

Tornillo Independent School District Special Education Department 19200 Cobb Ave. Tornillo, TX 79853

PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement (this or the "Agreement") is entered into by and between the Tornillo Independent School District (hereinafter the "District") and <u>Delia Del Hierro</u> whose contract number is <u>202401</u> (hereinafter the "Contractor").

WHEREAS, the Contractor desires to perform the described services pursuant to the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the promises contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the District and the Contractor hereby agree as follows:

During the period beginning <u>September 01, 2024</u> and ending <u>August 31, 2025</u>, Contractor, as an independent contractor and not as an employee or agent of School District shall provide to the School District and complete during the effective dates of this contract the following services in a timely manner for the use and benefit of public education students in Texas:

Description of Services:

Contractor will provide special education related services according to each child's IEP Contractor will provide services on an "as needed" basis for Tornillo ISD students as arranged by the Special Education Department. Contractor will conduct evaluations, provide written reports, maintain and submit progress reports to parents. Contractor will maintain and submit service logs and session notes as directed. Contractor will assist and be a resource for school personnel and attend ARD's as needed. Contractor will provide goals/objectives as necessary. Contractor will be part of assessment team when required.

For the performance, satisfactory to the District, of the services described above, the District shall pay to the Contractor a fee equal to the amount quoted by the Contractor in his/her proposal in response to RFP No.

001-2019 or the sum of \$650 for English FIE/Dyslexia evaluations, and \$800 for Spanish FIE/Dyslexia evaluations for Student Evaluations and \$300 for ARD participation for the performance of the Contractor's duties under this contract, whichever is less, and computed in accordance with Texas law and school district Board policy in effect at the time such fee is incurred by the Contractor. The Contractor cannot work more than 30 consecutive consultative minutes at a time or more than 19.5 hours per week without prior written approval by TISD for either case. Also, contractor cannot exceed 90 days of work in a school year. The Contractor must notify TISD of any makeup time/work as soon as it becomes known to Contractor or made necessary. The Contractor acknowledges and agrees that the compensation shall constitute full payment to the Contractor and shall include, without limitation, costs of all supplies, materials, equipment, travel expenses, lodging, meals and all other expenses of any kind or nature incurred by the Contractor in the performance of the services described herein. The Contractor acknowledges and

Tornillo Independent School District 19200 Cobb Ave. | PO Box 170



agrees that the compensation is a fixed sum which may only be adjusted in accordance with the terms and conditions of this Agreement and after written approval by the District. All payments due to the Contractor shall be made by a District check upon documentation required on a case by case basis. All documentation must be

submitted in proper form. All payments due to the Contractor shall be made in accordance with the District's payment policy and will be paid upon verification of receipt of services. Such payments will be paid NET 30 days from the date of invoice. The Contractor further acknowledges and agrees that the District, in its sole discretion, shall have the right to retain up to percent (%) of each such monthly payment to ensure that the Contractor performs the services in accordance with the terms of this Agreement. Any amount retained by the District shall be paid by the District to the Contractor at the time of final acceptance by the District of the services. Services covered by this Agreement are subject to all applicable grant and program requirements and are contingent on funding of the applicable program.

2. Any report(s) and any other documents prepared by the Contractor with respect to the services shall be the property of the District with all common law and statutory rights related thereto. The District shall have the right to use such documents for any purpose deemed appropriate by the District; provided however, the Contractor shall have no liability for any use of such documents by the District for any purpose unrelated to the Services.

THE DISTRICT'S REVIEW, APPROVAL OR USE OF ANY AND ALL DOCUMENTS PREPARED BY THE CONTRACTOR SHALL BE FOR THE DISTRICT'S SOLE PURPOSE AND SHALL NOT IMPLY THE DISTRICT'S REVIEW OF THE SAME, NOR OBLIGATE THE DISTRICT TO REVIEW SAME FOR QUALITY, COMPLIANCE WITH ALL APPLICABLE STATUTES, CODES, RULES AND REGULATIONS OR OTHER LIKE MATTERS. ACCORDINGLY, NOTWITHSTANDING THAT ANY DOCUMENTS PREPARED BY THE CONTRACTOR AND REVIEWED BY THE DISTRICT OR ANY AGENT OR EMPLOYEE OF THE DISTRICT, AND NOTWITHSTANDING ANY ADVICE OR ASSISTANCE WHICH MAY BE RENDERED TO THE CONTRACTOR BY THE DISTRICT OR THE DISTRICT'S AGENTS OR EMPLOYEES, INCLUDING BUT NOT LIMITED TO THE DISTRICT'S DESIGNATED REPRESENTATIVES, THE DISTRICT SHALL HAVE NO LIABILITY WHATSOEVER IN CONNECTION THEREWITH AND SHALL NOT BE RESPONSIBLE FOR ANY OMISSIONS OR ERRORS CONTAINED IN ANY SUCH DOCUMENT SUBMITTED TO THE DISTRICT FOR REVIEW AND APPROVAL AND ANY SUCH DISTRICT APPROVAL SHALL NOT CONSTITUTE A WAIVER OR RELEASE OF THE CONTRACTOR HEREUNDER OR AS PROVIDED BY APPLICABLE LAW. THE PROVISIONS HEREOF AND THE ENFORCEMENT OF SUCH PROVISIONS SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

3. The Contractor is serving as an independent contractor only, and this Agreement will in no way create any joint venture or employment relationship between the Contractor and the District. The Contractor shall have no authority to bind the District in any contract, agreement or otherwise. The District shall have no obligation to: (i) provide training to the Contractor; (ii) instruct the Contractor as to when, where, or how



the Contractor is to work; (iii) hire or supervise or pay any assistants for the Contractor; or (iv) furnish the Contractor with tools, materials or equipment. The District shall have no obligation to withhold from the compensation any taxes, FICA, or federal or state unemployment insurance premiums. The Contractor shall not accrue leave, retirement, insurance, bonding, retirement, profit-sharing or any other benefits which may or may not be afforded employees of the District.

- 4. Unless otherwise agreed to in writing by the parties, the Contractor acknowledges and agrees that the District shall have no duty to obtain and maintain any insurance including, but not limited to, a workers' compensation insurance policy, for the benefit of the Contractor. The Contractor hereby agrees to Workers' compensation insurance coverage that meets or exceeds legal requirements covering all of the Contractor's employees and such insurance policies as are set forth on Exhibit "B" attached hereto and incorporated herein by reference. If leased employees will be used, the Consultant shall provide the District with a copy of the leasing company's Texas State License and evidence of workers' compensation coverage insuring the leased employees.
- 5. The District and the Contractor are fully committed to working with each other and agree to communicate regularly with each other at all times so as to avoid or minimize disputes or disagreements with respect to the Services to be performed by the Contractor pursuant to the terms of this Agreement. If disputes or disagreements do arise, the District and the Contractor each commit to resolve such disputes or disagreements in an amicable, professional, and expeditious manner so as to avoid unnecessary losses, delays, and disruptions to completion of the Services. The District and the Contractor will first attempt to resolve any disputes or disagreements at the filed level through discussions between the parties' respective designated representatives. The Contractor shall continue to perform the Services and the District shall continue to satisfy its payment obligations to the Contractor pending the final resolution of any dispute or disagreement between the parties. If the parties are unable to resolve the dispute through discussions between their designated representatives, either party may file a written request for mediation with the other party. Such mediation will be conducted in accordance with the applicable mediation rules of the American Arbitration Association currently in effect. The parties shall share the costs of mediation equally. Unless otherwise agreed by the parties, the mediation shall be held in the City of El Paso, El Paso County, Texas. Any dispute which cannot be resolved by mediation may then be submitted to the appropriate state or federal court in the City of El Paso, El Paso County, Texas. In the event the efforts to resolve the dispute through mediation are unsuccessful, the Contractor hereby irrevocably submits generally and unconditionally for itself and in respect of its property to the jurisdiction of any state court, or any United States Federal Court, sitting in the City of El Paso, El Paso County, Texas, over any suit, action or proceeding arising out of or relating to this Agreement. The Contractor further hereby irrevocably waives, to the fullest extent permitted by law, any objection that the Contractor may now or hereafter have to the laying of venue in any such court and any claims that any such court is an inconvenient forum. If any action at law



or in equity is brought to enforce or interpret the provisions of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees in addition to any other relief to which it may be entitled.

- 6. This Agreement shall be construed and enforced in accordance with the laws of the State of Texas.
- 7. The Contractor affirms that this assignment does not create a conflict of interest with his/her business entity or present employer.
 - 8. **Termination; Suspension.** Either party, the District or the Contractor, may void this contract with <u>30</u> days prior written notice of such intent. Written notice must be in the form of United Postal Return Receipt Mail. Termination or suspension shall be subject to the following:
 - (a) By the District. The District may terminate this Agreement immediately upon any breach of this Agreement by the Contractor. The District may also terminate this Agreement upon thirty (30) days written notice to the Contractor for the District's convenience and without cause. Upon written notice to the Contractor, the District may for its convenience and without cause suspend performance of the Services by the Contractor for a period not to exceed ninety (90) consecutive days. In the event of a suspension by the District, the District shall equitably adjust the terms of this Agreement, including compensation.
 - (b) By the Contractor. The Contractor may terminate this Agreement if the District fails to pay the Consultant in compliance with Paragraph 2 herein. Provided, however, that the Contractor must have first given the District written notice of such failure to pay and the District must have failed to cure such non-payment within twenty (20) days of receipt of such notice. The Contractor may also terminate this Agreement if the District suspends Contractor's performance of the Services for a period in excess of ninety (90) consecutive days.
- 9. **Indemnification**. The Contractor shall indemnify and hold harmless the District, its Board of Trustees, employees, agents and representatives (the "Indemnified Parties") from all losses, claims, liabilities, injuries, damages, actions or causes of action, and any costs and expenses, including, without limitation, reasonable attorney's fees, of any type or description, brought, asserted or made for or on account of any injuries or damages received or sustained by any person or person (including, without limitation, one of the Indemnified Parties) or property, arising out of, relating to, or occasioned by the performance or lack of performance, errors, omissions, negligence or intentional acts of the Contractor, its agents, consultants, subcontractors or employees related to the Services and its duties and obligations under or pursuant to this Agreement, whether or not any other party contributes to such performance or lack of performance, errors, omissions, negligence or intentional acts of the Contractor, its agents, consultants, subcontractors or employees. Upon demand by the District, the Contractor shall diligently defend any indemnified matter relating to the Services and which is made or commenced against the District, whether alone or together with the Contractor or any other person, all at the Contractor's own cost and expense and by counsel to be



approved by the District in the exercise of its reasonable judgment. In the alternative, at any time the District may elect to conduct its own defense through counsel selected by the District and at the cost and expense of the Contractor. Nothing in this paragraph shall limit or impair any rights or remedies of the District against the Contractor or any other person under any other provision of this Agreement or under applicable law. The Contractor shall not be required to indemnify the District if such indemnification would be a violation of a Texas statute. The terms of this paragraph shall survive the termination of this Agreement.

- 10. Status of the Contractor. The Contractor hereby represents, promises and warrants to the District: that the Contractor is financially solvent and possesses sufficient experience, all required licenses, authority, personnel and working capital to complete the Services required under this Agreement.
- 11. **Business Ethics Standards.** The Contractor hereby acknowledges that it has reviewed the District's business ethics policy attached hereto as Exhibit "C" and incorporated herein by reference for all purposes. The Contractor represents to the District that it has not violated such standards in its dealings with the District and covenants that it will abide by such standards in the Contractor's performance of this Agreement.
- 12. **Criminal Background Check.** Any Contractor employees having direct contact with students must submit to a criminal background check as required by Texas law.
- 13. **Confidentiality.** The District considers all non-public information concerning the Services to be performed under the terms of this Agreement as well as any reports or other documentation related thereto to be confidential and proprietary unless otherwise expressly indicated in writing by the District to the Contractor. The Contractor shall not release any non-public information to any third party without the prior written consent of the District. The Contractor understands that the District must release certain information under the Texas Public Information Act.
- 14. **Assignment**. The Contractor agrees that the duties and obligations of the Contractor under this Agreement are not assignable or transferable and the Contractor agrees not to subcontract any of the Services to be performed hereunder, without the prior written approval of the District.
- 15. **Entire Agreement.** This Agreement constitutes and expresses the entire agreement between the parties and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement shall not be amended or modified except by written instrument signed by both parties.
- 16. **Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be deemed to be an original, and all of which, when taken together, shall constitute one and the same Agreement.



17. This is a federally funded position and subject to continued Federal Grant funding. The contractor agrees to assist the District in all time and effort requirements under the Federal Grant. Funds for this contract shall be sourced from IDEA-B federal funds (224) and local funds (199). All programs are subject to funding and award for the covered program.

NOTWITHSTANDING ANY PROVISIONS HEREIN CONTAINED TO THE CONTRARY: (i) THE TORNILLO INDEPENDENT SCHOOL DISTRICT DOES NOT WAIVE SOVEREIGN IMMUNITY BY ITS EXECUTION OR DELIVERY OF THIS AGREEMENT OR BY ANY CONDUCT OF ITS REPRESENTATIVES UNDER THIS AGREEMENT; AND (ii) THE DISPUTE RESOLUTION PROCESS HEREIN PROVIDED DOES NOT AFFECT THE TORNILLO INDEPENDENT SCHOOL DISTRICT'S RIGHT TO ASSERT ALL CLAIMS AND DEFENSES IN ANY LEGAL PROCEEDING.

AGREED and ACCEPTED on behalf of Contractor to be effective on the earliest date written above by the person authorized to bind contract.

Contractor	Title	Date
Ms. Delia del Hierro (Nov 6, 2024 18:45 MST)	Educational Diagnostic	11/06/24

1



authorized to bind School District.	 , by a person
Superintendent	 Date

TEMPLATE - SpED Professional Services Agreement - P.Mata 8.20.19 (00289187.DOCX;1)

Final Audit Report 2024-11-07

Created:

2024-11-06

By:

Anna Brew (brewa@tisd.us)

Status:

Signed

Transaction ID:

CBJCHBCAABAANMICfKxPxSVMSL0yx_2qyA5G85KcZzUy

"TEMPLATE - SpED Professional Services Agreement - P.Mata 8.20.19 (00289187.DOCX;1)" History

- Document created by Anna Brew (brewa@tisd.us) 2024-11-06 7:50:02 PM GMT
- Document emailed to Ms. Delia del Hierro (deliadelhierro@gmail.com) for signature 2024-11-06 7:50:05 PM GMT
- Email viewed by Ms. Delia del Hierro (deliadelhierro@gmail.com) 2024-11-06 9:05:42 PM GMT
- Document e-signed by Ms. Delia del Hierro (deliadelhierro@gmail.com)
 Signature Date: 2024-11-07 1:45:08 AM GMT Time Source: server
- Agreement completed.
 2024-11-07 1:45:08 AM GMT



Tornillo Independent School District Special Education Department 19200 Cobb Ave. Tornillo, TX 79853

PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement (this or the "Agreement") is entered into by and between the Tornillo Independent School District (hereinafter the "District") and <u>Gabriel Nevarez</u> whose contract number is <u>1031</u> (hereinafter the "Contractor").

WHEREAS, the Contractor desires to perform the described services pursuant to the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the promises contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the District and the Contractor hereby agree as follows:

During the period beginning <u>September 01, 2024</u> and ending <u>August 31, 2025</u>, Contractor, as an independent contractor and not as an employee or agent of School District shall provide to the School District and complete during the effective dates of this contract the following services in a timely manner for the use and benefit of public education students in Texas:

Description of Services:

Contractor will provide special education related services according to each child's IEP Contractor will provide services on an "as needed" basis for Tornillo ISD students as arranged by the Special Education Department. Contractor will conduct evaluations, provide written reports, maintain and submit progress reports to parents. Contractor will maintain and submit service logs and session notes as directed. Contractor will assist and be a resource for school personnel and attend ARD's as needed. Contractor will provide goals/objectives as necessary. Contractor will be part of assessment team when required.

For the performance, satisfactory to the District, of the services described above, the District shall pay to the Contractor a fee equal to the amount quoted by the Contractor in his/her proposal in response to RFP No.

_______ or the sum of \$300 for Student Evaluations of SpEd counseling and a maximum of \$100.00 per hour for any counseling sessions provided

or the performance of the Contractor's duties under this contract, whichever is less, and computed in accordance with Texas law and school district Board policy in effect at the time such fee is incurred by the Contractor. The Contractor cannot work more than 30 consecutive consultative minutes at a time or more than 19.5 hours per week without prior written approval by TISD for either case. Also, contractor cannot exceed 90 days of work in a school year. The Contractor must notify TISD of any makeup time/work as soon as it becomes known to Contractor or made necessary. The Contractor acknowledges and agrees that the compensation shall constitute full payment to the Contractor and shall include, without limitation,



costs of all supplies, materials, equipment, travel expenses, lodging, meals and all other expenses of any kind or nature incurred by the Contractor in the performance of the services described herein. The Contractor acknowledges and agrees that the compensation is a fixed sum which may only be adjusted in accordance with the terms and conditions of this Agreement and after written approval by the District. All payments due to the Contractor shall be made by a District check upon documentation required on a case by case basis. All documentation must be

submitted in proper form. All payments due to the Contractor shall be made in accordance with the District's payment policy and will be paid upon verification of receipt of services. Such payments will be paid NET 30 days from the date of invoice. The Contractor further acknowledges and agrees that the District, in its sole discretion, shall have the right to retain up to percent (%) of each such monthly payment to ensure that the Contractor performs the services in accordance with the terms of this Agreement. Any amount retained by the District shall be paid by the District to the Contractor at the time of final acceptance by the District of the services. Services covered by this Agreement are subject to all applicable grant and program requirements and are contingent on funding of the applicable program.

Any report(s) and any other documents prepared by the Contractor with respect to the services shall be
the property of the District with all common law and statutory rights related thereto. The District shall have
the right to use such documents for any purpose deemed appropriate by the District; provided however,
the Contractor shall have no liability for any use of such documents by the District for any purpose unrelated
to the Services.

THE DISTRICT'S REVIEW, APPROVAL OR USE OF ANY AND ALL DOCUMENTS PREPARED BY THE CONTRACTOR SHALL BE FOR THE DISTRICT'S SOLE PURPOSE AND SHALL NOT IMPLY THE DISTRICT'S REVIEW OF THE SAME, NOR OBLIGATE THE DISTRICT TO REVIEW SAME FOR QUALITY, COMPLIANCE WITH ALL APPLICABLE STATUTES, CODES, RULES AND REGULATIONS OR OTHER LIKE MATTERS. ACCORDINGLY, NOTWITHSTANDING THAT ANY DOCUMENTS PREPARED BY THE CONTRACTOR AND REVIEWED BY THE DISTRICT OR ANY AGENT OR EMPLOYEE OF THE DISTRICT, AND NOTWITHSTANDING ANY ADVICE OR ASSISTANCE WHICH MAY BE RENDERED TO THE CONTRACTOR BY THE DISTRICT OR THE DISTRICT'S AGENTS OR EMPLOYEES, INCLUDING BUT NOT LIMITED TO THE DISTRICT'S DESIGNATED REPRESENTATIVES, THE DISTRICT SHALL HAVE NO LIABILITY WHATSOEVER IN CONNECTION THEREWITH AND SHALL NOT BE RESPONSIBLE FOR ANY OMISSIONS OR ERRORS CONTAINED IN ANY SUCH DOCUMENT SUBMITTED TO THE DISTRICT FOR REVIEW AND APPROVAL AND ANY SUCH DISTRICT APPROVAL SHALL NOT CONSTITUTE A WAIVER OR RELEASE OF THE CONTRACTOR HEREUNDER OR AS PROVIDED BY APPLICABLE LAW. THE PROVISIONS HEREOF AND THE ENFORCEMENT OF SUCH PROVISIONS SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.



- 3. The Contractor is serving as an independent contractor only, and this Agreement will in no way create any joint venture or employment relationship between the Contractor and the District. The Contractor shall have no authority to bind the District in any contract, agreement or otherwise. The District shall have no obligation to: (i) provide training to the Contractor; (ii) instruct the Contractor as to when, where, or how the Contractor is to work; (iii) hire or supervise or pay any assistants for the Contractor; or (iv) furnish the Contractor with tools, materials or equipment. The District shall have no obligation to withhold from the compensation any taxes, FICA, or federal or state unemployment insurance premiums. The Contractor shall not accrue leave, retirement, insurance, bonding, retirement, profit-sharing or any other benefits which may or may not be afforded employees of the District.
 - 4. Unless otherwise agreed to in writing by the parties, the Contractor acknowledges and agrees that the District shall have no duty to obtain and maintain any insurance including, but not limited to, a workers' compensation insurance policy, for the benefit of the Contractor. The Contractor hereby agrees to Workers' compensation insurance coverage that meets or exceeds legal requirements covering all of the Contractor's employees and such insurance policies as are set forth on Exhibit "B" attached hereto and incorporated herein by reference. If leased employees will be used, the Consultant shall provide the District with a copy of the leasing company's Texas State License and evidence of workers' compensation coverage insuring the leased employees.
- 5. The District and the Contractor are fully committed to working with each other and agree to communicate regularly with each other at all times so as to avoid or minimize disputes or disagreements with respect to the Services to be performed by the Contractor pursuant to the terms of this Agreement. If disputes or disagreements do arise, the District and the Contractor each commit to resolve such disputes or disagreements in an amicable, professional, and expeditious manner so as to avoid unnecessary losses, delays, and disruptions to completion of the Services. The District and the Contractor will first attempt to resolve any disputes or disagreements at the filed level through discussions between the parties' respective designated representatives. The Contractor shall continue to perform the Services and the District shall continue to satisfy its payment obligations to the Contractor pending the final resolution of any dispute or disagreement between the parties. If the parties are unable to resolve the dispute through discussions between their designated representatives, either party may file a written request for mediation with the other party. Such mediation will be conducted in accordance with the applicable mediation rules of the American Arbitration Association currently in effect. The parties shall share the costs of mediation equally. Unless otherwise agreed by the parties, the mediation shall be held in the City of El Paso, El Paso County, Texas. Any dispute which cannot be resolved by mediation may then be submitted to the appropriate state or federal court in the City of El Paso, El Paso County, Texas. In the event the efforts to resolve the dispute



through mediation are unsuccessful, the Contractor hereby irrevocably submits generally and unconditionally for itself and in respect of its property to the jurisdiction of any state court, or any United States Federal Court, sitting in the City of El Paso, El Paso County, Texas, over any suit, action or proceeding arising out of or relating to this Agreement. The Contractor further hereby irrevocably waives, to the fullest extent permitted by law, any objection that the Contractor may now or hereafter have to the laying of venue in any such court and any claims that any such court is an inconvenient forum. If any action at law or in equity is brought to enforce or interpret the provisions of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees in addition to any other relief to which it may be entitled.

- 6. This Agreement shall be construed and enforced in accordance with the laws of the State of Texas.
- 7. The Contractor affirms that this assignment does not create a conflict of interest with his/her business entity or present employer.
 - 8. **Termination; Suspension.** Either party, the District or the Contractor, may void this contract with <u>30</u> days prior written notice of such intent. Written notice must be in the form of United Postal Return Receipt Mail. Termination or suspension shall be subject to the following:
 - (a) By the District. The District may terminate this Agreement immediately upon any breach of this Agreement by the Contractor. The District may also terminate this Agreement upon thirty (30) days written notice to the Contractor for the District's convenience and without cause. Upon written notice to the Contractor, the District may for its convenience and without cause suspend performance of the Services by the Contractor for a period not to exceed ninety (90) consecutive days. In the event of a suspension by the District, the District shall equitably adjust the terms of this Agreement, including compensation.
 - (b) By the Contractor. The Contractor may terminate this Agreement if the District fails to pay the Consultant in compliance with Paragraph 2 herein. Provided, however, that the Contractor must have first given the District written notice of such failure to pay and the District must have failed to cure such non-payment within twenty (20) days of receipt of such notice. The Contractor may also terminate this Agreement if the District suspends Contractor's performance of the Services for a period in excess of ninety (90) consecutive days.
- 9. Indemnification. The Contractor shall indemnify and hold harmless the District, its Board of Trustees, employees, agents and representatives (the "Indemnified Parties") from all losses, claims, liabilities, injuries, damages, actions or causes of action, and any costs and expenses, including, without limitation, reasonable attorney's fees, of any type or description, brought, asserted or made for or on account of any injuries or damages received or sustained by any person or person (including, without limitation, one of the



Indemnified Parties) or property, arising out of, relating to, or occasioned by the performance or lack of performance, errors, omissions, negligence or intentional acts of the Contractor, its agents, consultants, subcontractors or employees related to the Services and its duties and obligations under or pursuant to this Agreement, whether or not any other party contributes to such performance or lack of performance, errors, omissions, negligence or intentional acts of the Contractor, its agents, consultants, subcontractors or employees. Upon demand by the District, the Contractor shall diligently defend any indemnified matter relating to the Services and which is made or commenced against the District, whether alone or together with the Contractor or any other person, all at the Contractor's own cost and expense and by counsel to be approved by the District in the exercise of its reasonable judgment. In the alternative, at any time the District may elect to conduct its own defense through counsel selected by the District and at the cost and expense of the Contractor. Nothing in this paragraph shall limit or impair any rights or remedies of the District against the Contractor or any other person under any other provision of this Agreement or under applicable law. The Contractor shall not be required to indemnify the District if such indemnification would be a violation of a Texas statute. The terms of this paragraph shall survive the termination of this Agreement.

- 10. Status of the Contractor. The Contractor hereby represents, promises and warrants to the District: that the Contractor is financially solvent and possesses sufficient experience, all required licenses, authority, personnel and working capital to complete the Services required under this Agreement.
- 11. **Business Ethics Standards.** The Contractor hereby acknowledges that it has reviewed the District's business ethics policy attached hereto as Exhibit "C" and incorporated herein by reference for all purposes. The Contractor represents to the District that it has not violated such standards in its dealings with the District and covenants that it will abide by such standards in the Contractor's performance of this Agreement.
- 12. **Criminal Background Check.** Any Contractor employees having direct contact with students must submit to a criminal background check as required by Texas law.
- 13. **Confidentiality.** The District considers all non-public information concerning the Services to be performed under the terms of this Agreement as well as any reports or other documentation related thereto to be confidential and proprietary unless otherwise expressly indicated in writing by the District to the Contractor. The Contractor shall not release any non-public information to any third party without the prior written consent of the District. The Contractor understands that the District must release certain information under the Texas Public Information Act.



- 14. Assignment. The Contractor agrees that the duties and obligations of the Contractor under this Agreement are not assignable or transferable and the Contractor agrees not to subcontract any of the Services to be performed hereunder, without the prior written approval of the District.
- 15. **Entire Agreement.** This Agreement constitutes and expresses the entire agreement between the parties and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement shall not be amended or modified except by written instrument signed by both parties.
- 16. **Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be deemed to be an original, and all of which, when taken together, shall constitute one and the same Agreement.
- 17. This is a federally funded position and subject to continued Federal Grant funding. The contractor agrees to assist the District in all time and effort requirements under the Federal Grant. Funds for this contract shall be sourced from IDEA-B federal funds (224) and local funds (199). All programs are subject to funding and award for the covered program.

NOTWITHSTANDING ANY PROVISIONS HEREIN CONTAINED TO THE CONTRARY: (i) THE TORNILLO INDEPENDENT SCHOOL DISTRICT DOES NOT WAIVE SOVEREIGN IMMUNITY BY ITS EXECUTION OR DELIVERY OF THIS AGREEMENT OR BY ANY CONDUCT OF ITS REPRESENTATIVES UNDER THIS AGREEMENT; AND (ii) THE DISPUTE RESOLUTION PROCESS HEREIN PROVIDED DOES NOT AFFECT THE TORNILLO INDEPENDENT SCHOOL DISTRICT'S RIGHT TO ASSERT ALL CLAIMS AND DEFENSES IN ANY LEGAL PROCEEDING.

AGREED and ACCEPTED on behalf of Contractor to be effective on the earliest date written above by the person authorized to bind contract.



Gabriel Nevarez (Nov 6, 2024 & 16 MST)	SPED Counselor		11/06/24		
Contractor		Title		Date	
AGREED and ACCEPTED authorized to bind Scho	on behalf of District this ool District.		_ day of		_, by a person
Supe	rintendent			Date	

TEMPLATE - SpED Professional Services Agreement - P.Mata 8.20.19 (00289187.DOCX;1)

Final Audit Report

2024-11-06

Created:

2024-11-04

By:

Anna Brew (brewa@tisd.us)

Status:

Signed

Transaction ID:

CBJCHBCAABAAW4hg3PQDldAYEKrD-oztFN6oQZANF1Ef

"TEMPLATE - SpED Professional Services Agreement - P.Mata 8.20.19 (00289187.DOCX;1)" History

- Document created by Anna Brew (brewa@tisd.us) 2024-11-04 6:04:02 PM GMT
- Document emailed to Gabriel Nevarez (grnevarez@hotmail.com) for signature 2024-11-04 6:04:06 PM GMT
- Email viewed by Gabriel Nevarez (grnevarez@hotmail.com) 2024-11-06 8:14:07 PM GMT
- Document e-signed by Gabriel Nevarez (grnevarez@hotmail.com)
 Signature Date: 2024-11-06 8:16:30 PM GMT Time Source: server
- Agreement completed. 2024-11-06 - 8:16:30 PM GMT



Tornillo Independent School District Special Education Department 19200 Cobb Ave. Tornillo, TX 79853

PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement (this or the "Agreement") is entered into by and between the Tornillo Independent School District (hereinafter the "District") and <u>Joe Morales</u> whose contract number is <u>20488</u> (hereinafter the "Contractor").

WHEREAS, the Contractor desires to perform the described services pursuant to the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the promises contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the District and the Contractor hereby agree as follows:

During the period beginning <u>September 01, 2024</u> and ending <u>August 31, 2025</u>, Contractor, as an independent contractor and not as an employee or agent of School District shall provide to the School District and complete during the effective dates of this contract the following services in a timely manner for the use and benefit of public education students in Texas:

Description of Services:

Contractor will provide special education related services according to each child's IEP Contractor will provide services on an "as needed" basis for Tornillo ISD students as arranged by the Special Education Department. Contractor will conduct evaluations, provide written reports, maintain and submit progress reports to parents. Contractor will maintain and submit service logs and session notes as directed. Contractor will assist and be a resource for school personnel and attend ARD's as needed. Contractor will provide goals/objectives as necessary. Contractor will be part of assessment team when required.



materials, equipment, travel expenses, lodging, meals and all other expenses of any kind or nature incurred by the Contractor in the performance of the services described herein. The Contractor acknowledges and agrees that the compensation is a fixed sum which may only be adjusted in accordance with the terms and conditions of this Agreement and after written approval by the District. All payments due to the Contractor shall be made by a District check upon documentation required on a case by case basis. All documentation must be

submitted in proper form. All payments due to the Contractor shall be made in accordance with the District's payment policy and will be paid upon verification of receipt of services. Such payments will be paid NET 30 days from the date of invoice. The Contractor further acknowledges and agrees that the District, in its sole discretion, shall have the right to retain up to percent (%) of each such monthly payment to ensure that the Contractor performs the services in accordance with the terms of this Agreement. Any amount retained by the District shall be paid by the District to the Contractor at the time of final acceptance by the District of the services. Services covered by this Agreement are subject to all applicable grant and program requirements and are contingent on funding of the applicable program.

2. Any report(s) and any other documents prepared by the Contractor with respect to the services shall be the property of the District with all common law and statutory rights related thereto. The District shall have the right to use such documents for any purpose deemed appropriate by the District; provided however, the Contractor shall have no liability for any use of such documents by the District for any purpose unrelated to the Services.

THE DISTRICT'S REVIEW, APPROVAL OR USE OF ANY AND ALL DOCUMENTS PREPARED BY THE CONTRACTOR SHALL BE FOR THE DISTRICT'S SOLE PURPOSE AND SHALL NOT IMPLY THE DISTRICT'S REVIEW OF THE SAME, NOR OBLIGATE THE DISTRICT TO REVIEW SAME FOR QUALITY, COMPLIANCE WITH ALL APPLICABLE STATUTES, CODES, RULES AND REGULATIONS OR OTHER LIKE MATTERS. ACCORDINGLY, NOTWITHSTANDING THAT ANY DOCUMENTS PREPARED BY THE CONTRACTOR AND REVIEWED BY THE DISTRICT OR ANY AGENT OR EMPLOYEE OF THE DISTRICT, AND NOTWITHSTANDING ANY ADVICE OR ASSISTANCE WHICH MAY BE RENDERED TO THE CONTRACTOR BY THE DISTRICT OR THE DISTRICT'S AGENTS OR EMPLOYEES, INCLUDING BUT NOT LIMITED TO THE DISTRICT'S DESIGNATED REPRESENTATIVES, THE DISTRICT SHALL HAVE NO LIABILITY WHATSOEVER IN CONNECTION THEREWITH AND SHALL NOT BE RESPONSIBLE FOR ANY OMISSIONS OR ERRORS CONTAINED IN ANY SUCH DOCUMENT SUBMITTED TO THE DISTRICT FOR REVIEW AND APPROVAL AND ANY SUCH DISTRICT APPROVAL SHALL NOT CONSTITUTE A WAIVER OR RELEASE OF THE CONTRACTOR HEREUNDER OR AS PROVIDED BY APPLICABLE LAW. THE PROVISIONS HEREOF AND THE ENFORCEMENT OF SUCH PROVISIONS SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.



- 3. The Contractor is serving as an independent contractor only, and this Agreement will in no way create any joint venture or employment relationship between the Contractor and the District. The Contractor shall have no authority to bind the District in any contract, agreement or otherwise. The District shall have no obligation to: (i) provide training to the Contractor; (ii) instruct the Contractor as to when, where, or how the Contractor is to work; (iii) hire or supervise or pay any assistants for the Contractor; or (iv) furnish the Contractor with tools, materials or equipment. The District shall have no obligation to withhold from the compensation any taxes, FICA, or federal or state unemployment insurance premiums. The Contractor shall not accrue leave, retirement, insurance, bonding, retirement, profit-sharing or any other benefits which may or may not be afforded employees of the District.
 - 4. Unless otherwise agreed to in writing by the parties, the Contractor acknowledges and agrees that the District shall have no duty to obtain and maintain any insurance including, but not limited to, a workers' compensation insurance policy, for the benefit of the Contractor. The Contractor hereby agrees to Workers' compensation insurance coverage that meets or exceeds legal requirements covering all of the Contractor's employees and such insurance policies as are set forth on Exhibit "B" attached hereto and incorporated herein by reference. If leased employees will be used, the Consultant shall provide the District with a copy of the leasing company's Texas State License and evidence of workers' compensation coverage insuring the leased employees.
- 5. The District and the Contractor are fully committed to working with each other and agree to communicate regularly with each other at all times so as to avoid or minimize disputes or disagreements with respect to the Services to be performed by the Contractor pursuant to the terms of this Agreement. If disputes or disagreements do arise, the District and the Contractor each commit to resolve such disputes or disagreements in an amicable, professional, and expeditious manner so as to avoid unnecessary losses, delays, and disruptions to completion of the Services. The District and the Contractor will first attempt to resolve any disputes or disagreements at the filed level through discussions between the parties' respective designated representatives. The Contractor shall continue to perform the Services and the District shall continue to satisfy its payment obligations to the Contractor pending the final resolution of any dispute or disagreement between the parties. If the parties are unable to resolve the dispute through discussions between their designated representatives, either party may file a written request for mediation with the other party. Such mediation will be conducted in accordance with the applicable mediation rules of the American Arbitration Association currently in effect. The parties shall share the costs of mediation equally. Unless otherwise agreed by the parties, the mediation shall be held in the City of El Paso, El Paso County, Texas. Any dispute which cannot be resolved by mediation may then be submitted to the appropriate state or federal court in the City of El Paso, El Paso County, Texas. In the event the efforts to resolve the dispute



through mediation are unsuccessful, the Contractor hereby irrevocably submits generally and unconditionally for itself and in respect of its property to the jurisdiction of any state court, or any United States Federal Court, sitting in the City of El Paso, El Paso County, Texas, over any suit, action or proceeding arising out of or relating to this Agreement. The Contractor further hereby irrevocably waives, to the fullest extent permitted by law, any objection that the Contractor may now or hereafter have to the laying of venue in any such court and any claims that any such court is an inconvenient forum. If any action at law or in equity is brought to enforce or interpret the provisions of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees in addition to any other relief to which it may be entitled.

- This Agreement shall be construed and enforced in accordance with the laws of the State of Texas.
- The Contractor affirms that this assignment does not create a conflict of interest with his/her business entity or present employer.
 - 8. **Termination; Suspension.** Either party, the District or the Contractor, may void this contract with <u>30</u> days prior written notice of such intent. Written notice must be in the form of United Postal Return Receipt Mail. Termination or suspension shall be subject to the following:
 - (a) By the District. The District may terminate this Agreement immediately upon any breach of this Agreement by the Contractor. The District may also terminate this Agreement upon thirty (30) days written notice to the Contractor for the District's convenience and without cause. Upon written notice to the Contractor, the District may for its convenience and without cause suspend performance of the Services by the Contractor for a period not to exceed ninety (90) consecutive days. In the event of a suspension by the District, the District shall equitably adjust the terms of this Agreement, including compensation.
 - (b) By the Contractor. The Contractor may terminate this Agreement if the District fails to pay the Consultant in compliance with Paragraph 2 herein. Provided, however, that the Contractor must have first given the District written notice of such failure to pay and the District must have failed to cure such non-payment within twenty (20) days of receipt of such notice. The Contractor may also terminate this Agreement if the District suspends Contractor's performance of the Services for a period in excess of ninety (90) consecutive days.
- 9. Indemnification. The Contractor shall indemnify and hold harmless the District, its Board of Trustees, employees, agents and representatives (the "Indemnified Parties") from all losses, claims, liabilities, injuries, damages, actions or causes of action, and any costs and expenses, including, without limitation, reasonable attorney's fees, of any type or description, brought, asserted or made for or on account of any injuries or damages received or sustained by any person or person (including, without limitation, one of the



Indemnified Parties) or property, arising out of, relating to, or occasioned by the performance or lack of performance, errors, omissions, negligence or intentional acts of the Contractor, its agents, consultants, subcontractors or employees related to the Services and its duties and obligations under or pursuant to this Agreement, whether or not any other party contributes to such performance or lack of performance, errors, omissions, negligence or intentional acts of the Contractor, its agents, consultants, subcontractors or employees. Upon demand by the District, the Contractor shall diligently defend any indemnified matter relating to the Services and which is made or commenced against the District, whether alone or together with the Contractor or any other person, all at the Contractor's own cost and expense and by counsel to be approved by the District in the exercise of its reasonable judgment. In the alternative, at any time the District may elect to conduct its own defense through counsel selected by the District and at the cost and expense of the Contractor. Nothing in this paragraph shall limit or impair any rights or remedies of the District against the Contractor or any other person under any other provision of this Agreement or under applicable law. The Contractor shall not be required to indemnify the District if such indemnification would be a violation of a Texas statute. The terms of this paragraph shall survive the termination of this Agreement.

- 10. **Status of the Contractor.** The Contractor hereby represents, promises and warrants to the District: that the Contractor is financially solvent and possesses sufficient experience, all required licenses, authority, personnel and working capital to complete the Services required under this Agreement.
- 11. **Business Ethics Standards.** The Contractor hereby acknowledges that it has reviewed the District's business ethics policy attached hereto as Exhibit "C" and incorporated herein by reference for all purposes. The Contractor represents to the District that it has not violated such standards in its dealings with the District and covenants that it will abide by such standards in the Contractor's performance of this Agreement.
- 12. **Criminal Background Check.** Any Contractor employees having direct contact with students must submit to a criminal background check as required by Texas law.
- 13. **Confidentiality.** The District considers all non-public information concerning the Services to be performed under the terms of this Agreement as well as any reports or other documentation related thereto to be confidential and proprietary unless otherwise expressly indicated in writing by the District to the Contractor. The Contractor shall not release any non-public information to any third party without the prior written consent of the District. The Contractor understands that the District must release certain information under the Texas Public Information Act.



- 14. Assignment. The Contractor agrees that the duties and obligations of the Contractor under this Agreement are not assignable or transferable and the Contractor agrees not to subcontract any of the Services to be performed hereunder, without the prior written approval of the District.
- 15. **Entire Agreement.** This Agreement constitutes and expresses the entire agreement between the parties and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement shall not be amended or modified except by written instrument signed by both parties.
- 16. **Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be deemed to be an original, and all of which, when taken together, shall constitute one and the same Agreement.
- 17. This is a federally funded position and subject to continued Federal Grant funding. The contractor agrees to assist the District in all time and effort requirements under the Federal Grant. Funds for this contract shall be sourced from IDEA-B federal funds (224) and local funds (199). All programs are subject to funding and award for the covered program.

NOTWITHSTANDING ANY PROVISIONS HEREIN CONTAINED TO THE CONTRARY: (i) THE TORNILLO INDEPENDENT SCHOOL DISTRICT DOES NOT WAIVE SOVEREIGN IMMUNITY BY ITS EXECUTION OR DELIVERY OF THIS AGREEMENT OR BY ANY CONDUCT OF ITS REPRESENTATIVES UNDER THIS AGREEMENT; AND (ii) THE DISPUTE RESOLUTION PROCESS HEREIN PROVIDED DOES NOT AFFECT THE TORNILLO INDEPENDENT SCHOOL DISTRICT'S RIGHT TO ASSERT ALL CLAIMS AND DEFENSES IN ANY LEGAL PROCEEDING.

AGREED and ACCEPTED on behalf of Contractor to be effective on the earliest date written above by the person authorized to bind contract.



Contractor	Adopposting	xd &d/e,W	16/23/2-4 Date 3/2-4
AGREED and ACCEPTED on be authorized to bind School Dist	ALTERNATION OF THE PROPERTY OF	day of	, by a person

Superintendent

Date



Tornillo Independent School District Special Education Department 19200 Cobb Ave. Tornillo, TX 79853

PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement (this or the "Agreement") is entered into by and between the Tornillo Independent School District (hereinafter the "District") and <u>Alyssa Frausto</u> whose contract number is <u>12027</u> (hereinafter the "Contractor").

WHEREAS, the Contractor desires to perform the described services pursuant to the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the promises contained herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the District and the Contractor hereby agree as follows:

During the period beginning <u>September 01, 2024</u> and ending <u>August 31, 2025</u>, Contractor, as an independent contractor and not as an employee or agent of School District shall provide to the School District and complete during the effective dates of this contract the following services in a timely manner for the use and benefit of public education students in Texas:

Description of Services:

Contractor will provide special education related services according to each child's IEP Contractor will provide services on an "as needed" basis for Tornillo ISD students as arranged by the Special Education Department. Contractor will conduct evaluations, provide written reports, maintain and submit progress reports to parents. Contractor will maintain and submit service logs and session notes as directed. Contractor will assist and be a resource for school personnel and attend ARD's as needed. Contractor will provide goals/objectives as necessary. Contractor will be part of assessment team when required.

For the performance, satisfactory to the District, of the services described above, the District shall pay to the Contractor a fee equal to the amount quoted by the Contractor in his/her proposal in response to RFP No.

001-2019 or the sum of \$\$800 for Student Evaluations and a maximum of \$200.00 per ARD for any other related service provided time or the performance of the Contractor's duties under this contract, whichever is less, and computed in accordance with Texas law and school district Board policy in effect at the time such fee is incurred by the Contractor. The Contractor cannot work more than 30 consecutive consultative minutes at a time or more than 19.5 hours per week without prior written approval by TISD for either case. Also, contractor cannot exceed 90 days of work in a school year. The Contractor must notify TISD of any makeup time/work as soon as it becomes known to Contractor or made necessary. The Contractor acknowledges and agrees that the compensation shall constitute full payment to the Contractor and shall include, without limitation, costs of all supplies, materials, equipment, travel expenses, lodging,



meals and all other expenses of any kind or nature incurred by the Contractor in the performance of the services described herein. The Contractor acknowledges and agrees that the compensation is a fixed sum which may only be adjusted in accordance with the terms and conditions of this Agreement and after written approval by the District. All payments due to the Contractor shall be made by a District check upon documentation required on a case by case basis. All documentation must be

submitted in proper form. All payments due to the Contractor shall be made in accordance with the District's payment policy and will be paid upon verification of receipt of services. Such payments will be paid NET 30 days from the date of invoice. The Contractor further acknowledges and agrees that the District, in its sole discretion, shall have the right to retain up to percent (%) of each such monthly payment to ensure that the Contractor performs the services in accordance with the terms of this Agreement. Any amount retained by the District shall be paid by the District to the Contractor at the time of final acceptance by the District of the services. Services covered by this Agreement are subject to all applicable grant and program requirements and are contingent on funding of the applicable program.

2. Any report(s) and any other documents prepared by the Contractor with respect to the services shall be the property of the District with all common law and statutory rights related thereto. The District shall have the right to use such documents for any purpose deemed appropriate by the District; provided however, the Contractor shall have no liability for any use of such documents by the District for any purpose unrelated to the Services.

THE DISTRICT'S REVIEW, APPROVAL OR USE OF ANY AND ALL DOCUMENTS PREPARED BY THE CONTRACTOR SHALL BE FOR THE DISTRICT'S SOLE PURPOSE AND SHALL NOT IMPLY THE DISTRICT'S REVIEW OF THE SAME, NOR OBLIGATE THE DISTRICT TO REVIEW SAME FOR QUALITY, COMPLIANCE WITH ALL APPLICABLE STATUTES, CODES, RULES AND REGULATIONS OR OTHER LIKE MATTERS. ACCORDINGLY, NOTWITHSTANDING THAT ANY DOCUMENTS PREPARED BY THE CONTRACTOR AND REVIEWED BY THE DISTRICT OR ANY AGENT OR EMPLOYEE OF THE DISTRICT, AND NOTWITHSTANDING ANY ADVICE OR ASSISTANCE WHICH MAY BE RENDERED TO THE CONTRACTOR BY THE DISTRICT OR THE DISTRICT'S AGENTS OR EMPLOYEES, INCLUDING BUT NOT LIMITED TO THE DISTRICT'S DESIGNATED REPRESENTATIVES, THE DISTRICT SHALL HAVE NO LIABILITY WHATSOEVER IN CONNECTION THEREWITH AND SHALL NOT BE RESPONSIBLE FOR ANY OMISSIONS OR ERRORS CONTAINED IN ANY SUCH DOCUMENT SUBMITTED TO THE DISTRICT FOR REVIEW AND APPROVAL AND ANY SUCH DISTRICT APPROVAL SHALL NOT CONSTITUTE A WAIVER OR RELEASE OF THE CONTRACTOR HEREUNDER OR AS PROVIDED BY APPLICABLE LAW. THE PROVISIONS HEREOF AND THE ENFORCEMENT OF SUCH PROVISIONS SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

The Contractor is serving as an independent contractor only, and this Agreement will in no way create any
joint venture or employment relationship between the Contractor and the District. The Contractor shall



have no authority to bind the District in any contract, agreement or otherwise. The District shall have no obligation to: (i) provide training to the Contractor; (ii) instruct the Contractor as to when, where, or how the Contractor is to work; (iii) hire or supervise or pay any assistants for the Contractor; or (iv) furnish the Contractor with tools, materials or equipment. The District shall have no obligation to withhold from the compensation any taxes, FICA, or federal or state unemployment insurance premiums. The Contractor shall not accrue leave, retirement, insurance, bonding, retirement, profit-sharing or any other benefits which may or may not be afforded employees of the District.

- 4. Unless otherwise agreed to in writing by the parties, the Contractor acknowledges and agrees that the District shall have no duty to obtain and maintain any insurance including, but not limited to, a workers' compensation insurance policy, for the benefit of the Contractor. The Contractor hereby agrees to Workers' compensation insurance coverage that meets or exceeds legal requirements covering all of the Contractor's employees and such insurance policies as are set forth on Exhibit "B" attached hereto and incorporated herein by reference. If leased employees will be used, the Consultant shall provide the District with a copy of the leasing company's Texas State License and evidence of workers' compensation coverage insuring the leased employees.
- 5. The District and the Contractor are fully committed to working with each other and agree to communicate regularly with each other at all times so as to avoid or minimize disputes or disagreements with respect to the Services to be performed by the Contractor pursuant to the terms of this Agreement. If disputes or disagreements do arise, the District and the Contractor each commit to resolve such disputes or disagreements in an amicable, professional, and expeditious manner so as to avoid unnecessary losses, delays, and disruptions to completion of the Services. The District and the Contractor will first attempt to resolve any disputes or disagreements at the filed level through discussions between the parties' respective designated representatives. The Contractor shall continue to perform the Services and the District shall continue to satisfy its payment obligations to the Contractor pending the final resolution of any dispute or disagreement between the parties. If the parties are unable to resolve the dispute through discussions between their designated representatives, either party may file a written request for mediation with the other party. Such mediation will be conducted in accordance with the applicable mediation rules of the American Arbitration Association currently in effect. The parties shall share the costs of mediation equally. Unless otherwise agreed by the parties, the mediation shall be held in the City of El Paso, El Paso County, Texas. Any dispute which cannot be resolved by mediation may then be submitted to the appropriate state or federal court in the City of El Paso, El Paso County, Texas. In the event the efforts to resolve the dispute through mediation are unsuccessful, the Contractor hereby irrevocably submits generally and unconditionally for itself and in respect of its property to the jurisdiction of any state court, or any United



States Federal Court, sitting in the City of El Paso, El Paso County, Texas, over any suit, action or proceeding arising out of or relating to this Agreement. The Contractor further hereby irrevocably waives, to the fullest extent permitted by law, any objection that the Contractor may now or hereafter have to the laying of venue in any such court and any claims that any such court is an inconvenient forum. If any action at law or in equity is brought to enforce or interpret the provisions of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees in addition to any other relief to which it may be entitled.

- 6. This Agreement shall be construed and enforced in accordance with the laws of the State of Texas.
- The Contractor affirms that this assignment does not create a conflict of interest with his/her business entity or present employer.
 - 8. **Termination; Suspension.** Either party, the District or the Contractor, may void this contract with <u>30</u> days prior written notice of such intent. Written notice must be in the form of United Postal Return Receipt Mail. Termination or suspension shall be subject to the following:
 - (a) By the District. The District may terminate this Agreement immediately upon any breach of this Agreement by the Contractor. The District may also terminate this Agreement upon thirty (30) days written notice to the Contractor for the District's convenience and without cause. Upon written notice to the Contractor, the District may for its convenience and without cause suspend performance of the Services by the Contractor for a period not to exceed ninety (90) consecutive days. In the event of a suspension by the District, the District shall equitably adjust the terms of this Agreement, including compensation.
 - (b) By the Contractor. The Contractor may terminate this Agreement if the District fails to pay the Consultant in compliance with Paragraph 2 herein. Provided, however, that the Contractor must have first given the District written notice of such failure to pay and the District must have failed to cure such non-payment within twenty (20) days of receipt of such notice. The Contractor may also terminate this Agreement if the District suspends Contractor's performance of the Services for a period in excess of ninety (90) consecutive days.
- 9. Indemnification. The Contractor shall indemnify and hold harmless the District, its Board of Trustees, employees, agents and representatives (the "Indemnified Parties") from all losses, claims, liabilities, injuries, damages, actions or causes of action, and any costs and expenses, including, without limitation, reasonable attorney's fees, of any type or description, brought, asserted or made for or on account of any injuries or damages received or sustained by any person or person (including, without limitation, one of the Indemnified Parties) or property, arising out of, relating to, or occasioned by the performance or lack of performance, errors, omissions, negligence or intentional acts of the Contractor, its agents, consultants,



subcontractors or employees related to the Services and its duties and obligations under or pursuant to this Agreement, whether or not any other party contributes to such performance or lack of performance, errors, omissions, negligence or intentional acts of the Contractor, its agents, consultants, subcontractors or employees. Upon demand by the District, the Contractor shall diligently defend any indemnified matter relating to the Services and which is made or commenced against the District, whether alone or together with the Contractor or any other person, all at the Contractor's own cost and expense and by counsel to be approved by the District in the exercise of its reasonable judgment. In the alternative, at any time the District may elect to conduct its own defense through counsel selected by the District and at the cost and expense of the Contractor. Nothing in this paragraph shall limit or impair any rights or remedies of the District against the Contractor or any other person under any other provision of this Agreement or under applicable law. The Contractor shall not be required to indemnify the District if such indemnification would be a violation of a Texas statute. The terms of this paragraph shall survive the termination of this Agreement.

- 10. **Status of the Contractor.** The Contractor hereby represents, promises and warrants to the District: that the Contractor is financially solvent and possesses sufficient experience, all required licenses, authority, personnel and working capital to complete the Services required under this Agreement.
- 11. **Business Ethics Standards.** The Contractor hereby acknowledges that it has reviewed the District's business ethics policy attached hereto as Exhibit "C" and incorporated herein by reference for all purposes. The Contractor represents to the District that it has not violated such standards in its dealings with the District and covenants that it will abide by such standards in the Contractor's performance of this Agreement.
- 12. **Criminal Background Check.** Any Contractor employees having direct contact with students must submit to a criminal background check as required by Texas law.
- 13. **Confidentiality.** The District considers all non-public information concerning the Services to be performed under the terms of this Agreement as well as any reports or other documentation related thereto to be confidential and proprietary unless otherwise expressly indicated in writing by the District to the Contractor. The Contractor shall not release any non-public information to any third party without the prior written consent of the District. The Contractor understands that the District must release certain information under the Texas Public Information Act.
- 14. Assignment. The Contractor agrees that the duties and obligations of the Contractor under this Agreement are not assignable or transferable and the Contractor agrees not to subcontract any of the Services to be performed hereunder, without the prior written approval of the District.



- 15. **Entire Agreement.** This Agreement constitutes and expresses the entire agreement between the parties and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement shall not be amended or modified except by written instrument signed by both parties.
- 16. **Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be deemed to be an original, and all of which, when taken together, shall constitute one and the same Agreement.
- 17. This is a federally funded position and subject to continued Federal Grant funding. The contractor agrees to assist the District in all time and effort requirements under the Federal Grant. Funds for this contract shall be sourced from IDEA-B federal funds (224) and local funds (199). All programs are subject to funding and award for the covered program.

NOTWITHSTANDING ANY PROVISIONS HEREIN CONTAINED TO THE CONTRARY: (i) THE TORNILLO INDEPENDENT SCHOOL DISTRICT DOES NOT WAIVE SOVEREIGN IMMUNITY BY ITS EXECUTION OR DELIVERY OF THIS AGREEMENT OR BY ANY CONDUCT OF ITS REPRESENTATIVES UNDER THIS AGREEMENT; AND (ii) THE DISPUTE RESOLUTION PROCESS HEREIN PROVIDED DOES NOT AFFECT THE TORNILLO INDEPENDENT SCHOOL DISTRICT'S RIGHT TO ASSERT ALL CLAIMS AND DEFENSES IN ANY LEGAL PROCEEDING.

AGREED and ACCEPTED on behalf of Contractor to be effective on the earliest date written above by the person authorized to bind contract.



llyssa F. J. to (Nov 12, 2024 14:30 MST) Contractor	Educational Diagno т	sti 11/12/24 itle	 Date	
AGREED and ACCEPTED of authorized to bind Schoo	on behalf of District this I District.	day of	, by a	a person
Superir	ntendent		Date	

TISD Special Education-Alyssa Frausto- 24-25

Final Audit Report 2024-11-12

Created: 2024-11-06

By: Anna Brew (brewa@tisd.us)

Status: Signed

Transaction ID: CBJCHBCAABAAMDicPPofXh5UCqWKDJw-1rZ4ZMHv1049

"TISD Special Education-Alyssa Frausto- 24-25" History

Document created by Anna Brew (brewa@tisd.us) 2024-11-06 - 11:18:35 PM GMT

Document emailed to Alyssa Frausto (leelafr@gmail.com) for signature 2024-11-06 - 11:18:38 PM GMT

Email viewed by Alyssa Frausto (leelafr@gmail.com) 2024-11-12 - 9:28:46 PM GMT

Document e-signed by Alyssa Frausto (leelafr@gmail.com)
Signature Date: 2024-11-12 - 9:30:02 PM GMT - Time Source: server

Agreement completed.
 2024-11-12 - 9:30:02 PM GMT