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**STATE OF OREGON
INTERGOVERNMENTAL AGREEMENT
Educational/Vocational Services**



Contract #11518

This Contract is between the State of Oregon, acting by and through its **OREGON YOUTH AUTHORITY**, hereafter called "OYA" or "Agency", and **THREE RIVERS SCHOOL DISTRICT**, hereafter called "Contractor".

Agency's **Contract Administrator** for this Contract is: Steve Brinlee Phone Number: (503) 373-7587
Address: 530 Center St NE Suite 200, Salem, Oregon 97301-3765

1. Contract Period; Contract Documents

- a. This Contract shall become effective on the date this Contract has been fully executed by every party and, when required, approved by the Oregon Department of Justice. Unless extended or terminated earlier in accordance with its terms, this Contract shall terminate when Agency accepts Contractor's completed performance or on June 30, 2010, whichever date occurs last. Contract termination shall not extinguish or prejudice Agency's right to enforce this Contract with respect to any default by Contractor that has not been cured.
- b. The Contractor shall perform the services and deliver to the Agency all materials described in this Contract for the time period beginning **July 1, 2009** and ending **June 30, 2010**, for the Maximum Compensation, as that term is defined and further specified in Exhibit C of this Contract.
- c. This Contract consists of the following documents, which are listed in descending order of precedence: this Contract less all exhibits, attached Exhibit A (the Statement of Work), Exhibit C (Consideration), and Exhibit B (Required Insurance). Exhibits A-C are attached hereto and incorporated herein by this reference.

2. Statement of Work

Contractor shall perform the services and deliver to Agency all documents, reports and other information for the time period beginning **July 1, 2009** and ending **June 30, 2010**, as set forth in Exhibit A (collectively and referred to hereafter as the "Work"). Contractor shall perform the Work in accordance with the terms and conditions of this Contract.

3. Funds Available and Authorized; Payments

Contractor shall not be compensated for Work performed under this Contract by any other department or agency of the State of Oregon. Agency certifies it has sufficient funds currently authorized for expenditure to finance the costs of this Contract within the Agency's current biennial appropriation or limitation. Contractor understands and agrees that Agency's payment of amounts under this Contract is contingent on Agency receiving appropriations, limitations, allotments or other expenditure authority sufficient to allow Agency, in the exercise of its reasonable administrative discretion, to continue to make payments under this Contract.

4. Consideration

Subject to the limitations in Paragraph 3 of this Contract, the amounts payable to Contractor for services rendered during the course of this Contract are fully set forth in Exhibit C. The amounts payable to Contractor pursuant to the terms of Exhibit C are not firm, fixed amounts unconditionally guaranteed to be provided to Contractor, but are not-to-exceed amounts expected to be available for allowable payments to Contractor for performing the Work. Nothing in this Contract shall be construed to obligate Agency to pay Contractor the stated amounts in Exhibit C if Contractor does not perform those portions of the Work associated with the approved line items indicated in the budget provided by Contractor at the time it signs this Contract ("Budget").

5. Independent Contractor; Responsibility for Taxes and Withholding

- a. Contractor shall perform all Work as an independent contractor. The Agency reserves the right (i) to determine and modify the delivery schedule for the Work, and (ii) to evaluate the quality of the Work Product, as that term is defined in Paragraph 9. However, the Agency may not and will not control the means or manner of Contractor's performance. Contractor is responsible for determining the appropriate means and manner of performing the Work.
- b. If Contractor is currently performing work for the State of Oregon or the federal government, Contractor, by signature to this Contract, represents and warrants that: Contractor's Work to be performed under this Contract creates no potential or actual conflict of interest as defined by ORS Chapter 244, and no statutes, rules or regulations of the state or federal agency for which Contractor currently performs work would prohibit Contractor's Work under this Contract.
- c. Contractor understands and agrees that it is not an "officer", "employee", or "agent" of the Agency, as those terms are used in ORS 30.265.
- d. Contractor shall be responsible for all federal or state taxes applicable to compensation or payments paid to Contractor under this Contract and, unless Contractor is subject to backup withholding, Agency will not withhold from such compensation or payments any amount(s) to cover Contractor's federal or state tax obligations. Contractor is not eligible for any social security, unemployment insurance or workers' compensation benefits from compensation or payments paid to Contractor under this Contract, except as a self-employed individual.

6. Subcontracts and Assignment; Successors and Assigns

- a. Contractor shall not enter into any subcontracts for any of the Work required by this Contract without Agency's prior written consent. In addition to any other provisions the Agency may require, Contractor shall require any approved subcontractor to be bound by the following Paragraphs of this Contract as if the subcontractor were the Contractor: (i) Section 5, Independent Contractor; Responsibility for Taxes and Withholding; (ii) Section 6, Subcontracts and Assignments; Successors, and Assigns; (iii) Section 7, No Third Party Beneficiaries; (iv) Section 8, Representations and Warranties; (v) Section 9, Ownership of Work Product; (vi) Section 10, Indemnity; (vii) Section 14, Records Maintenance; Access; (viii) Section 15, Compliance with Applicable Law; (ix);Section 17, Survival; and (x) Section 22, Governing law; Venue; Consent to Jurisdiction. Agency's consent to any subcontract shall not relieve Contractor of any of its duties or obligations under this Contract.
- b. The provisions of this Contract shall be binding upon and inure to the benefit of the parties, their respective successors, and permitted assigns, if any.
- c. Contractor shall not assign, delegate or transfer any of its rights or obligations under this Contract without Agency's prior written consent.

7. No Third Party Beneficiaries

Agency and Contractor are the only parties to this Contract and are the only parties entitled to enforce the terms of this Contract. Nothing in this Contract gives, is intended to give, or shall be construed to give or provide any benefit or right not held by or made generally available to the public, whether directly, indirectly or otherwise, to third persons unless such third persons are individually identified by name herein and expressly described as intended beneficiaries of the terms of this Contract.

8. Representations and Warranties

- a. Contractor represents and warrants to Agency that (1) Contractor has the power and authority to enter into and perform this Contract; (2) this Contract, when executed and delivered, shall be a valid and binding obligation of Contractor enforceable in accordance with its terms; (3) Contractor has the skill and knowledge possessed by well-informed members of its industry, trade or profession and Contractor will apply that skill and knowledge with care and diligence to perform the Work in a professional manner and in accordance with standards prevalent in Contractor's industry, trade or profession; (4) Contractor shall, at all times during the term of this Contract, be qualified, professionally competent, and duly licensed to perform the Work; (5) Contractor prepared its proposal related to this Contract, if any, independently from all other proposers, and without collusion, fraud, or other dishonesty.
- b. The warranties set forth in this section are in addition to, and not in lieu of, any other warranties provided.

9. Ownership of Work Product

- a. **Definitions.** As used in this Section 9, and elsewhere in this Contract, the following terms have the meanings set forth below:
 - (i) "Contractor Intellectual Property" means any intellectual property owned by Contractor and developed independently from the Work.
 - (ii) "Third Party Intellectual Property" means any intellectual property owned by parties other than Agency or Contractor.
 - (iii) "Work Product" means every invention, discovery, work of authorship, trade secret or other tangible or intangible item and all intellectual property rights therein that Contractor is required to deliver to Agency pursuant to the Work.
- b. **Original Works.** All Work Product created by Contractor pursuant to the Work, including derivative works and compilations, and whether or not such Work Product is considered a work made for hire or an employment to invent, shall be the exclusive property of Agency. Agency and Contractor agree that such original works of authorship are "work made for hire" of which Agency is the author within the meaning of the United States Copyright Act. If for any reason the original Work Product created pursuant to the Work is not "work made for hire," Contractor hereby irrevocably assigns to Agency any and all of its rights, title, and interest in all original Work Product created pursuant to the Work, whether arising from copyright, patent, trademark, trade secret, or any other state or federal intellectual property law or doctrine. Upon Agency's reasonable request, Contractor shall execute such further documents and instruments necessary to fully vest such rights in Agency. Contractor forever waives any and all rights relating to original Work Product created pursuant to the Work, including without limitation, any and all rights arising under 17 USC §106A or any other rights of identification of authorship or rights of approval, restriction or limitation on use or subsequent modifications.

In the event that Work Product created by Contractor under this Contract is a derivative work based on Contractor Intellectual Property, or is a compilation that includes Contractor Intellectual Property, Contractor hereby grants to Agency an irrevocable, non-exclusive, perpetual, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the

pre-existing elements of the Contractor Intellectual Property employed in the Work Product, and to authorize others to do the same on Agency's behalf.

In the event that Work Product created by Contractor under this Contract is a derivative work based on Third Party Intellectual Property, or is a compilation that includes Third Party Intellectual Property, Contractor shall secure on the Agency's behalf and in the name of the Agency an irrevocable, non-exclusive, perpetual, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the pre-existing elements of the Third Party Intellectual Property employed in the Work Product, and to authorize others to do the same on Agency's behalf.

- c. Contractor Intellectual Property.** In the event that Work Product is Contractor Intellectual Property Contractor hereby grants to Agency an irrevocable, non-exclusive, perpetual, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the Contractor Intellectual Property, and to authorize others to do the same on Agency's behalf.
- d. Third Party Works.** In the event that Work Product is a derivative work based on Third Party Intellectual Property or is a compilation that includes Third Party Intellectual Property, Contractor shall secure on the Agency's behalf and in the name of the Agency, an irrevocable, non-exclusive, perpetual, royalty-free license to use, reproduce, prepare derivative works based upon, distribute copies of, perform and display the pre-existing elements of the Third Party Intellectual Property employed in the Work Product, and to authorize others to do the same on Agency's behalf.

10. Indemnity

- a.** To the extent permitted by applicable law, Contractor shall defend, save, hold harmless, and indemnify the State of Oregon and Agency and their officers, employees and agents from and against all claims, suits, actions, losses, damages, liabilities, costs and expenses of any nature whatsoever, including attorneys fees, resulting from, arising out of, or relating to the activities of Contractor or its officers, employees, subcontractors, or agents under this Contract. Except in the instance where a subcontractor is an agency of the State of Oregon, Contractor shall include in all contracts with subcontractors a provision requiring the subcontractor to defend, save, hold harmless and indemnify the State of Oregon, the Oregon Youth Authority and the Contractor, together with the officers, employees and agents of those entities, against all claims, suits, actions, losses, liabilities, costs and expenses of any nature resulting from, arising out of, or relating to the activities of the subcontractor or its officers, employees, subcontractors or agents under the Contract. In the event the subcontractor is an agency of the State of Oregon, Contractor shall include in the subcontract a provision substantially in the following form:

Subcontractor is an agency of the State of Oregon and as such is insured with respect to tort liability by the State of Oregon Insurance Fund, a statutory system of self-insurance established by ORS chapter 278, and subject to the Oregon Tort Claims Act (ORS 30.260 to 30.300). Any tort liability claim, suit, or loss resulting from or arising out of the subcontractor's performance of and activities under this contract shall be allocated, as between the state agencies (subcontractor and the Oregon Youth Authority), in accordance with law by the Risk Management Division of the Department of Administrative Services for purposes of their respective loss experiences and subsequent allocation of self-insurance assessments under ORS 278.435. Subcontractor agrees to notify the Risk Management Division and the Oregon Youth Authority in the event it receives notice or knowledge of any claims arising out of the performance of, or the activities under this contract.

- b.** Without limiting the generality of the above subsection (a) , Contractor expressly agrees to defend, indemnify, and hold Agency, the State of Oregon and their agencies, subdivisions, officers, directors, agents, and employees harmless from any and all claims, suits, actions, losses, liabilities, costs, expenses, including attorneys fees, and damages arising out of or related to any claims that the Work, the Work Product or any other tangible or intangible items delivered to Agency by Contractor that may be the subject of protection under any state or federal intellectual property law or doctrine, or the Agency's use thereof, infringes any patent, copyright, trade secret,

trademark, trade dress, mask work, utility design, or other proprietary right of any third party; provided, that Agency shall provide Contractor with prompt written notice of any infringement claim.

- c. Contractor shall have control of the defense and settlement of any claim that is subject to the above subsections (a) and (b); however, neither Contractor nor any attorney engaged by Contractor shall defend the claim in the name of the State of Oregon or any agency of the State of Oregon, nor purport to act as legal representative of the State of Oregon or any of its agencies, without first receiving from the Oregon Attorney General, in a form and manner determined appropriate by the Attorney General, authority to act as legal counsel for the State of Oregon, nor shall Contractor settle any claim on behalf of the State of Oregon without the approval of the Attorney General. The State of Oregon may, at its election and expense, assume its own defense and settlement in the event that the State of Oregon determines that Contractor is prohibited from defending the State of Oregon, or is not adequately defending the State of Oregon's interests, or that an important governmental principle is at issue and the State of Oregon desires to assume its own defense.

11. Insurance

Contractor shall obtain the insurance specified on **Exhibit B**, which is attached hereto.

12. Default; Remedies; Termination.

a. Default by Contractor.

Contractor shall be in default under this Contract if:

- (i) Contractor institutes or has instituted against it insolvency, receivership or bankruptcy proceedings, makes an assignment for the benefit of creditors, or ceases doing business on a regular basis; or
- (ii) Contractor no longer holds a license or certificate which is required for Contractor to perform its obligations under the Contract or Contractor's school which provides services under this Contract is deemed to be a "non-standard" school as that term is defined in OAR 581-022-0102, and Contractor has not obtained such license or certificate or cured the circumstances which caused the school to be deemed "non-standard" within fourteen (14) calendar days after Agency's notice or such longer period as Agency may specify in such notice; or
- (iii) Contractor commits any material breach or default of any covenant, warranty, obligation or agreement under this Contract, fails to perform the Work under this Contract within the time specified herein or any extension thereof, or so fails to pursue the Work as to endanger Contractor's performance under this Contract in accordance with its terms, and such breach, default or failure is not cured within fourteen (14) calendar days after Agency's notice, or such longer period as Agency may specify in such notice.

b. Agency's Remedies for Contractor's Default.

In the event Contractor is in default under paragraph 12.a, Agency may, at its option, pursue any or all of the remedies available to it under this Contract and at law or in equity, including, but not limited to:

- (i) termination of this Contract under paragraph 12.e(ii);
- (ii) withholding all monies due for Work and Work Products that Contractor has failed to deliver within any scheduled completion dates or has performed inadequately or defectively;
- (iii) initiation of an action or proceeding for damages, specific performance, or declaratory or injunctive relief;
- (iv) exercise of its right of setoff.

These remedies are cumulative to the extent the remedies are not inconsistent, and Agency may pursue any remedy or remedies singly, collectively, successively or in any order whatsoever. If a court determines that Contractor was not in default under paragraph 12.a, then Contractor shall be entitled to the same remedies as if this Contract was terminated pursuant to paragraph 12.e(i).

c. Default by Agency

Agency shall be in default under this Contract if:

- (i) Agency fails to pay Contractor any amount pursuant to the terms of this Contract, and Agency fails to cure such failure within thirty (30) calendar days after Contractor's notice or such longer period as Contractor may specify in such notice; or
- (ii) Agency commits any material breach or default of any covenant, warranty or obligation under this Contract, and such breach or default is not cured within thirty (30) calendar days after Contractor's notice or such longer period as Contractor may specify in such notice.

d. Contractor's Remedies for Agency's Default

In the event Agency terminates the Contract under paragraph 12.e(i), or in the event Agency is in default under paragraph 12.c and whether or not Contractor elects to exercise its right to terminate the Contract under Paragraph 12.e(iii), Contractor's sole monetary remedy shall be (a) with respect to services compensable on an hourly basis, a claim for unpaid invoices, hours worked within any limits set forth in this Contract but not yet billed, authorized expenses incurred and interest within the limits permitted under ORS 293.462, and (b) with respect to deliverable-based Work, a claim for the sum designated for completing the deliverable multiplied by the percentage of Work completed and accepted by Agency, less previous amounts paid and any claim(s) that Agency has against Contractor. Except as set out in Paragraph 12(e)(i)(D) , in no event shall Agency be liable to Contractor for any expenses related to termination of this Contract or for anticipated profits. If previous amounts paid to Contractor exceed the amount due to Contractor under this Paragraph 12.d, Contractor shall pay immediately any excess to Agency upon written demand provided in accordance with Paragraph 19.

e. Termination

(i) **Agency's Right to Terminate at its Discretion.** At its sole discretion, Agency may terminate this Contract:

- (A) Upon ninety (90) days' prior written notice by Agency to Contractor;
- (B) Immediately upon written notice if Agency fails to receive funding, appropriations, limitations, allotments or other expenditure authority at levels sufficient to pay for the Work or Work Products; or
- (C) Immediately upon written notice if federal or state laws, regulations, or guidelines are modified or interpreted in such a way that the Agency's purchase of the Work or Work Products under this Contract is prohibited or Agency is prohibited from paying for such Work or Work Product from the planned funding source.
- (D) Immediately upon written notice a Facility is to be closed or no longer in service due to actions of Oregon Youth Authority (OYA) or other appropriate authority ("Closure"), the Agency shall pay Contractor for the direct unemployment cost incurred by Contractor as a result of the Closure. Direct unemployment costs shall include only actual documented costs from the Oregon Employment Division.

(ii) **Agency's Right to Terminate for Cause.** In addition to any other rights and remedies Agency may have under this Contract, Agency may terminate this Contract immediately upon written notice by Agency to Contractor, or at such later date as Agency may establish in such notice, or upon expiration of the time period and with such notice as provided in Paragraph 12.e(ii)(B) and 12.e(ii)(C) below, upon the occurrence of any of the following events:

- (A) Contractor is in default under Paragraph 12.a(i) because Contractor institutes or has instituted against it insolvency, receivership or bankruptcy proceedings, makes an assignment for the benefit of creditors, or ceases doing business on a regular basis;

- (B) Contractor is in default under Paragraph 12.a(ii) because Contractor no longer holds a license or certificate which is required for Contractor to perform its obligations under the Contract or Contractor's school which provides services under this Contract is deemed to be a nonstandard school and Contractor has not obtained such license or certificate or cured the circumstances which caused the school to be deemed nonstandard within fourteen (14) calendar days after Agency's notice or such longer period as Agency may specify in such notice; or
 - (C) Contractor is in default under Paragraph 12.a(iii) because Contractor commits any material breach or default of any covenant, warranty, obligation or agreement under this Contract, fails to perform the Work under this Contract within the time specified herein or any extension thereof, or so fails to pursue the Work as to endanger Contractor's performance under this Contract in accordance with its terms, and such breach, default or failure is not cured within fourteen (14) calendar days after Agency's notice, or such longer period as Agency may specify in such notice.
- (iii) **Contractor's Right to Terminate at its Discretion.** At its sole discretion, Contractor may terminate this Contract upon ninety (90) days' prior written notice by Contractor to Agency.
- (iv) **Contractor's Right to Terminate for Cause.** Contractor may terminate this Contract with such written notice to Agency as provided in Paragraphs 12.e(iv)(A) and 12.e(iv)(B) below, or at such later date as Contractor may establish in such notice, upon the occurrence of the following events: (A) Agency is in default under Paragraph 12.c(i) because Agency fails to pay Contractor any amount pursuant to the terms of this Contract, and Agency fails to cure such failure within thirty (30) calendar days after Contractor's notice or such longer period as Contractor may specify in such notice; or (B) Agency is in default under Paragraph 12.c(ii) because Agency commits any material breach or default of any covenant, warranty, or obligation under this Contract, fails to perform its commitments hereunder within the time specified or any extension thereof, and Agency fails to cure such failure within thirty (30) calendar days after Contractor's notice or such longer period as Contractor may specify in such notice.
- (iv) **Return of Property.** Upon termination of this Contract for any reason whatsoever, Contractor shall immediately deliver to Agency all of Agency's property (including without limitation any Work or Work Products, computers, software, desks, chairs, books, and other classroom furnishings for which Agency has made payment in whole or in part) that is in the possession or under the control of Contractor in whatever stage of development and form of recordation such Agency property is expressed or embodied at that time. In addition to other conditions that the parties may agree upon, Contractor's duty to return property includes boxing up items and generally leaving Agency property in good order for retrieval by Agency. Upon receiving a notice of termination of this Contract, Contractor shall immediately cease all activities under this Contract, unless Agency expressly directs otherwise in such notice of termination. Upon Agency's request, Contractor shall surrender to anyone Agency designates, all documents, research or objects or other tangible things needed to complete the Work and the Work Products.

13. Limitation of Liabilities

EXCEPT FOR LIABILITY ARISING UNDER OR RELATED TO PARAGRAPHS 12(e)(ii) (AGENCY'S RIGHT TO TERMINATE FOR CAUSE) or 8(a) (CONTRACTOR'S REPRESENTATIONS AND WARRANTIES), NEITHER PARTY SHALL BE LIABLE FOR: (i) ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL OR SPECIAL DAMAGES UNDER THIS CONTRACT; OR (ii) ANY DAMAGES OF ANY SORT ARISING SOLELY FROM THE TERMINATION OF THIS CONTRACT IN ACCORDANCE WITH ITS TERMS.

14. Records Maintenance; Access

Contractor shall maintain all financial records relating to this Contract in accordance with generally accepted accounting principles. In addition, Contractor shall maintain any other records pertinent to this OYA Agreement #11518 – Three Rivers SD – Educational/Vocational Services (RVYCF)

Contract in such a manner as to clearly document Contractor's performance. Contractor acknowledges and agrees that Agency and the Oregon Secretary of State's Office and the federal government and their duly authorized representatives shall have access to such financial records and other books, documents, papers, plans, records of shipments and payments and writings of Contractor that are pertinent to this Contract, whether in paper, electronic or other form, to perform examinations and audits and make excerpts and transcripts. Contractor shall retain and keep accessible all such financial records, books, documents, papers, plans, records of shipments and payments and writings for a minimum of six (6) years, or such longer period as may be required by applicable law, following final payment and termination of this Contract, or until the conclusion of any audit, controversy or litigation arising out of or related to this Contract, whichever date is later.

15. Compliance with Applicable Law

Contractor shall comply with all federal, state and local laws, regulations, executive orders and ordinances applicable to this Contract. Without limiting the generality of the foregoing, Contractor expressly agrees to comply with the following laws, regulations and executive orders to the extent they are applicable to this Contract: (i) Titles VI and VII of the Civil Rights Act of 1964, as amended; (ii) Paragraphs 503 and 504 of the Rehabilitation Act of 1973, as amended; (iii) the Americans with Disabilities Act of 1990, as amended; (iv) Executive Order 11246, as amended; (v) the Health Insurance Portability and Accountability Act of 1996; (vi) the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended; (vii) the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended; (viii) ORS Chapter 659, as amended; (ix) all regulations and administrative rules established pursuant to the foregoing laws; and (x) all other applicable requirements of federal and state civil rights and rehabilitation statutes, rules and regulations. These laws, regulations and executive orders are incorporated by reference herein to the extent that they are applicable to the Contract and required by law to be so incorporated. Agency's performance under this Contract is conditioned upon Contractor's compliance with the provisions of ORS 279B.220, 279B.235 and 279B.230, which are incorporated by reference herein. Contractor shall, to the maximum extent economically feasible in the performance of this Contract, use recycled paper (as defined in ORS 279A.010(1)(gg)), recycled PETE products (as defined in ORS 279A.010(1)(hh)), and other recycled products (as "recycled product" is defined in ORS 279A.010(1)(ii)).

16. Force Majeure

Neither Agency nor Contractor shall be held responsible for delay or default caused by fire, riot, acts of God, terrorist acts, or other acts of political sabotage, or war where such cause was beyond the reasonable control of Agency or Contractor, respectively. Contractor shall, however, make all reasonable efforts to remove or eliminate such a cause of delay or default and shall, upon the cessation of the cause, diligently pursue performance of its obligations under this Contract.

17. Survival

All rights and obligations shall cease upon termination or expiration of this Contract, except for the rights and obligations set forth in the following Paragraphs: (i) Paragraph 1, Contract Period; Contract Documents; (ii) Paragraph 8, Representations and Warranties; (iii) Paragraph 9, Ownership of Work Product; (iv) Paragraph 10, Indemnity; (v) Paragraph 11, Insurance; (vi) Paragraph 12, Default; Remedies; Termination; (vii) Paragraph 14, Records Maintenance; Access; (viii) Paragraph 13, Limitation of Liabilities; (ix) Paragraph 17, Survival; (x) Paragraph 22, Governing Law; Venue; Consent to Jurisdiction.

18. Time is of the Essence

Contractor agrees that time is of the essence under this Contract.

19. Notice

Except as otherwise expressly provided in this Contract, any communications between the parties hereto or notices to be given hereunder shall be given in writing, by email, personal delivery, facsimile, or mailing the same, postage prepaid, to Contractor or Agency at the address, number or email address set forth in this Contract, or to such other addresses or numbers as either party may indicate pursuant to this Paragraph. Any communication or notice mailed shall be effective five (5) days after mailing. Any communication or notice delivered by facsimile shall be effective on the day the transmitting machine generates a receipt of the successful transmission, if transmission was during normal business hours, or on the next business day, if transmission was outside normal business hours of the recipient. To be effective against Agency, any notice transmitted by facsimile must be confirmed by telephone notice to Agency's Contract Administrator. Any communication or notice given by personal delivery shall be effective when actually delivered. Any communication or notice given by email shall be effective upon the sender's receipt of confirmation generated by the recipient's email system that the notice has been received by the recipient's email system.

20. Severability

The parties agree that if any term or provision of this Contract is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Contract did not contain the particular term or provision held to be invalid.

21. Counterparts

This Contract may be executed in several counterparts, all of which, when taken together, shall constitute one agreement binding on all parties, notwithstanding that all parties are not signatories to the same counterpart. Each copy of the Contract so executed shall constitute an original.

22. Governing Law; Venue; Consent to Jurisdiction

This Contract shall be governed by and construed in accordance with the laws of the State of Oregon without regard to principles of conflicts of law. Any claim, action, suit or proceeding (collectively, "Claim") between Agency (or any other agency or department of the State of Oregon) and Contractor that arises from or relates to this Contract shall be brought and conducted solely and exclusively within the Circuit Court of Marion County for the State of Oregon; provided, however, if a Claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Oregon. In no event shall this Paragraph be construed as a waiver by the State of Oregon of any form of defense or immunity, whether it is sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any Claim or from the jurisdiction of any court. Contractor, by execution of this Contract, hereby consents to the personal jurisdiction of these courts.

23. Merger Clauses; Waiver

This Contract and attached exhibits constitute the entire agreement between the parties on the subject matter hereof. There are no understandings, agreements or representations, oral or written, not specified herein regarding this Contract. No waiver, consent, modification or change of terms of this Contract shall bind the parties unless in writing and signed by both parties with all necessary State approvals obtained. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. The failure of Agency to enforce any provision of this Contract shall not constitute a waiver by Agency of that or any other provision.

24. Amendments

Agency may amend this Contract to the extent provided in the solicitation document, if any, from which this Contract arose, and to the extent permitted by applicable statutes and administrative rules. No amendment to this Contract shall be effective unless it is in writing signed by the parties, and all approvals required by applicable law have been obtained before becoming effective.

25. Contract Administrator.

Contractor shall assign a Contract Administrator to this Contract and notify the Agency in writing of the assigned person and contact information. Contractor shall also notify the Agency in writing should a change of the Contract Administrator occur.

CONTRACTOR, BY EXECUTION OF THIS CONTRACT, HEREBY ACKNOWLEDGES THAT CONTRACTOR HAS READ THIS CONTRACT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

CONTRACTOR: YOU WILL NOT BE PAID FOR SERVICES RENDERED PRIOR TO ISSUANCE OF ALL NECESSARY STATE APPROVALS

I hereby certify and affirm I am eligible and authorized to sign this Contract on behalf of the Contractor.

By: _____ Date: _____

Title: _____

Mailing Address: _____

Facsimile: _____

Approved as to Legal Sufficiency by the **Attorney General's Office:** (Required if total amount owing under the Contract, including amendments, exceeds \$100,000)

By: _____ Date: _____
Assistant Attorney General

AGENCY: STATE OF OREGON, acting by and through its Oregon Youth Authority

By: _____ Date: _____
Manager of Budget and Contracts

Mailing Address: 530 Center St. NE, Suite 200
Salem, Oregon 97301-3740
Facsimile: (503) 373-7921

Reviewed by **OYA Contracts Specialist:**

By: _____ Date: _____

EXHIBIT A STATEMENT OF WORK

During the course of Contractor's performance of the Work under this Contract, as more specifically set forth below, Agency's Contract Administrator for this Contract (to receive all inquiries, notices, materials, invoices, etc from Contractor) is Steve Brinlee. Should a change in the Agency's Contract Administrator become necessary, Agency will notify Contractor of such change. Such change shall be effective without the necessity of executing a formal amendment to this Contract.

I. General Statement of Work

1. Contractor shall provide or cause to be provided an educational/vocational program for youth offenders who are housed at the OYA Rogue Valley Youth Correctional Facility ("Facility") who are 18 years or older who have obtained a high school diploma or are 21 years and older ("Student" or "Students").
2. Contractor shall provide to OYA for use in ongoing case management:
 - a. Method to track services regarding the Students and which Education/Vocational programming they are attending.
 - b. Information on Students receiving other means of revenue to purchase educational or vocational services (College grants).
 - c. Grades/diplomas or certificates at the end of regular grading periods.
3. Contractor shall provide an education program that will meet the individual education needs of the Students as follows:
 - a. Provide for regular and systematic educational opportunities throughout the standard corrections education year of 220 days.
 - b. Provide opportunities for post high school education, intensive transitional services and also opportunities for job training, job skills development, and opportunities for employment.
 - c. Contractor shall ensure the schedule does not contain more than 10 consecutive weekdays without classroom instruction for all Students unless agreed upon by Facility Superintendent and school Principal.
4. Student instruction shall be provided at all OYA close custody facilities, in areas provided for instruction and in such other areas as deemed appropriate by the OYA Superintendent and education administrator.
 - a. Classroom or individual instruction of Students will take place only in such areas as designated or agreed upon by the Superintendent of the respective close custody facilities.
 - b. Students from one facility will not be transported to another site for classroom or individual instruction without the prior agreement of the respective superintendents or camp director(s).
 - c. The education program at each close custody facility will be limited to residents of that facility. Exceptions may be made with the approval of the institution superintendent.
 - d. Contractor will maintain exclusive authority over the assignment of their educational staff and allocation of other educational resources.
 - e. Contractor shall abide by all policy, rules, standards, and regulations set forth by OYA in the viewing, maintenance, and use of data held in the Juvenile Justice Information System (JJIS). Confidentiality forms will be signed and maintained by Contractor on Contractor's staff designated for access privileges. Copies of signed confidentiality forms will be provided to OYA. Contractor's staff will be made available for training and other requirements as called for by the JJIS Project Management team.

- f. Contractor shall insure JJIS information will remain separate from and not be incorporated into individual Student records or the records system of the contractor that provides education services within OYA facilities.
- g. Contractor shall make Students available for various Youth Corrections programming requirements, including but not limited to case planning, temporary leave, legal processes, and such medical services which cannot be provided after school hours.
- h. In the school buildings and all other areas of campus, Contractor educational staff will comply with all OYA requirements regarding safety and security.
 - i. Contractor will require and make its staff, practicum students, subcontractors, and volunteers available for safety and security training required by OSHA and OYA. The Contractor will reimburse OYA for the cost of training over and above that scheduled for OYA personnel.
 - ii. Contractor education staffs are not required to restrain students but are to follow OYA procedures in securing OYA intervention with students who are out of control.
 - iii. Contractor shall ensure that any person having direct contact with OYA youth offenders under this Contract has passed a criminal history check and meets the OYA's criminal history records check standards as set forth in OAR 416-800-0000 to 416-800-0060 before the person provides unsupervised services under this Contract.

Any person that has not yet passed a criminal history check must be supervised by a person who has passed such a test and does meet such standards when having direct contact with OYA youth offenders under this Contract. Any person who has failed a criminal history check as set forth in OAR 416-800-0000 to 416-800-0060 is prohibited from serving as a contracted service provider.

- i. Contractor shall, within the dictates of applicable statutes and regulations, notify OYA of any potential employee or current employee who will be or is assigned responsibility in Youth Corrections who is the subject of a criminal investigation or who has a criminal record or who is a current or past client of OYA's. Contractor shall obtain OYA's approval with the employment or continued employment of that individual.
- j. The performance of the Contractor staff in areas of Student interaction, safety, and discipline shall meet the standards of OYA. Failure to meet such standards will require corrective action by Contractor administration in accordance with the Contractor's collective bargaining agreement as appropriate.
- k. Contractor shall notify in writing the Superintendent of any facility or equipment needs or deficiencies relating to safety, security, or general use of the facilities for educational purposes.
- l. Contractor shall reimburse OYA for its share of services or products when those items are provided onsite by OYA. This includes such items as copy machine use.
- m. All supplemental media materials used with Students shall conform to Contractor standards and policies and will only be used as part of the approved school curriculum.
- n. Contractor shall inform OYA Treatment Managers in writing prior to any learning activities dealing with violence, suicide, or sexual content. Upon request by the treatment manager, any student will be excused from such learning activities if the Treatment Manager determines the activity may harm the student or adversely affect the student's treatment.
- o. Contractor, as mandatory reporters of child abuse, shall carry out OYA policy with regard to reporting to the Oregon Department of Human Services, shall report suspected abuse to the school administrator, and report it to the Facility Superintendent or Camp Director.
- p. Contractor shall make reasonable effort to prevent unmonitored communications by students utilizing computer systems, programs, and devices. If unmonitored communication by students

utilizing computer systems, programs, and devices occurs, Contractor shall notify OYA immediately.

- q. Contractor shall make reasonable effort to prevent the posting of Students' personal information on the internet (excluding OYA approved systems) from either the Student or the staff network.
- r. Contractor shall make reasonable efforts related to internet monitoring, recording, and blocking capability such as software control for all Student access to the internet. All sites dealing with the following categories are considered unacceptable:
 - i. Adult/Sexually Explicit;
 - ii. Advertisements and Pop-ups;
 - iii. Alcohol and Tobacco;
 - iv. Blogs and Forums;
 - v. Chat rooms;
 - vi. Criminal Activity;
 - vii. Downloads;
 - viii. Gambling;
 - ix. Games;
 - x. Glamour and Intimate Apparel;
 - xi. Hacking;
 - xii. Illegal Drugs;
 - xiii. Intolerance and Hate;
 - xiv. Personals and Dating;
 - xv. Phishing and Fraud;
 - xvi. Proxies and Peer-to-Peer;
 - xvii. Spyware;
 - xviii. Tasteless and Offensive;
 - xix. Violence;
 - xx. Weapons; and
 - xxi. Web-based E-mail.

- 5. Contractor shall submit a Service Plan for the Contract period by October 15, 2009. The Agency will provide feedback on the Service Plan to the Contractor within 45 days of the submission. The Service Plan must be submitted in a format provided by the Agency, and address services provided to Students housed in the closed custody Facility. The Service Plan will include:
 - i. A description of how the Education Program will deliver services to youth, including a description of the organizational structure, staffing patterns, course offerings, and the school calendar and schedule;
 - ii. Any proposed subcontract arrangements;
 - iii. In-service and staff professional development activities planned;
 - iv. Method of evaluating Education Program effectiveness and reporting such activities;
 - v. Participation in transition planning for Students leaving the OYA closed custody facility and returning to the community;
 - vi. Education Program budget.

II. Dispute Resolution Process

OYA and Contractor shall encourage their respective staffs to resolve disputes through honest and open communication between the individuals having the dispute. In the event resolution between the affected individuals is not forthcoming, the dispute should be brought by the parties through the following levels of management.

1. The issue(s) shall be brought before the OYA facility superintendent and the Contractor principal (or education site supervisor where there is no principal). If resolution is not reached;
2. The issue(s) shall be brought before the OYA Facilities Operations Assistant Director and the ODE Educational Administrator. If resolution is not reached;
3. The issue(s) shall be brought before the OYA Deputy Director and the ODE Deputy Superintendent. If resolution is not reached;
4. OYA will secure the services of a mediator to assist in resolution of the issue. It is agreed that the parties shall submit to non-binding mediation prior to the commencement of litigation. In such an event, the parties agree to participate in good faith in a process in which the mediator assists and facilitates the parties in reaching a mutually acceptable resolution of the controversy. The mediator has no authority to force settlement on the parties. The mediator shall be an individual mutually acceptable to both parties, but in the absence of agreement each party shall select a temporary mediator and the temporary mediators shall jointly select the permanent mediator. Each party shall pay its own costs for the time and effort involved in mediation. The cost of the mediator shall be split equally between the parties. The parties shall continue efforts to reach a mutually agreeable solution to their differences through mediation for at least sixty days after a mediator is selected if no agreement is reached in less time. By mutual agreement, the parties may extend the time for mediation as long as they deem appropriate. Mediation shall take place in Salem, Oregon, unless the parties mutually agree to another location. The parties agree to comply with any Oregon statutes and administrative rules governing the confidentiality of mediation, if any.

EXHIBIT B

INSURANCE

During the term of this Contract Contractor shall maintain in force at its own expense, each insurance noted below:

(Agency must check boxes for #2, #3, & #4 as to whether insurance is required or not.)

1. **Required by Agency of contractors with one or more workers, as defined by ORS 656.027.**

Workers' Compensation. All employers, including Contractor, that employ subject workers, as defined in ORS 656.027, shall comply with ORS 656.017 and shall provide workers' compensation insurance coverage for those workers, unless they meet the requirement for an exemption under ORS 656.126(2). Contractor shall require and ensure that each of its subcontractors complies with these requirements.

2. **Required by Agency** **Not required by Agency.**

Professional Liability. This is to cover damages caused by error, omission or negligent acts related to the professional services to be provided under this Contract. Contractor shall provide proof of insurance of not less than the following amounts:

\$_____ (Agency to enter amount)

or

Amounts not less than the amounts listed in the following schedule:

Combined single limit per occurrence:

From commencement of the Contract term to June 30, 2010:	\$1,500,000.
July 1, 2010 to June 30, 2011:	\$1,600,000.
July 1, 2011 to June 30, 2012:	\$1,700,000.
July 1, 2012 to June 30, 2013:	\$1,800,000.
July 1, 2013 to June 30, 2014:	\$1,900,000.
July 1, 2014 to June 30, 2015:	\$2,000,000.
July 1, 2015 and thereafter the adjusted limitation as determined by the State Court Administrator pursuant to Oregon Laws 2009, chapter 67, section 3 (Senate Bill 311).	

Aggregate limit for all claims per occurrence:

From commencement of the Contract term to June 30, 2010:	\$3,000,000.
July 1, 2010 to June 30, 2011:	\$3,200,000.
July 1, 2011 to June 30, 2012:	\$3,400,000.
July 1, 2012 to June 30, 2013:	\$3,600,000.
July 1, 2013 to June 30, 2014:	\$3,800,000.
July 1, 2014 to June 30, 2015:	\$4,000,000.
July 1, 2015 and thereafter the adjusted limitation as determined by the State Court Administrator pursuant to Oregon Laws 2009, chapter 67, section 3 (Senate Bill 311).	

3. **Required by Agency** **Not required by Agency.**

Commercial General Liability. This is to cover Bodily Injury, Death and Property Damage. It shall include contractual liability coverage for the indemnity provided under this Contract. Contractor shall provide proof of insurance of not less than the following amounts:

Bodily Injury/Death:

\$_____ (Agency to enter amount)

or

Amounts not less than the amounts listed in the following schedule:

Combined single limit per occurrence:

From commencement of the Contract term to June 30, 2010:	\$1,500,000.
July 1, 2010 to June 30, 2011:	\$1,600,000.
July 1, 2011 to June 30, 2012:	\$1,700,000.
July 1, 2012 to June 30, 2013:	\$1,800,000.
July 1, 2013 to June 30, 2014:	\$1,900,000.
July 1, 2014 to June 30, 2015:	\$2,000,000.
July 1, 2015 and thereafter the adjusted limitation as determined by the State Court Administrator pursuant to Oregon Laws 2009, chapter 67, section 3 (Senate Bill 311).	

Aggregate limit for all claims per occurrence:

From commencement of the Contract term to June 30, 2010:	\$3,000,000.
July 1, 2010 to June 30, 2011:	\$3,200,000.
July 1, 2011 to June 30, 2012:	\$3,400,000.
July 1, 2012 to June 30, 2013:	\$3,600,000.
July 1, 2013 to June 30, 2014:	\$3,800,000.
July 1, 2014 to June 30, 2015:	\$4,000,000.
July 1, 2015 and thereafter the adjusted limitation as determined by the State Court Administrator pursuant to Oregon Laws 2009, chapter 67, section 3 (Senate Bill 311).	

Property Damage:

\$ _____ (Agency to enter amount)

or

Amounts not less than the amounts listed in the following schedule:

Combined single limit per occurrence shall not be less than the following amounts listed in the following schedule:

From commencement of the Contract term to January 1, 2010:	\$100,000.
From January 1, 2010, and every year thereafter the adjusted limitation as determined by the State Court Administrator pursuant to Oregon Laws 2009, chapter 67, section 5 (Senate Bill 311).	

Aggregate limits for all claims per occurrence shall not be less than the following amounts listed in the following schedule:

From commencement of the Contract term to January 1, 2010:	\$500,000.
From January 1, 2010, and every year thereafter the adjusted limitation as determined by the State Court Administrator pursuant to Oregon Laws 2009, chapter 67, section 5 (Senate Bill 311).	

4. Required by Agency Not required by Agency.

Automobile Liability. This is to cover each accident for Bodily Injury and Property Damage, including coverage for owned, hired or non-owned vehicles, as applicable. Contractor shall provide proof of insurance of not less than the following amounts:

Bodily Injury/Death:

- \$1,000,000. combined single limit per occurrence (Agency to enter amount)
- \$ _____ aggregate limit for all claims per occurrence (Agency to enter amount)

or

Amounts not less than the amounts listed in the following schedule:

Combined single limit per occurrence:

From commencement of the Contract term to June 30, 2010:	\$1,500,000.
July 1, 2010 to June 30, 2011:	\$1,600,000.
July 1, 2011 to June 30, 2012:	\$1,700,000.
July 1, 2012 to June 30, 2013:	\$1,800,000.

July 1, 2013 to June 30, 2014: \$1,900,000.
 July 1, 2014 to June 30, 2015: \$2,000,000.
 July 1, 2015 and thereafter the adjusted limitation as determined by the State Court Administrator pursuant to Oregon Laws 2009, chapter 67, section 3 (Senate Bill 311).

Aggregate limits for all claims per occurrence shall not be less than the following amounts listed in the following schedule:

From commencement of the Contract term to June 30, 2010: \$3,000,000.
 July 1, 2010 to June 30, 2011: \$3,200,000.
 July 1, 2011 to June 30, 2012: \$3,400,000.
 July 1, 2012 to June 30, 2013: \$3,600,000.
 July 1, 2013 to June 30, 2014: \$3,800,000.
 July 1, 2014 to June 30, 2015: \$4,000,000.
 July 1, 2015 and thereafter the adjusted limitation as determined by the State Court Administrator pursuant to Oregon Laws 2009, chapter 67, section 3 (Senate Bill 311).

Property Damage:

\$ _____ (Agency to enter amount)

or

Amounts not less than the amounts listed in the following schedule:

Combined single limit per occurrence shall not be less than the following amounts listed in the following schedule:

From commencement of the Contract term to January 1, 2010: \$100,000.
 From January 1, 2010, and every year thereafter the adjusted limitation as determined by the State Court Administrator pursuant to Oregon Laws 2009, chapter 67, section 5 (Senate Bill 311).

Aggregate limits for all claims per occurrence shall not be less than the following amounts listed in the following schedule:

From commencement of the Contract term to January 1, 2010: \$500,000.
 From January 1, 2010, and every year thereafter the adjusted limitation as determined by the State Court Administrator pursuant to Oregon Laws 2009, chapter 67, section 5 (Senate Bill 311).

5. "Tail" Coverage. If any of the required liability insurance is on a "claims made" basis, Contractor shall maintain either "tail" coverage or continuous "claims made" liability coverage, provided the effective date of the continuous "claims made" coverage is on or before the effective date of this Contract, for a minimum of 24 months following the later of

- i. Contractor's completion and Agency's acceptance of all Services required under this Contract, or,
- ii. The expiration of all warranty periods provided under this Contract. Notwithstanding the foregoing 24-month requirement, if Contractor elects to maintain "tail" coverage and if the maximum time period "tail" coverage reasonably available in the marketplace is less than the 24-month period described above, then Contractor shall maintain "tail" coverage for the maximum time period that "tail" coverage is reasonably available in the marketplace for the coverage required under this Contract. Contractor shall provide to Agency, upon Agency's request, certification of the coverage required under this section 5.C.

6. Notice of Cancellation or Change. There shall be no cancellation, material change, reduction of limits or intent not to renew the insurance coverage(s) without 30 days prior written notice from the Contractor or its insurer(s) to the Oregon Youth Authority (Agency).

7. Certificates of Insurance. As evidence of the insurance coverages required by this Contract, the Contractor shall furnish acceptable insurance certificates to Agency prior to commencing the work. The certificate must specify all of the parties who are Additional Insureds. If requested, complete copies of

insurance policies, trust agreements, etc. shall be provided to the State. The Contractor shall pay for all deductibles, self-insured retention and self-insurance.

- 8. Additional Insured.** The Commercial General Liability and Automobile Liability insurance coverages required under this Contract shall include the State of Oregon, and its agencies, departments, divisions, commissions, branches, officers, employees, and agents as Additional Insureds but only with respect to Contractor's activities to be performed under this Contract. Coverage shall be primary and non-contributory with any other insurance and self-insurance.

**EXHIBIT C
CONSIDERATION**

I. Compensation and Expense Reimbursement

1. Agency shall pay Contractor for the services described in Exhibit A according to the terms of this Exhibit C. Subject to the provisions set forth in Paragraphs 3 and 4 of the Contract, the maximum, not-to-exceed amount payable to Contractor for the Work is **\$10,000.00** ("Maximum Compensation"). This stated Maximum Compensation is not a firm, fixed amount unconditionally guaranteed to be provided to Contractor but is the not-to-exceed amount expected to be available for allowable payments to Contractor for performing the Work. The Maximum Compensation shall include all payments to which the Contractor is entitled for performance of the Work. This statement of the Maximum Compensation amount does not obligate Agency to pay Contractor the stated amount if Contractor does not perform those portions of the Work associated with the approved line items indicated later in this Exhibit C. In no event shall Agency pay Contractor more than the stated Maximum Compensation amount for the Work, unless additional quantities of that Work are required and will result in increased costs, and the amount and quantities have been increased by a written amendment to this Contract which has been signed by all Parties and for which all necessary State of Oregon approvals have been obtained. Under no circumstances shall the Agency pay for any Work performed after **June 30, 2010**.

2. Contractor shall use none of the Maximum Compensation for compensation of its chief administrative officer (i.e., superintendent). Contractor shall be paid for the items listed below. The following list is not an exclusive list of the items for which Contractor is entitled to receive payment:
 - A. Compensation of employees for time devoted and identified specifically to the performance of the Contract.
 - B. Cost of materials acquired, consumed, or expended specifically for the purpose of the Contract.
 - C. Equipment and other approved capital outlay.
 - D. Flow-through funds directly related to Contractor's subcontracts.
 - E. Travel expenses incurred specifically to carry out the Contract and in accordance with State of Oregon rates set forth in the Oregon Accounting Manual as of the date Contractor incurred the travel or other expenses.
 - F. Pro-rated costs for the Contractor's contract administrator for time devoted and identified specifically for the performance and administration of the Contract.
 - G. Allowable Indirect Costs which are included in the Maximum Compensation under the Contract. The indirect amount is computed at a rate up to the Contractor's rate approved by the Agency annually upon information reported on the Oregon Department of Education Form 3118.

II. Payment Schedule

1. The Agency will make payments to the Contractor as follows, contingent upon Contractor's submission of detailed invoices to the Agency, and contingent upon the Contractor's submission of the required documents to the Agency as specified in Section IV of this Exhibit C:

Date	Amount	Type of Report due
Contract Effective Date	\$2,500.00	Invoice Budget for contract period 09-10 Indirect Cost Rate Certification
October 12, 2009	\$2,500.00	Invoice
November 12, 2009		previous quarter's Expenditure Report
January 11, 2010	\$2,500.00	Invoice
February 10, 2010		previous quarter's Expenditure Report
April 12, 2010	\$2,500.00	Invoice

May 10, 2010		previous quarter's Expenditure Report
July 31, 2010		Final Expenditure Report

2. Based upon the information contained in the Final Expenditure Report, Agency shall determine any amounts remaining to be paid to Contractor or any amounts Contractor shall reimburse to Agency. Agency shall either pay Contractor the remaining amount of costs incurred up to the Maximum Compensation ("Final Payment") or shall invoice Contractor for all amounts Agency has provided to Contractor in excess of Contractor's costs incurred. Agency shall make its Final Payment to Contractor, if any, within thirty (30) business days after the date Contractor delivers the Final Expenditure Report to Agency. Contractor shall immediately reimburse all amounts owed to Agency upon Contractor's receipt of Agency's invoice for payment of excess amounts provided to Contractor.

Agency reserves the right and intends, if necessary, to develop mutually acceptable Amendments to this Contract if there are significant changes including, but not limited to: Delivery service requirements; Increases or Decreases in the number of Students being served; Increases or Decreases in the level of service required or provided; Actual Expenditures as compared with Budgeted Expenditures as reported in the Quarterly and Final Expenditure Reports; or other such similar circumstances which cause the Agency to reasonably consider changes in the Contract Amount.

3. The Maximum Compensation amount, set forth in this Exhibit C, is limited to the Contractor's performance of the Work through **June 30, 2010**. Such expenditures cannot exceed the Maximum Compensation total, unless this Contract is formally amended and all required State of Oregon approvals are obtained.

III. FURTHER COMPENSATION /CONSIDERATION TERMS AND CONDITIONS

1. The Contractor's entitlement to compensation, and to reimbursement of expenses, is otherwise subject to the following provisions, in addition to the provisions of Paragraph 4, Consideration, of this Contract:

- A. Payment for all Work performed under this Contract shall be subject to the provisions of ORS 293.462 and shall not exceed the Maximum Compensation, including any travel and other expense reimbursement when noted below.
- B. Contractor shall not be entitled to, and Agency will not pay, any amount in excess of the Maximum Compensation. If the Maximum Compensation or any component thereof is increased by amendment of this Contract, the amendment must be fully executed, and all required State of Oregon approvals must be obtained, before Contractor performs work subject to the amendment. This Contract cannot be amended after it has expired or been terminated.
- C. Contractor shall submit a Final Expenditure Report by the date set forth in paragraph IV Documents Required, of this Exhibit C. The Final Expenditure Report shall describe all work performed with particularity, by whom it was performed, and shall itemize and explain all expenses for which reimbursement is claimed during the entire performance period of the Contract. The Final Expenditure Report also shall include the total amount billed by Contractor during the entire Contract Term.
- D. Expanded budget reports, budget narratives, or both, will be provided to the Agency upon request.

IV. Documents Required

In addition to any reports or other documentation required to be submitted to Agency, Contractor shall submit a written final expenditure report to Agency, in a format prescribed by Agency, no later than 30 days past the end of the reporting period for the period July 1, 2009 through June 30, 2010.