

SAN JOSÉ UNIFIED SCHOOL DISTRICT SERVICE AGREEMENT

This Service Agreement ("Agreement") is made this 9 day of July, 2019, between San José Unified School District ("District"), and CollegeSpring ("Contractor"), a 501c(3) non-profit corporation.

- 1. SERVICES.** Contractor shall perform the following services ("Services"): If a separate scope of services or proposal generated by the District or the Contractor is available, attach exhibit(s) and reference it here. Do not attach a separate contract.

Provide a Full Year SAT preparation program to San Jose Unified School District, see Exhibit A - Path toward Impact.

- 2. LOCATION.** Work will be performed at the following: Gunderson, Leland, Pioneer, and Willow Glen High School

- 3. COMPENSATION.** District agrees to pay Contractor for Services as follows

In 2 installments each, for a total amount not to exceed \$57,000, and per the following schedule:

- 3.1. 1st installment due on or before September 1, 2019. CollegeSpring will be paid 50% of the total or \$28,500 after teachers are recruited and trained. An invoice will be sent upon receipt of this signed Agreement
- 3.2. 2nd installment due on or before December 1, 2019. CollegeSpring will be paid for the remaining balance of the total or final payment. An invoice will be sent no later than October 31, 2019.
- 3.3. If District enrolls more than the estimated number of students covered in this Agreement, the District will reimburse CollegeSpring at the rate of \$150 per student for the additional students. The cost of these additional students will be added to the final payment.
- 3.4. A finance charge of 1% of total cost will be charged to the District for any invoice payment overdue by 30 days.

Payment shall be made for all undisputed amounts within thirty (30) days after the Contractor submits a detailed invoice to the District's Accounts Payable Department. A purchase order will be provided after the approval of this Agreement, all invoices must include the purchase order number. Failure to provide a detailed invoice with the purchase order number may cause a delay in payment. Finance charge only applicable for undisputed amounts.

- 4. TERM/TERMINATION** The term of this Agreement shall commence on August 1, 2019 and shall continue through June 1, 2020. The District may terminate this Agreement immediately for any reason at any time, by giving written notice to the Contractor. Such written notice shall be sufficient to stop further performance of services by Contractor. In the event of termination prior to the end of the term of this Agreement, Contractor shall invoice the District for any work performed and documented expenses incurred prior and up to the date of termination, and shall promptly return any District property or records, and any copies thereof, in its possession to the District. Termination shall not affect the rights and obligations of the Parties arising prior to the effective date of termination.

- 5. INSURANCE.** Contractor shall be responsible for any damage, loss or other claim arising out of the performance of its services under this Agreement. Contractor shall carry the insurance indicated below throughout the term of this Agreement. The certificate of liability insurance must have San Jose Unified School District, 855 Lenzen Avenue, San Jose, CA 95126, as the Certificate Holder and as additional insured.

Commercial General Liability Insurance	Each Occurrence	\$2,000,000
	General Aggregate	\$4,000,000
Workers' Compensation		Statutory limits
Employer's Liability	Each Occurrence	\$1,000,000

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.

Subcontractors

Contractor shall require its Subcontractors and any Sub-subcontractors to take out and maintain similar public liability insurance and property damage insurance, and any other insurance required of Contractor under this Agreement, in a company or companies lawfully authorized to do business in California as admitted carriers, in like amounts and scope of coverage as that required of Contractor hereunder.

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- 6. TAXES; INDEPENDENT CONTRACTOR STATUS.** District shall not withhold or set aside income tax, Federal Insurance Contributions Act Tax, Unemployment Insurance, Disability Insurance, or any other Federal or State funds whatsoever. It shall be the sole responsibility of the Contractor to account for all of the above and Contractor agrees to hold District harmless from all liability for these taxes. While engaged in carrying out the Services Contractor is and shall be an Independent Contractor, and not an Officer, Employee, Agent, Partner, or joint venture of the District.
 - 7. COMPLIANCE WITH APPLICABLE LAW.** In performing services under this Agreement, Contractor shall comply with all applicable law, including but not limited to Education Code Sections [45125.1](#) and [49406](#). Contractor must complete and sign the Contractor Certification attached as Exhibit B. It shall be the sole responsibility of Contractor to obtain any needed business licenses, certificates, permits to conduct business to meet the terms of this Agreement.
 - 8. WORK PRODUCT.** District is the owner of and entitled to exclusive possession of all records, documents, graphs, photographic or other reproductions of any kind ("Work Product") produced as part of or resulting from this Agreement, and all rights in such Work Product, and no uses thereof except in Contractor's performance of the Services will be permitted except by express written permission of the District. Contractor acknowledges that this Agreement and its work hereunder, including the Work Product, may be subject to disclosure to the public. With respect to records in the District's or Contractor's possession that may be protected from disclosure by applicable law, Contractor agrees to abide by such law.
 - 9. INDEMNIFICATION.** Contractor shall defend, indemnify, and hold harmless the District and its agents, employees, Board of Education, and members of the Board of Education, from and against claims, damages, losses, and expenses (including, but not limited to attorney's fees and costs including fees of consultants) arising out of or resulting from performance of this Agreement including, but not limited to, the Contractor's use of the sites listed herein; the Contractor's completion of its duties under this Agreement; injury to or death of persons or damage to property or delay or damage to the District, its agents, employees, Board of Education, members of the Board of Education, for any act, omission, negligence, or willful misconduct of the Contractor or its respective agents, subcontractors, employees, material or equipment suppliers, invitees, or licensees. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity, which would otherwise exist as to a party, person, or District described in this paragraph.
 - 10. ENTIRE AGREEMENT; AMENDMENT.** This constitutes the entire Agreement between the District and Contractor supersedes any and all other Agreements, either oral or in writing, between the parties hereto with respect to the subject matter hereof, and no other agreement, statement or promise relating to the subject matter of this Agreement which is not contained herein shall be valid or binding. This Agreement may only be amended in writing executed by both parties and approved by the District's Board of Education.
- This Agreement consists of:
- 11.1 Service Agreement
 - 11.2 Exhibit A – Materials, Scope of Work, and Fees
 - 11.3 Exhibit B – Contractor Certification
 - 11.4 Exhibit C – Confidential Data Security Agreement
- 11. NO ASSIGNMENT.** This Agreement may not be assigned by the Contractor, nor any part of the services hereunder subcontracted, without the express written permission of the District.
 - 12. SEVERABILITY.** In the event that any provision of this Agreement is held invalid or unenforceable by a court of competent jurisdiction, no other provision of this Agreement will be affected by such holding, and all of the remaining provisions of this Agreement will continue in full force and effect, unless to do so would invalidate the intent of the parties in entering into this Agreement.
 - 13. GOVERNING LAW; VENUE.** This Agreement shall be governed under the laws of the State of California. Any action to enforce the terms of this Agreement shall be brought in the appropriate court having jurisdiction over matters arising in Santa Clara County, California.
 - 14. ATTORNEY'S FEES.** 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, expert fees, court costs and attorney's fees.
 - 15. BOARD APPROVAL REQUIRED.** Agreements in excess of \$24,999 shall not be a valid and binding obligation of the District, and Contractor shall not be entitled to payment for services rendered, unless and until executed by both parties and approved by the District's Board of Education and/or Board of Education Designee.
 - 16. CONTRACT EXECUTION.** Unless otherwise prohibited by law or District policy, the parties agree that an electronic copy of a signed contract, or an electronically signed contract, has the same force and legal effect as a contract executed with an original ink signature. The term 'electronic copy of a signed contract' refers to a transmission by facsimile, electronic mail, or other electronic means of a copy of an original signed contract in a portable document format. The term 'electronically signed contract' means a contract that is executed by applying an electronic signature using technology approved by the District.

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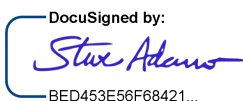
Executed by the parties at San Jose, California, on the day and year indicated below.

San José Unified School District

CollegeSpring

Dated: 7/27/2019

Dated: 7/26/2019

By:  DocuSigned by:
Steve Adamo
BED453E56F68421...

By:  DocuSigned by:
Sophia Jimenez
546731766322408...

Print Name: Steve Adamo

Print Name: Sophia Jimenez

Title: Director

 DS
jm

Title: Managing Director of California

***Federal Code of Regulations sections 6041 and 6209 require non-corporate recipients of \$600.00 or more to furnish their taxpayer identification number to the payer. The regulations also provide that a penalty may be imposed for failure to furnish the taxpayer identification number. In order to comply with these regulations, the District requires Contractor's federal tax identification number or Social Security number, whichever is applicable.**

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“EXHIBIT A” MATERIALS, SCOPE OF WORK, AND FEES

CollegeSpring will support San Jose Unified School District with the following for the Connect Program for the 2019-20 School Year:

- CollegeSpring SAT Course Book
 - Student and Teacher Editions, with up to 40 hours of instruction
 - Includes lesson plans for teachers
- Up to 4 Diagnostic Full-Length SAT Practice Tests (min. of 3 tests)
 - Includes grading and analysis, including comprehensive score reports for students, teachers, and administrators
- Teacher Resources
 - Personalized pacing plans, scope and sequence, and online educator portal
- Professional Development
 - 1 day pre-program training for teachers in the late summer/early fall 2019
 - Ongoing support, observations, and monthly meetings to provide guidance to teachers and administrators throughout the program
- Dedicated Program Support
 - On-call to provide support to schools and teachers as needed

School	Number of Students	Fee Per Student	Total (Approx. based on number of students)
Gunderson	85	\$150	\$12,750
Leland	90	\$150	\$13,500
Pioneer	120	\$150	\$18,000
Willow Glen	85	\$150	\$12,750
Total			\$57,000

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“EXHIBIT B” CONTRACTOR CERTIFICATION

Fingerprint and Background Certification

Business entities entering into a Service Agreement with the District shall comply with Education Code sections [45125.1](#). Such entities are responsible for ensuring full compliance with the law and should therefore review all applicable statutes and regulations.

I, Sophia Jimenez, am (an authorized representative of/doing business as) CollegeSpring, (Name of Contractor) and hereby certify that Contractor have Conducted the required criminal background check(s) of all persons who will be providing services to the San José Unified School District on behalf of this business District, and that none of those persons have been reported by the Department of Justice (“DOJ”) as having been convicted of a serious or violent felony as specified in Penal Code Sections [667.5](#) and/or [1192.7\(c\)](#). I understand that this Certificate is not to be signed and submitted until I have received clearance from DOJ regarding those persons named. Upon request, contractor will provide a list of the names of the employees who may come in contact with pupils while providing Services under this Agreement. I agree to keep this list current and to notify San José Unified School District of any additions/deletions as they occur.

Signature  546731766322408...

Date 7/26/2019

Megan’s Law (Sex Offenders). I have verified and will continue to verify that the employees of the Contractor and the Subcontractor(s) under this agreement are **not** listed on California’s “Megan’s Law” Website (<http://www.meganslaw.ca.gov/>).

Signature  546731766322408...

Date 7/26/2019

Tuberculosis Certification. Contractor and the Contractor Parties shall at all times comply with the tuberculosis certification requirements as set forth below. Specifically, by checking the applicable boxes below, Contractor hereby represents and warrants to District the following:

- ☐ Contractor and/or Contractor Parties will not be present on a District school site and will not have contact with District students during the term of this Agreement.
- ☒ The following Contractor and/or Contractor Parties shall or may be on a District school site and have contact with District students during the term of this Agreement and, at no cost to District, they have received a tuberculosis test that complies with the requirements of California Education Code Section [49406](#).

Contractor shall maintain on file the certificates showing that the Contractor Parties were examined and found free from active tuberculosis. These forms shall be regularly maintained and updated by Contractor and shall be available to District upon request or audit.

Contractor further agrees and acknowledges that all new personnel hired after the effective date of this Agreement are subject to the tuberculosis certification requirements and shall be prohibited from having any contact with District students until the tuberculosis certification requirements have been satisfied and District determines whether any such contact is permissible.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Signature  546731766322408...

Date 7/26/2019

SAN JOSÉ UNIFIED SCHOOL DISTRICT SERVICE AGREEMENT

“EXHIBIT C” CONFIDENTIAL DATA SECURITY AGREEMENT

This Confidential Data Exchange Agreement (“Agreement”) between San Jose Unified School District (“District”) and CollegeSpring (“Recipient”) is entered into as of August 1, 2019, for the purpose of setting forth the terms and conditions under which District will provide certain data to Recipient, as set forth herein.

WHEREAS, pursuant to Education Code section 49076, subdivision (a)(2)(E), District may permit access to student records to organizations conducting studies for, or on behalf of, educational agencies or institutions for the purpose of developing, validating, or administering predictive tests, administering aid programs, or improving instruction;

WHEREAS, Recipient has requested access to certain data in the possession of the District, and Recipient represents that it is an organization that may receive such data pursuant to Education Code section 49076, subdivision (a)(2)(E), and District wishes to provide Recipient access to such data, subject to the terms and conditions hereof; and

WHEREAS, District expects to benefit from the study or studies being conducted by Recipient (as further described herein), and acknowledges the receipt of other good and valuable consideration from Recipient, as set forth herein;

NOW, THEREFORE, in consideration of the terms and conditions of this Agreement, including the recitals hereof, which are incorporated into this Agreement by this reference, the parties agree as follows:

1. Purpose of Agreement. Recipient is engaged in a study or studies (“Study”) described in **Section 1 of this Agreement**. In order to achieve these purposes, Recipient has requested that District provide the data outlined in the in **Addendum A**.

This Agreement is intended to comply with the requirements of Education Code section 49076 and section 99.31(a)(6) of Title 34 of the Code of Federal Regulations.

For the avoidance of doubt, Recipient represents and warrants that Recipient will not provide digital storage, management and retrieval of pupil records and/or digital educational software through which Recipient accesses, stores and uses pupil records as such terms are defined in Education Code section 49073.1 (“AB 1584”). Therefore, except as set forth herein, this Agreement is not intended to comply with the requirements of AB 1584.

2. Transfer of Data. The District’s Director of Technology and Information Services shall be the District’s representative with respect to the District’s obligations under this Agreement. District will only transfer data to Recipient using a secure network protocol (i.e. HTTPS, SFTP) or an alternative protocol selected by Recipient and approved by District.

Recipient will be responsible for setting up any necessary hardware/software for such data transfer, and will bear the costs of creating and maintaining such hardware/software and the costs of data transfer, including by reimbursing the District for the reasonable costs of accessing hardware/software and loading data thereto.

Maintenance and Use of Data. Recipient shall keep the data in a space physically secure from unauthorized access. Once data has been electronically transferred to the physically secure location, it will not be electronically transferred away from that location. Access to the data will be restricted to individuals (“Authorized Users”) listed in **Addendum B**.

3. Recipient shall develop, implement, maintain and use appropriate administrative, technical and physical security measures to preserve the confidentiality of the data. Recipient will only use the data for purposes of the Study. Recipient will conduct the Study in a manner that does not permit personal identification of parents, guardians or students by anyone other than representatives of Recipient. In publishing the results of the Study, Recipient will only report aggregate data and will not report any individual data, nor will data be reported in a manner that permits identification of any individual.
4. Legal Obligations. Recipient acknowledges that the data transferred under this Agreement may contain confidential information which is protected from disclosure under applicable law (“Applicable Law”), including the federal Family Education Rights and Privacy Act (FERPA) and its implementing regulations (Code of Federal Regulations, Title 34, Part 99), the California Education Code, including but not limited to section 49062 thereof, et seq., the federal Health Insurance Portability and Accountability Act (HIPAA), the California Information Practices Act (Civil Code section 1798.3 et seq.), and any other applicable source of law. Recipient will comply with all Applicable Law with respect to its use and handling of the data. Recipient shall (a) instruct persons with access to confidential information about the requirements for handling confidential information, (b) notify such persons of the sanctions against unauthorized disclosure or use of confidential information, and (c) ensure that all such persons agree in writing to the same restrictions and conditions that apply to Recipient in this Agreement with respect to such information. As set forth above, this Agreement is not intended to comply with AB 1584 (Education Code section 49073.1), except as set forth in section 6 hereof.
5. No Release of Data. No confidential information may be released by Recipient to any third party. In the event of an unauthorized release of confidential information, Recipient will be responsible for complying with all data security breach obligations set forth in Applicable Law, and shall bear the cost thereof.

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“EXHIBIT C” CONFIDENTIAL DATA SECURITY AGREEMENT

In the event that Recipient's research requires release of any pupil records (as that term is defined in Education Code section 49073.1) to a third party, Recipient shall (1) inform the District of Recipient's desire to release pupil records; (2) obtain the third party's agreement to the terms and conditions of the Rider attached hereto as Exhibit A, as evidenced by the third party's signature thereon, and (3) obtain the District's written permission to make such release to the third party. Any violation of AB 1584 by a third party to whom Recipient releases pupil records, whether in compliance with this section 6 or otherwise, shall entitle the District to indemnify by Recipient in accordance with section 10 hereof.

6. **Term and Termination.** This Agreement shall be effective for a one year period beginning on the date set forth above and ending on the one-year anniversary of that date. The parties may, with mutual written consent, renew the Agreement for up to two additional one-year terms.

This Agreement may be terminated (1) immediately by the District upon the material breach by Recipient of this Agreement, or (2) by either party for any reason upon thirty (30) days' written notice to the other party. Written notice of termination shall be required and delivered by either U.S. mail or overnight mail. Notice of termination shall be deemed effective as of the date of such notice.


7. **Destruction of Data.** Upon the earliest to occur of: (1) the completion of the Study, (2) the expiration of the term of this Agreement set forth in section 6, or (3) the earlier termination of this Agreement under the terms of section 6, the Recipient will immediately destroy all personally identifiable information contained within the data and shall certify such destruction in writing to the District within thirty (30) days. If necessary to ensure the destruction of personally identifiable information or if requested by the District, Recipient will disable and purge data from any account(s) created pursuant to the terms of section 2.
8. **No Assignment; Use of Subcontractors.** Recipient shall not assign this Agreement or any portion hereof to a third party without the prior written consent of the District, and any attempted assignment without such prior written consent in violation of this Section shall automatically terminate this Agreement. Recipient agrees to obtain written approval from the District prior to engaging any subcontractors to perform any services requiring access to any individually identifiable information.
9. **Indemnity.** Recipient shall defend, indemnify, and hold harmless the District and its agents, employees, Board of Trustees, and members of the Board of Trustees, from and against claims, damages, losses, and expenses (including, but not limited to attorney's fees and costs including fees of consultants) arising out of or resulting from performance of this Agreement including, but not limited to, the Recipient's use and handling of the data.
10. **Injunctive Relief.** Recipient hereby acknowledges that the District will suffer irreparable harm if Recipient breaches any of its obligations under this Agreement, and that monetary damages will not be adequate to compensate the District for such breach. Therefore, if Recipient breaches its obligations under this Agreement, the District shall be entitled to injunctive relief, in addition to any other remedies at law or equity, to enforce the terms of this Agreement.
11. **Attorneys' Fees.** In the event the District is required to initiate litigation, arbitration, mediation or any other proceeding to enforce, interpret or otherwise obtain judicial relief in connection with this Agreement to enforce, the District shall, if successful in any such proceeding, be entitled to recover from Recipient all costs, expenses and actual attorneys' fees relating to or arising out of such proceeding.
12. **Entire Agreement.** This Agreement is intended by the parties as the final expression of their agreement with respect to such terms as are included herein and as the complete and exclusive statement of its terms and may not be contradicted by evidence of any prior agreement or of a contemporaneous oral agreement, nor explained or supplemented by evidence of consistent additional terms.
13. **Execution in Counterparts.** This Agreement may be executed in counterparts such that the signatures may appear on separate signature pages. A copy, facsimile, or an original, with all signatures appended together, shall be deemed a fully executed agreement.

CollegeSpring

Date: 7/26/2019

Printed Name: Sophia Jimenez

By:

DocuSigned by:

546731766322408...

Title: Managing Director of California

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“EXHIBIT C” CONFIDENTIAL DATA SECURITY AGREEMENT

Addendum A – Data Document

Please email Monique Smith (mrsmith@sjusd.org) **20 business days** before you need the data so our data team has enough time to process the request and provide all of the information you need. If you have any question feel free to reach out.

Please submit tentative dates you will be requesting data from SJUSD:

08/19/19 (1-3 listed below)

12/16/19 and 3/9/20 (5 below)

3/9/20 (4 below)

8/19/19 (6 below)

12/16/19 (7 below)

3/28/20 and 6/26/20 and 10/27/20 (8 below)

Please specify requested data in the following table:

	Variable	Breakdown	Justification
(i.e.)	% Stu. Gender	School	Having the percentage of Male and Female students at each school will allow us to ...
1.	Student Full Name	Student and School	Having full name of students will allow us to identify who is in our program
2.	Student Grade Level	Student and School	Having grade level of students will allow us to identify our target audience and long-term impact data (college enrollment)
3	Date of birth	Student and School	Having date of birth will allow us to distinguish program participants from one another and access long-term impact data (college enrollment)
4	GPA	Student and School	Having GPA will allow us to understand student population's eligibility for college and run analysis on GPA performance
5	Attendance	Student and School	Having attendance of students will allow us to correlate program dosage with results
6	Official PSAT10 scores and dates	Student and School	Having official PSAT10 score and dates of students will allow us to use this as their baseline score when measuring program results
7	Official PSAT scores and dates	Student and School	Having official PSAT score and dates of students will allow us to use this as their baseline score when measuring program results
8	Official SAT scores and dates	Student and School	Having official SAT score and dates will allow us to measure program results and effectiveness

**SAN JOSÉ UNIFIED SCHOOL DISTRICT
SERVICE AGREEMENT**

**“EXHIBIT C”
CONFIDENTIAL DATA SECURITY AGREEMENT**

Addendum B – Authorized Users List

1. Sophia Jimenez, Managing Director of California, sjimenez@collegespring.org
2. Nichole Gangitano, Head of Programs and Impact, ngangitano@collegespring.org
3. Tania Davila, Programs and Data Manager, tdavila@collegespring.org