail.

25. **Integration/Entire Agreement of Parties**. This Agreement constitutes the entire agreement between the Parties and supersedes all prior discussions, negotiations, and agreements, whether oral or written. This Agreement may be amended or modified only by a written instrument executed by both Parties.

26. **California Law**. This Agreement shall be governed by and the rights, duties and obligations of the Parties shall be determined and enforced in accordance with 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 be maintained in the county in California in which the District's administrative offices are located.

27. **Waiver**. 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.

28. **Severability**. If any term, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force and effect, and shall not be affected, impaired or invalidated in any way.

29. **Incorporation of Recitals and Exhibits**. The Recitals and each exhibit attached hereto are hereby incorporated herein by reference.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the date indicated below.

| **San Rafael City School District** | _____ **Contractor** |
|---|---|
| Date: _____, 20___ | Date: _____, 20___ |
| By: _____ | By: _____ |
| Print Name: _____ | Print Name: _____ |
| Its: _____ | Its: _____ |

**Exhibit "A"**
**Scope of Work**

**Memorandum of Understanding**
**Between**
**Huckleberry Youth Programs and San Rafael High School**
**2015-2016**

Exhibit A

This Memorandum of Understanding ("MOU") is entered into as of the "Effective Date" (defined below) by and between Huckleberry Youth Programs ("HYP") and San Rafael High School ("SRHS"). HYP and SRHS are each referred to as a "Party" or collectively as "Parties"

The Parties wish to enter into collaboration in providing mental health counseling services at San Rafael High School;

NOW THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:

1. **Huckleberry Youth Programs will provide:**

- One bilingual mental health counselor on-site at San Rafael High School between 9am-1pm two mornings per week. Mental Health Counselor will accept referrals from SRHS counselors, teachers and administrators, conduct assessments, counseling services and coordinate ongoing counseling as appropriate at Huckleberry Youth Programs.
- Appropriate training, clinical supervision and program support for mental health counselor.

2. **San Rafael High School will provide:**

- One designated and private counseling room with appropriate furniture for HYP's mental health counselor to conduct assessment and counseling sessions on designated time and days.
- $7,500 per school year in financial contribution.

3. **Huckleberry Youth Programs and San Rafael High School agree to the following:**

The Parties agree to effect and maintain adequate comprehensive general liability insurance with minimum combined single limit coverage of $500,000 per occurrence and $2,000,000 in the aggregate.

Each Party shall maintain Workers' Compensation as required under California State Law and provide to the other party a certificate showing evidence of such coverage. Each policy shall state that it may not be altered or canceled to either Party's detriment without thirty (30) days prior written notice being sent to the other Party.

Each Party further agrees to maintain such other insurance in such amounts, which from time to time may reasonably be agreed to between the Parties against other insurable hazards relating to performance hereunder.

Each Party agrees to provide to the other a Certificate of Insurance for each policy in effect proving compliance with the aforementioned insurance coverage requirements. Each Party agrees that it will give the other Party thirty (30) days advance written notice of any modification, change, or cancellation of any of the insurance coverage.

4. The intent of the Parties is that this shall be a one (1) year Contract and shall expire on June 30, 2016 with the option to negotiate renewal.

5. General Provisions.

(a) Governing Law & Venue. This MOU and the rights and liabilities of the Parties hereunder shall be enforced and construed in accordance with the laws of the State of California and any action brought regarding this MOU will be brought in the County of Marin.

(b) Binding Effect. This MOU shall be binding upon and inure to the benefit of the Parties and their successors in interest and assigns.

(c) Further Assurances. The Parties agree to execute such other agreements and documents, and take such other actions, as may be reasonably requested by the other to consummate the transactions described in this MOU and to accomplish its purposes.

(d) Dispute Resolution. The Parties hereto agree that they shall mediate any dispute that arises between them concerning this Agreement or its terms, interpretation or enforcement. Mediation shall be held in Marin County by a mediation service or individual mediator on which the Parties shall agree, and the costs of mediation shall be borne by the Parties involved in such equally. The Mediation must be held within 45 days of the receipt of a written request to mediate, unless the Parties agree to extend such deadline or the Mediator sets a date after this time frame to accommodate his or her schedule.

After the Parties have participated in mediation and if such mediation fails to resolve the dispute, claim or contention at issue then either Party may pursue resolution through litigation or arbitration. In the event that a Party desires to resolve such dispute through arbitration it shall require the consent or agreement of the other Parties involved under terms and conditions as the Parties' shall agree to.

All costs of the mediation or arbitration, including but not limited to the mediator's or arbitrator's fee, any administration fees, and the costs for use of the facilities during the proceedings, will be borne equally be the Parties involved, unless otherwise assessed against the non-prevailing Party by the trier of fact. The prevailing Party (or the most prevailing Party) in any litigation or arbitration shall be entitled to an award of reasonable attorney's fees and related costs. The Parties agree that the decision of the arbitrator(s) shall be final and binding as to each of them, and that the arbitration award may be enforced in any court having jurisdiction thereof by the filing of a petition to enforce said award.

(e) Severability. In the event that any provision of this MOU should be held to be void, voidable or unenforceable, the remaining portions hereof shall remain in full force and effect.

(f) Waiver, Modification and Amendment. No breach of this MOU or of any provision herein can be waived except by an express written waiver executed by the Party waiving such breach. Waiver of any one breach shall not be deemed a waiver of any other breach of the same or other provisions of this MOU. This MOU may be amended, altered, modified or otherwise changed in

any respect or particular only by a writing duly executed by the Parties hereto or thereto or their authorized representatives.

(g) Entire Agreement. This MOU and the documents attached hereto as Exhibits represent the entire agreement between the parties concerning the subject matter hereof and supersede all pre-existing agreements, understandings, negotiations and obligations concerning such subject matter.

6. The "Effective Date" shall begin when both Parties have shown agreement to the terms of the MOU by signing the MOU.

**HUCKLEBERRY YOUTH PROGRAMS**

By:_____ Date: _____
Jasmine Stevenson, Associate ED- Marin

**SAN RAFAEL HIGH SCHOOL**

By:_____ Date: _____
Chris Thomas, San Rafael City Schools