

AGENDA

ITEM

SUBJECT:

Contract For Board Certified Behavior Analyst

RATIONALE:

State law requires an approved method for acquisition of goods or services totaling over \$50,000.00 for a 12 month period.

I would like to continue the contract of Faith Whatley-Torres as the BCBA for Huntsville ISD from August 1, 2023 through August 31, 2024, not to exceed \$85,000 (*adjustment to amount to cover services scheduled to be provided*). Services she provides the district include, but may not be limited to: fulfilling requirements of legal due process settlement agreements, providing direct services to students, providing consultation services to teachers and campus staff, providing parent training to student parents/guardians, provides professional development for campus staff, provides professional development and direct coaching to district behavior coaches, and oversees training and implementation of formal FBAs and BIP writing with district behavior coaches. Faith has been an integral part in student progress for some of our most challenging students and a key player in the growth of our behavior coaching team and positive behavior supports across the district.

RECOMMENDATION:

Administration recommends approval of renewal of contract of Faith Whatley-Torres as the BCBA for Huntsville ISD through August 31, 2024.

CONTACT PERSON(S):

Ashley Kimich, Director of Special Education
Marcus D. Forney, Chief Academic Officer



Huntsville Independent School District

441 FM 2821 East • Huntsville, Texas 77320-9298

Phone: (936) 435-6300 • Fax: (936) 291-3444

Individual Independent Contractor Agreement

AGREEMENT BETWEEN Huntsville Independent School District ("Company" or "HISD") and: Faith Whalley Torres Licensed Behavior Analyst LLC ("Independent Contractor"). The Independent Contractor shall be identified as follows:

Name: Faith Whalley Torres Licensed Behavior Analyst LLC (hereinafter "Independent Contractor")

Type of Entity:

- ☒ Individual
☐ Sole proprietorship
☐ Partnership
☐ Corporation

Address: 6640 FM 350 N / 2810 US Hwy 190 W Suite 100 Unit 107
City/State/ZIP: Livingston, TX 77351
Business Telephone: 936-223-7506
Social Security or Employer Identification Number: 85-1814008

IN CONSIDERATION of the promises and mutual covenants and agreements contained herein, the parties agree as follows:

Work to Be Performed

Company desires that the Independent Contractor perform, and the Independent Contractor agrees to perform, the following work:

Behavior consultations, assessments, behavior coach training and support, teacher training, parent training

Term of Agreement

The services called for under this Agreement shall commence on August 1, 2023 and terminate on July 31, 2024



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Technical Direction

The Independent Contractor shall receive technical direction only from Ashley Kimich or her designee, as authorized in writing.

Terms of Payment

Company shall pay the Independent Contractor according to the following terms and conditions: \$85 hour for Direct and Indirect services to be billed monthly on 1st of each month and due on the 15th
Reimbursement of Expenses

Company shall not be liable to the Independent Contractor for any expenses paid or incurred by the Independent Contractor unless otherwise agreed to in writing.

Federal, State, and Local Payroll Taxes

Company shall not withhold or pay federal, state, or local income taxes or payroll taxes of any kind on behalf of the Independent Contractor or the employees of the Independent Contractor. Company shall not treat the Independent Contractor as an employee with respect to the services performed hereunder for federal, state, or local tax purposes.

Notice to Independent Contractor About Its Tax Duties and Liabilities

The Independent Contractor understands that she is responsible to pay, according to law, the Independent Contractor's federal and state income taxes, and that Company is not withholding or paying any portion of Independent Contractor's taxes. If the Independent Contractor is not a corporation, the Independent Contractor further understands that the Independent Contractor may be liable for self-employment (Social Security) tax, to be paid by the Independent Contractor according to law.

Responsibility for Workers' Compensation

No workers' compensation insurance shall be obtained by Company covering the Independent Contractor or employees of the Independent Contractor. The Independent Contractor shall comply with the workers' compensation law concerning the Independent Contractor and the employees of the Independent Contractor.



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Termination of Agreement

This Agreement may be terminated at any time by Company or the Independent Contractor, by written notice to the other party. Notice shall be deemed to have been sufficiently given either when served personally or when sent by first-class mail addressed to the parties at the addresses set forth in this Agreement. Company shall not be liable for, nor shall the Independent Contractor be liable to perform, any services or expenses incurred after the receipt of notice of termination

Independent Contractor Status

The Independent Contractor expressly represents and warrants to Company that (1) she is not and shall not be construed to be an employee of the Company and that her status shall be that of an independent contractor solely responsible for her actions and inactions; (2) the Independent Contractor shall act solely as an Independent Contractor, not as an employee or agent of Company; and (3) the Independent Contractor is not authorized to enter into contracts or agreements on behalf of Company or to otherwise create obligations of Company to third parties.

Assignability

This Agreement shall not be transferred or assigned, in whole or in part, by the Independent Contractor without the prior written consent of Company.

Choice of Law

Any dispute under this Agreement, or related to this Agreement, shall be decided in accordance with the laws of the state of Texas.

Agreement

This Agreement supersedes all prior oral or written agreements, if any, between the parties and constitutes the entire agreement between the parties. The Agreement cannot be changed or modified orally. This Agreement may be supplemented, amended, or revised only in writing by agreement of the parties.



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Confidential Matters and Proprietary Information

The Independent Contractor recognizes that during the course of contract performance she may acquire knowledge or confidential business information or trade secrets. The Independent Contractor agrees to keep all confidential information in a secure place and further agrees not to publish, communicate, divulge, use, or disclose, directly or indirectly, for her own benefit or for the benefit of another, either during or after contract performance, any confidential business information or trade secrets. Upon termination or expiration of this Agreement, Independent Contractor shall deliver all records, data, information, and other computer media or documents produced or acquired during the performance of this Agreement and all copies thereof to Company. Such material shall remain the property of Company. This obligation of confidence shall not apply with respect to information that (1) is available to the Independent Contractor from third parties on an unrestricted basis; or (2) is disclosed by Company to others on an unrestricted basis.

Conflicts of Interest

The Independent Contractor shall not act as an agent for, consultant to, or as an officer, employee, or other representative of any subcontractor or supplier to Company, or serve in any of the foregoing capacities for any of Company's competitors or prospective competitors, without giving prior written notification to Company. The Independent Contractor hereby warrants that there is no conflict of interest between the Independent Contractor's other employment, if any, or other contracts, if any, and the activities to be performed hereunder. The Independent Contractor shall advise Company if a conflict of interest arises in the future.

Inventions, Patents, Trademarks

The terms "work," "trademark," and "invention" include anything created for Company by the Independent Contractor, whether alone or with others, and whether those others be independent contractors, employees, or agents of Company.

1. The term "work" means any and all writings, designs, models, drawings, photographs, physical property, reports, etc., that are protectable under Title 17 of the U.S. Code.
2. The term "trademark" means any name, word, phrase, logo, design, or other graphic depiction generated during the performance of this Agreement that is or can be used to describe either a product or service of Company.



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3. The term "invention" means any designs, processes, inventions, or discoveries that may be patentable or otherwise protectable under Title 35 of the U.S. Code.

Work Made for Hire

During the performance of this agreement, the Independent Contractor may create certain works for Company that may be copyrighted under the laws of the United States. To the extent that any such works are created, the Independent Contractor will be considered to have created a work made for hire as defined in 17 U.S.C. § 101, and Company shall have the sole right to the copyright. If any work created by the Independent Contractor does not qualify as a work for hire, the Independent Contractor agrees to assign her right in the work to Company, as provided below.

Title to Works, Trademarks, and Inventions Produced

It is understood and agreed that the entire right, title, and interest throughout the world to all works, trademarks, and/or inventions that are conceived of, prepared, procured, generated, or produced, whether or not reduced to practice, by the Independent Contractor, either solely or jointly with others during the course of, in connection with, or as related to the performance of this Agreement, shall be and hereby are vested and assigned by the Independent Contractor to Company.

The Independent Contractor agrees to execute any and all documents prepared by Company and to do all other lawful acts as may be required by Company to establish, document, and protect such rights.

The Independent Contractor has acquired or shall acquire from each of her employees, consultants, and subcontractors, if any, the necessary rights to all such works, trademarks, and inventions produced by such employees, consultants, and subcontractors, within the scope of their employment by the Independent Contractor in performing services under this Agreement. The Independent Contractor shall obtain the cooperation of each such employee to secure to Company or its nominees the rights Company may acquire in accordance with the provisions of this clause.

Reports

The Independent Contractor, when directed, shall provide written reports with respect to the services rendered hereunder.



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Security Regulations

The Independent Contractor shall comply with all applicable security regulations of Company.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of 07/31/2023 (date).

INDEPENDENT CONTRACTOR

By Faith Whatley-Tones

Print name Faith Whatley-Tones

Title (if applicable) BOBA, USA

HUNTSVILLE INDEPENDENT SCHOOL DISTRICT

By Ashley Kinnich

Print name Ashley Kinnich

Title (if applicable) Director of Special Education

Request for Taxpayer Identification Number and Certification

Give Form to the
requester. Do not
send to the IRS.

► Go to www.irs.gov/FormW9 for instructions and the latest information.

Print or type.
See Specific instructions on page 5.

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.

Faith Whitley-Torres Licensed Behavior Analyst LLC

2 Business name/disregarded entity name, if different from above

3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only one of the following seven boxes.

☐ Individual/sole proprietor or single-member LLC

☐ C Corporation

☐ S Corporation

☐ Partnership

☐ Trust/estate

☒ Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ►

Note: Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is not disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner.

☐ Other (see instructions) ►

4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):

Exempt payee code (if any) _____

Exemption from FATCA reporting code (if any) _____

(Applies to accounts maintained outside the U.S.)

5 Address (number, street, and apt. or suite no.) See instructions.

6640 FM 350N

6 City, state, and ZIP code

Livingston TX 77351

Requester's name and address (optional)

7 List account number(s) here (optional)

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

Note: If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Social security number

____ - ____ - ____

or

Employer identification number

85 - 1874008

Part II Certification

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
- I am a U.S. citizen or other U.S. person (defined below); and
- The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

Sign
Here

Signature of
U.S. person ►

Date ►

7/31/2023

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to www.irs.gov/FormW9.

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)

- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See *What is backup withholding*, later.