



Governing Board Agenda Item

Meeting Date: January 23, 2025

From: Kristin Reidy, Assistant Superintendent

Subject: Memorandum of Understanding between Braintrust Private Instruction Interface and Marana Unified School District

Priority: To provide rigorous, relevant, and innovative academics

Consent Action Discussion

Background:

The purpose of this Memorandum of Understanding (MOU) and Addendum is to establish a partnership between Braintrust Private Instruction Interface and the Marana Unified School District.

A review of math standardized and benchmark math assessment data indicates that students in some of our most vulnerable populations exhibit considerable knowledge and skill gaps. We would like to partner with Braintrust Tutors to pilot a high-impact tutoring pilot at Marana Middle School to address these gaps. Studies have shown that high-impact tutoring is 20 times more effective than standard tutoring models for math, and the practice increases students' learning by three to 15 months across grade levels.


Braintrust Tutors partners with schools nationwide to offer customized high-dose academic interventions to support students when, where, and how schools need them most. For this pilot, Braintrust Tutors will provide customized Tier II, Tier III, and SPED intervention programs for 24 seventh-grade students during their advisement class period. The tutoring sessions will take place in small groups four days a week. Students will be selected using standardized and benchmark assessment data and will be assessed after twelve weeks to measure their gains.

This pilot will be paid for from the District's Instructional Improvement account.

This Memorandum of Understanding and Addendum have been approved by District's legal counsel.

Recommended Motion:

I move that the Governing Board approve the Memorandum of Understanding and Addendum between Braintrust Private Instruction Interface and the Marana Unified School District.

Approved for transmittal to the Governing Board: 
Dr. Daniel Streeter, Superintendent

*Questions should be directed to: Kristin Reidy, Assistant Superintendent
Phone: (520) 682-4757*

Braintrust Private Instruction Interface Agreement

This Private Instruction Interface Agreement ("**Agreement**") is entered into and made effective as of January 14, 2025 (the "**Effective Date**") by and between Braintrust Tutors Inc. ("**Braintrust**") and Marana Unified School District ("**School**"). Braintrust and School may each be referred to herein individually as a "**Party**" and collectively as the "**Parties**."

RECITALS

WHEREAS, Braintrust provides a limited service that connects or matches individuals seeking the services of a tutor with individuals seeking to provide tutoring services;

WHEREAS, School desires to provide small group ("**Small Group**") online tutoring in math ("**Tutor Services**") to certain of its K-12 students (each a "**Student**," and collectively the "**Students**");

WHEREAS, Braintrust and School desire to enter into an agreement pursuant to which Braintrust shall match Students referred by School to Braintrust with tutors (each a "**Tutor**," and collectively the "**Tutors**") for the provision of Tutor Services ("**Match Service**").

NOW, THEREFORE, in consideration of the promises and covenants contained herein, as well as other good and valuable consideration (the receipt and sufficiency of which is hereby acknowledged), the Parties do hereby agree as follows:

1. *Services*

School hereby engages Braintrust to provide the Match Service for each Student referred by School to Braintrust during the Term (as defined in Section 3 below). In connection therewith, Braintrust shall provide a Tutor to perform the Tutor Services for each Small Group of four students (each a "**Tutor Services Engagement**"). The initial Tutor Services Engagements shall be attached hereto as Exhibit A. Any subsequent Tutor Services Engagement(s) shall reference, be incorporated into, and be governed by, this Agreement, and no Tutor Services Engagement will be effective unless agreed in writing between the Parties. During the first two weeks of tutoring with respect to any Small Group Tutor Services Engagement, no changes to the Students within each Small Group may be made. Braintrust shall provide certain limited additional support services to facilitate the Tutor Services, including the provision of access to post-session reports to be completed by Tutor and delivered to School and, if requested, Students' parents (each a "**Parent**," and collectively the "**Parents**") and/or any other services it deems advisable to facilitate the tutoring lessons in its sole discretion. The Match Service, Tutor Services and additional services described in this Section 1 shall collectively be referred to as the "**Services**."

2. Fees & Payment

(a) Fees. In exchange for the Services, School agrees to pay to Braintrust a fee (the “Fee”) of \$100.00 per 30 minutes for each Small Group Session, in each case as provided to Students pursuant to Tutor Services during the Term. Fees may be subject to change as agreed between the Parties in a Tutor Services Engagement. Unless notified at least twenty-four (24) hours in advance, a Fee will be charged for each missed/canceled Session.

(b) Payment. All Fees shall be fully earned when due, and non-refundable when paid. Payments under this Agreement shall be made in United States dollars, within thirty (30) days of receipt of the applicable invoice. Unless otherwise agreed in writing by the Parties during the Term, Braintrust shall invoice School on a monthly basis completion of Tutor Services for completed Tutor Services with respect to each Tutor Services Engagement.. Invoices shall include the date of each session, length of each session, total cost of each session, and total cost of all sessions.

3. Term of Agreement

This Agreement shall commence as of the Effective Date and shall continue in effect through June 30, 2025 (the “Term”). The Term may be extended beyond June 30, 2025 by mutual written agreement of the Parties.

4. School Assistance

School agrees to provide reasonable assistance to Braintrust in connection with the delivery of the Services, including but not limited to providing student data (e.g., names, grades, email addresses, assessment scores, etc.) in a timely manner; assigning a site coordinator(s), as applicable, to provide oversight and support in connection with the implementation and delivery of the Tutor Services; and offering other such support as reasonably requested by Braintrust from time to time.

5. Non-Solicitation

School agrees not to solicit Braintrust’s employees, contractors, or Tutors for any dealings, retentions or transactions that fall within the purview of, or compete with, the services available through Braintrust and/or its website. For the avoidance of doubt, each of the Parties hereby acknowledges agreement as applicable to Braintrust’s Terms of Use, as published on its website, which are incorporated as applicable herein (although the terms herein govern in the event of any inconsistency). This Section 4 shall survive any expiration of this Agreement.

6. Exclusive Arrangement

School agrees that Braintrust shall be the sole and exclusive provider of services available through Braintrust and/or its website to School during the Term, unless otherwise agreed in advance in writing by Braintrust.

7. Relationship of Parties

The Parties' relationship, as established by this Agreement, is solely that of independent contractors. This Agreement does not create any partnership, joint venture or similar business relationship between the parties. Neither party is a legal representative of the other party, and neither party can assume or create any obligation, representation, warranty or guarantee, express or implied, on behalf of the other party for any purpose whatsoever.

8. Confidentiality

The Parties agree to keep the contents, terms and conditions of this Agreement confidential and not disclose them except to, attorneys, accountant or as required by subpoena or court order. The obligations of the Parties with respect to this provision shall survive indefinitely or until the latest date permitted by applicable federal, state and/or local law. Notwithstanding the forgoing, the Parties hereby grant to each other the right to promote the relationship contemplated by this Agreement through joint or individual press releases, its websites, brochures, social media and other marketing materials.

9. Arbitration

Consistent with Braintrust's Terms of Use available on its website, this provision will explain the binding arbitration rules that shall govern in the event of any disputes between or among the Parties:

(a) Agreement to arbitrate:

The Parties agree that any dispute between them arising under or relating to this Agreement, including, without limitation, claims for unpaid fees, negligence, breach of contract or any non-contract duty, fraud or any other claims relating to any aspect of this Agreement shall be resolved by confidential, binding arbitration as described in (b) below.

The Parties acknowledge that this agreement to arbitrate results in a waiver of their right to a court or jury trial for any fee dispute and/or malpractice claim. This also means that the Parties may be giving up their right to discovery and appeal, to compel witnesses and documents, to seek all available relief (except punitive damages which are provided for under state law), and to have the matter heard in a public forum.

- (b) Arbitration procedures:
- (i) This section explains the process of resolving any disputes between Braintrust and a tutor; Braintrust and a student; or Braintrust, a tutor, and a student. All disputes shall be resolved through arbitration in New York City instead of through the courts. Specifically:
 - (ii) Any dispute in any way related to the site, its use, user (e.g., tutor, student) conduct, or the terms must go to binding arbitration under the provisions of the terms. The arbitrator must apply the consumer arbitration rules of the American arbitration association (“AAA”) in effect at the time you consent to the terms. Copies of the consumer arbitration rules may be obtained at any AAA office, at www.adr.org, or by calling the AAA at 1-800- 778-7879. To clarify, this arbitration provision does not govern disputes occurring only between a tutor and a student.
 - (iii) If the consumer arbitration rules and this arbitration provision disagree on something, then the terms of this arbitration provision control, unless the arbitrator determines that doing so would result in a fundamentally unfair arbitration proceeding. In that situation, the consumer arbitration rules control. This arbitration provision must be construed and enforced in accordance with the federal arbitration act, 9 U.S.C. §1 *et seq.*
 - (iv) The arbitration proceedings and the decision of the arbitrator will be confidential. Notwithstanding anything to the contrary contained in this Agreement, the prevailing party or parties in any arbitration, action or proceeding to enforce any provision of this Agreement (for avoidance of doubt, a party that obtains a net monetary recovery shall be a prevailing party) will be awarded attorneys' fees and costs incurred in that arbitration, action or proceeding even if the law provides otherwise, except that the foregoing shall not apply to any mediation, as described above, and the parties will split the fees of the arbitrator; and
 - (v) Be final and binding on all parties, will not be subject to de novo review, and that no appeal may be taken. The ruling of the arbitrator(s) may be entered and enforced as a judgment by a court of competent jurisdiction. The arbitration provisions of this Agreement may be enforced

by any court of competent jurisdiction, and the party seeking enforcement shall be entitled to an award of all costs, fees and expenses.

10. *Limitations of Liability*

THE PARTIES UNDERSTAND AND AGREE THAT BRAINTRUST HAS NO CONTROL OVER THE ACTS OR OMISSIONS OF ANY OF TUTORS, PARENTS, OR STUDENTS AND THAT BRAINTRUST MAKES NO REPRESENTATIONS OR WARRANTIES ABOUT THE QUALITY OF THE SERVICES PROVIDED BY TUTORS. THE PARTIES UNDERSTAND AND AGREE THAT BRAINTRUST IS NOT RESPONSIBLE FOR THE PERFORMANCE OR CONDUCT OF ANY OTHER PARTY. AS SUCH, BRAINTRUST EXPRESSLY DISCLAIMS, AND EACH OF SCHOOL, PARENTS AND TUTORS EXPRESSLY RELEASES BRAINTRUST FROM, ANY AND ALL LIABILITY WHATSOEVER FOR ANY CONTROVERSIES, CLAIMS, SUITS, INJURIES AND/OR DAMAGES ARISING FROM AND/OR IN ANY WAY RELATED TO THE PROVISION OF SERVICES SUBJECT TO THIS AGREEMENT OR ANY ACTIVITIES OR PAYMENTS RELATED THERETO.

BRAINTRUST IS NOT RESPONSIBLE FOR DISPUTES, CLAIMS, LOSS, INJURY, OR DAMAGE OF ANY KIND THAT MIGHT ARISE BETWEEN TUTORS AND PARENTS OR STUDENTS DURING AND AFTER THE TERM.

TO THE FULL EXTENT PERMITTED BY LAW, BRAINTRUST IS NOT LIABLE FOR ANY DIRECT, INDIRECT, PUNITIVE, SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR EXEMPLARY DAMAGES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, EVEN IF BRAINTRUST HAS PREVIOUSLY BEEN ADVISED OF, OR REASONABLY COULD HAVE FORESEEN, THE POSSIBILITY OF SUCH DAMAGES, HOWEVER THEY ARISE, WHETHER IN BREACH OF CONTRACT OR IN TORT (INCLUDING NEGLIGENCE), INCLUDING WITHOUT LIMITATION DAMAGES DUE TO STATEMENTS OR CONDUCT OF ANY OTHER PARTY. THESE LIMITATIONS SHALL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY. BECAUSE SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, THE ABOVE LIMITATIONS MAY NOT APPLY. IN NO EVENT SHALL BRAINTRUST'S TOTAL CUMULATIVE LIABILITY TO ANY AND ALL NON-BRAINTRUST PARTIES FOR ALL DAMAGES, LOSSES AND CAUSES OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING BUT NOT LIMITED TO, NEGLIGENCE) OR OTHERWISE, EXCEED THE AMOUNT PAID TO BRAINTRUST PURSUANT TO THIS AGREEMENT.

THE PARTIES AGREE THAT THE WARRANTY DISCLAIMERS, LIMITATIONS OF LIABILITY AND NON-CIRCUMVENTION PROVISIONS IN THESE TERMS ARE MATERIAL, BARGAINED-FOR BASES OF THIS AGREEMENT, AND THAT THEY HAVE BEEN TAKEN INTO ACCOUNT IN DETERMINING THE CONSIDERATION TO BE

GIVEN BY EACH PARTY UNDER THIS AGREEMENT AND IN THE DECISION BY EACH PARTY TO ENTER INTO THIS AGREEMENT. THE PARTIES AGREE THAT THE WARRANTY DISCLAIMERS, LIMITATIONS OF LIABILITY AND NON-CIRCUMVENTION PROVISIONS IN THESE TERMS ARE FAIR AND REASONABLE.

11. *Entire Agreement; Amendments; New York Choice of Law*

- (a) This Agreement represents the entire agreement among the Parties, supersedes all previous agreements relating to the subject matter hereof (should they exist) and may not be modified or amended except in writing signed by all of the Parties hereto.
- (b) This Agreement is governed by the laws of the State of New York, without regard for any choice of law principles.

12. *Severability*

Should any part of this Agreement, or language within any provision of this Agreement, be rendered or declared invalid by a court of competent jurisdiction, such invalidation of such part or portion of this Agreement, or any language within a provision of this Agreement, should not invalidate the remaining portions thereof, and they shall remain in full force and effect.

13. *Counterparts*

This Agreement may be executed in one or more counterparts, each of which will be deemed an original, and all of which together will be considered one and the same Agreement, binding on all of the Parties, even if all of the Parties have not signed the same original or the same counterpart.

[Remainder of this page is intentionally blank]

Please confirm your agreement with the foregoing by signing and returning the duplicate copy of this Agreement to Braintrust.

Marana Unified School District 6

By:

Name:

Accepted and agreed to as of the date first written above:

BRAINTRUST TUTORS INC.

By:

Name:

Title:

EXHIBIT A

Marana Middle School

- Delivery: Online
- Length: 10.5 Weeks
- Start Date and End Date: February 3, 2025 - TBD
- Session Length: 30 mins
- Sessions Per Student/Group: 42
- Price Per Session: \$100 /Small Group
- Program Schedule: 4x a week As agreed between the Parties in advance
- Modifications: As agreed between the Parties in advance

	# of Students	# of Groups	Total Sessions	Total Cost
Small Group	24	6	252	\$25,200
Total Amount				\$25,200

**ADDENDUM TO PRIVATE INSTRUCTION INTERFACE AGREEMENT
BETWEEN BRAINTRUST TUTORS INC.
AND MARANA UNIFIED SCHOOL DISTRICT**

This is an Addendum (“Addendum”) to the Private Instruction Interface Agreement (“Agreement”) between Braintrust Tutors Inc. (“Braintrust”) and Marana Unified School District (the “District”) (cumulatively the “Parties,” individually each being a “Party”). The Parties hereby agree as follows:

1. The Agreement may be cancelled if a conflict of interest is present as set out in Arizona Revised Statutes (A.R.S.) § 38-511, the terms of which statute are deemed incorporated herein.
2. To the extent applicable under A.R.S. § 41-4401, each Party warrants compliance with all federal immigration laws and regulations that relate to its Arizona-based employees and, with regard to such employees, agrees to comply with the E-Verify requirements pursuant to A.R.S. § 23-214(A). A Party’s breach of the above-referenced warranty shall be deemed a material breach of the Agreement and this Addendum. To the extent required by Arizona law, the Parties each retain the legal right to inspect the papers and records of the other Party to ensure compliance with this paragraph.
3. The Parties acknowledge and agree that the confidentiality of personally identifiable education records of the District’s students (“Student Records”) is protected and regulated by a federal law commonly referred to as the Family Educational Rights and Privacy Act (“FERPA”). The Parties agree that any disclosure and/or re-disclosure of Student Records shall be in compliance with the requirements of FERPA.
4. The Parties agree that, notwithstanding any provision in the Agreement, the Agreement may be automatically renewed for a total contract term of no more than five (5) years, after which any renewal must be in writing signed by both parties.
5. To the extent applicable under A.R.S. § 35-394, Braintrust certifies that it does not currently, and agrees for the duration of the Agreement that it will not, use: (1) the forced labor of ethnic Uyghurs in the People’s Republic of China; (2) any goods or services produced by the forced labor of ethnic Uyghurs in the People’s Republic of China; or (3) any contractors, subcontractors or suppliers that use the forced labor of ethnic Uyghurs in the People’s Republic of China. If Braintrust becomes aware during the term of the Agreement that Braintrust is not in compliance with this written certification, Braintrust shall notify the District within five (5) business days after becoming aware of the noncompliance. If Braintrust does not provide the District with a written certification that Braintrust has remedied the noncompliance within 180 days after notifying the District of the noncompliance, this Agreement will terminate, except that if the Agreement termination date occurs before the end of the remedy period the Agreement terminates on the Agreement termination date.
6. Notwithstanding any provision in the Agreement, the Parties acknowledge and agree that the District is obligated to comply with Arizona law with regard to public records requests and

that any disclosure of records that is required by law shall not constitute a breach of the Agreement.

Braintrust Tutors Inc.

Marana Unified School District

By: _____

By: _____

Its: _____

Its: _____

Date: _____

Date: _____