Date: 10/28/19

To: Emy Flores, Ed.D., Superintendent

From: Cesar Torrico, Assistant Superintendent of Human Resources

Prepared By: Cesar Torrico, Assistant Superintendent of Human Resources

Subject: Approval of Contract/Service Agreement between Evergreen School District and The Stepping Stones Learning Group for $107,360 to support student achievement by providing a School Psychologist from November 15, 2019 through the end of the school year.

Background: The District has in the past contracted with providers like The Stepping Stones Learning Group to help us staff hard to fill positions like School Psychologists, Speech and Language Pathologists and School Nurses. The Stepping Stones Learning Group has partnerships with school districts in several states and has a proven track record of providing staffing solutions for school districts.

Rationale: This contract will allow the District to provide the needed services to our students by filling one of our current vacancies that we have not been able to fill through our recruitment efforts since June 2019.

Funding: Cost of the Service Agreement is not to exceed $107,360 and is to be paid from Special Education funds.

SERVICES AGREEMENT

This Services Agreement (“Agreement”) made as of October 30, 2019, by and between Pediatric Therapy Services, LLC, d/b/a The Stepping Stones Group (“Contractor”) and Evergreen School District, 3188, Quimby Road, San Jose, CA 95148. It is hereby agreed as follows:

FEES: Unless more particularly described in Exhibit B to this Agreement, Contractor agrees to provide the following services to Client and Client agrees to pay the following hourly rates below for those Services:

<table>
<thead>
<tr>
<th>Discipline</th>
<th>Bill Rate</th>
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</thead>
<tbody>
<tr>
<td>School Psychologist</td>
<td>$110 per hour</td>
</tr>
</tbody>
</table>

Client agrees to be billed (except during holidays) by Contractor for 8 hours per day on days when school is in session; provided, however, that if any employee of Contractor is absent during any week due to illness or other personal time off and Contractor does not replace such employee during such week, the foregoing minimum amount will be reduced by the number of hours of such absence. No employee of Contractor will work above 40 hours per week, or above eight hours per day, without advanced authorization from both Contractor and the designated supervisor assigned by Client. Any hours worked that are subject to state or federal statutory overtime requirements will be billed at 150% of bill rate. Client will not be billed during school closures and school holidays.

When Statutory Costs and other employee costs of living increase, Contractor will pass those increases along to Client with no mark-up. Client agrees to pay such increases at the same time as any billed fees pursuant to this Agreement. Statutory Costs include any costs and expenses of Contractor that are associated with Workers Comp, FICA, FUTA, SUTA, and incremental costs associated with the Affordable Care Act (ACA), among others.

MILEAGE: To the extent applicable, travel between schools will be considered billable time and will be billed at the current IRS mileage rate. No travel will be billed when work is completed at one site.

PAYMENT TERMS: Client will be billed every two weeks, as more particularly described in Exhibit A to this Agreement and agrees to pay all outstanding invoices within 30 days of receipt. Client agrees and understands that Client is billed on actual hours of service provided by the Contractor’s employee, based on the total hours listed on a biweekly timesheet.

A finance charge of 1.5% per month on the unpaid amount of an invoice, or the maximum amount allowed by law, will be charged on past due accounts. Payments by Client will thereafter be applied first to accrued interest and then to the principal unpaid balance. Any attorneys’ fees, court costs, or other costs incurred in collection of delinquent accounts shall be paid by Client. If payment of invoices is not current, Contractor may suspend performing further work.

EMPLOYEE BENEFITS AND INSURANCE: Contractor will be responsible for providing all employee benefits and insurance including Workers’ Compensation coverage.
BACKGROUND CHECK/ FINGERPRINTING: Contractor shall be responsible, at their own expense, for ensuring background clearance for all employees of subcontractors coming into contact with students of Evergreen School District in course of providing services pursuant with this agreement. All background checks must determine that none of the employees or subcontractors has been convicted of a felony through the use of National Criminal Check (SSN Check), State Criminal Record Check, County Criminal Record Check, and Sex Offender Registry.

The Contractor shall be responsible with compliance, at their expense, with all applicable: Fingerprinting and criminal background investigation requirements described in Education Coded section 45125.1, which may be met under the fingerprinting provisions of Title 22 of the California Code of Regulations and applicable provisions of the California Health and Safety Code relevant to community care facility licensing (Health and Safety Code, § 1500 et seq.).

NO SOLICITATION: During the term of this Agreement and for a period of two years after the termination of this Agreement, Client agrees not to directly or indirectly contract with, offer employment to or hire any employee of the Contractor assigned to Client or any candidate submitted by Contractor to Client. Client agrees that if they directly hire any contracted employee provided by the Contractor or candidate submitted by the Contractor there is a one-time fee equal to 20% of the employee’s salary.

CONFIDENTIALITY: Client agrees not to provide the content information of this Agreement to any individual or an entity that may be considered a competitor of the Contractor. Client further agrees not to discuss or disclose any information pertaining to the contents of this Agreement including but not limited to fees/costs, duration and terms, etc. to the Contractor’s employee assigned to provide services to the Client. Disclosure of such information to the Contractor’s employee will be considered a breach of this Agreement.

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 Contractor as a result of any of Contractor’s employees having access to such information. The provisions set forth in the foregoing paragraph and this paragraph shall survive expiration or other termination of this Agreement, regardless of the cause of such termination.

COOPERATION: Client agrees to cooperate fully, and to provide assistance to, Contractor in the investigation and resolution of any complaints, claims, actions, or proceedings that may be brought by or that may involve any employees of Contractor.

TERMINATION: The Term of this Agreement will end on June 12, 2020 and may continue beyond this period by mutual consent. Client agrees not to terminate the Agreement until the end of the term unless (a) Contractor’s employee assigned to Client as a whole is deficient in its performance of the services hereunder or (b) any member of Contractor’s employee assigned to Client commits an act of professional
or ethical misconduct. Client agrees to notify Contractor of any deficiencies in services or possible ethical or professional conduct as soon as Client becomes aware of such deficiencies or misconduct and further agrees to permit Contractor the opportunity to cure any deficiency or misconduct within thirty (30) days of such notice in lieu of termination of this Agreement. Contractor may terminate this Agreement (i) if Client discontinues operations or (ii) if Client fails to make any payments as required by this Agreement.

INDEMNIFICATION AND LIMITATION OF LIABILITY: To the extent permitted by law, Contractor will defend, indemnify, and hold Client and its parents, subsidiaries, directors, officers, agents, representatives, and employees harmless from all claims, losses, and liabilities (including reasonable attorneys’ fees) to the extent caused by or arising from Contractor’s breach of this Agreement; its failure to discharge its duties and responsibilities; or the gross negligence or willful misconduct of Contractor or Contractor’s officers, employees, or authorized agents in the discharge of those duties and responsibilities.

To the extent permitted by law, Client will defend, indemnify, and hold Contractor and its parents, subsidiaries, directors, officers, agents, representatives, and employees harmless from all claims, losses, and liabilities (including reasonable attorneys’ fees) to the extent caused by or arising from Client’s breach of this Agreement; its failure to discharge its duties and responsibilities; or the gross negligence or willful misconduct of Client or Client’s officers, employees, or authorized agents in the discharge of those duties and responsibilities.

Neither party shall be liable for or be required to indemnify the other party for any incidental, consequential, exemplary, special, punitive, or lost profit damages that arise in connection with this Agreement, regardless of the form of action (whether in contract, tort, negligence, strict liability, or otherwise) and regardless of how characterized, even if such party has been advised of the possibility of such damages.

As a condition precedent to indemnification, the party seeking indemnification will inform the other party within ten (10) business days after it receives notice of any claim, loss, liability, or demand for which it seeks indemnification from the other party; and the party seeking indemnification will cooperate in the investigation and defense of any such matter.

The provisions in this section of the Agreement constitute the complete agreement between the parties with respect to indemnification, and each party waives its right to assert any common-law indemnification or contribution claim against the other party.

JURISDICTION: This agreement shall be governed by, construed, and is enforceable in accordance with the laws of the State of California. Any action or proceeding relating to or arising out of this Agreement shall be commenced and heard in the State or Federal Court sitting in California. Both parties hereby consent to the jurisdiction and venue of such courts.

GENERAL: No provision of this Agreement may be amended or waived unless agreed to in a writing signed by the parties.
The provisions of this Agreement will inure to the benefit of and be binding on the parties and their respective representatives, successors, and assigns.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and date first above written.

CONTRACTOR:

Signature
Halyna R Olsen

Name
Regional Market President
Title
10/31/2019

Date

CLIENT:

Signature

Name

Title
Date

Notices:

The Stepping Stones Group
177 Park Avenue, Suite 200
San Jose, CA 95113
Phone: 669-777-6832

Evergreen School District
3188, Quimby Road,
San Jose, CA 95148
Phone – 408-270-6800
# EXHIBIT A: BILLING INFORMATION FORM

To be completed and submitted with Agreement

<table>
<thead>
<tr>
<th>Client Name:</th>
<th>Evergreen School District</th>
</tr>
</thead>
<tbody>
<tr>
<td>A/P Contact Name</td>
<td>Bonny Fuji, Administrative Assistant</td>
</tr>
<tr>
<td>and Title:</td>
<td></td>
</tr>
<tr>
<td>A/P Email Address:</td>
<td><a href="mailto:bfujii@eesd.org">bfujii@eesd.org</a></td>
</tr>
<tr>
<td>Mailing Address:</td>
<td>3188, Quimby Road</td>
</tr>
<tr>
<td>City:</td>
<td>San Jose</td>
</tr>
<tr>
<td>State:</td>
<td>CA</td>
</tr>
<tr>
<td>Zip:</td>
<td>95148</td>
</tr>
<tr>
<td>A/P Phone Number:</td>
<td>(408) 270-6840</td>
</tr>
<tr>
<td>A/P Fax Number:</td>
<td></td>
</tr>
</tbody>
</table>

Client will be invoiced every two weeks via email unless otherwise indicated below. Invoices shall include a summary listing of employee hours for each of Contractor’s employees contracted to Client during the bi-weekly billing period. If any specific billing requirements are desired by Client, please note them in the Special Billing Instructions below, otherwise standard bi-weekly invoicing delivered via email will be provided.

| Special Billing Instructions: | Start Date 11/15/2019 |

Client Signature

Title

Name

Date

Exhibit A to Services Agreement v.2017.07.05
**EXHIBIT B:**
**ASSIGNMENT CONFIRMATION**

A copy of this Exhibit B to be completed for each employee assigned by Contractor to Client and incorporated by reference into the Services Agreement.

**Employee Assignment Information:**

<table>
<thead>
<tr>
<th>Employee’s Name:</th>
<th>Heather Scott</th>
</tr>
</thead>
<tbody>
<tr>
<td>Discipline:</td>
<td>School Psychologist</td>
</tr>
<tr>
<td>Billable Hours/Week:</td>
<td>8 hours per day/40 hours per week</td>
</tr>
<tr>
<td>Bill Rate: $110 per hour</td>
<td></td>
</tr>
</tbody>
</table>

**Additional Info:**

Client Signature ________________________________ Title ________________________________

Name ________________________________ Date ________________________________