

Board Office Use: Legislative File Info.	
File ID Number	13-0418
Introduction Date	3-27-13
Enactment Number	13-0591
Enactment Date	3/27/13 <i>ok</i>



**OAKLAND UNIFIED  
SCHOOL DISTRICT**

*Community Schools, Thriving Students*

# Memo

**To** Board of Education  
Tony Smith, Ph.D., Superintendent

**From** By: Maria Santos, Deputy Superintendent, Instruction, Leadership & Equity-in-Action  
Vernon Hal, Deputy Superintendent, Business & Operations

**Board Meeting Date** 3/27/13  
(To be completed by Procurement)

**Subject** Professional Services Contract Amendment - 1  
Applied Scholastics International Saint Louis MO (Contractor, City/State) -  
SES- State and Federal Compliance (site/department)

**Action Requested** Approval by the Governing Board of the amendment to the professional services contract between the District and Applied Scholastics International. Services to be primarily provided to SES- State and Federal Compliance for the period of 12/19/2012 through 06/13/2013, in an amount not to exceed \$39,171.66.

**Background** No Child Left Behind, Supplemental Educational Services, Title I, Section 116(e). Supplemental Educational Services are additional academic instruction that must be provided outside the regular school day, designed to increase the academic achievement of students in schools in need of improvement. The attached Individual Service Agreement is the contracting of services at the negotiated price, stated in the referenced Master MOU approved by the Board of Education on November 17, 2010, (Enactment number 10-2085).

*A one paragraph explanation of why an amendment is needed.*

**Discussion** Approval by the Board of Education of Amendment No.1 of the Memorandum of Understanding between District and Applied Scholastics International, Saint Louis, MO for the latter to provide eligible students on the wait list at eligible Program Improvement sites (see Exhibit A) tutoring services through the SES program. Agency services include but are not limited to tutoring in Mathematics and/or Language Arts; Individual Learning Plans for each student; Progress Reports to parents and school sites for the period of December 19, 2012 through June 13, 2013, in an amount not to exceed \$39,171.66, increasing the agreement from \$61,725.04 to \$100,896.70.

*One paragraph summary of the amended scope of work.*

**Recommendation** Approval by the Governing Board of the amendment to the professional services contract between the District and Applied Scholastics International. Services to be primarily provided to SES- State and Federal Compliance for the period of 12/19/2012 through 06/13/2013, in an amount not to exceed \$39,171.66.

**Fiscal Impact** Funding resource name (please spell out) Title I SES  
not to exceed \$ 39,171.66

**Attachments**

- Contract Amendment
- Copy of original contract

Board Office Use: Legislative File Info.	
File ID Number	13-0418
Introduction Date	3-27-13
Enactment Number	13-0501
Enactment Date	3/27/13



OAKLAND UNIFIED SCHOOL DISTRICT

**AMENDMENT NO. 1  
TO PROFESSIONAL SERVICES CONTRACT**

This Amendment is entered into between the Oakland Unified School District (OUSD) and Applied Scholastics International (CONTRACTOR). OUSD entered into an Agreement with CONTRACTOR for services on December 19, 2012, and the parties agree to amend that Agreement as follows:

1. **Services:**  The scope of work has changed.  ONLY the funding source has changed.  
 If the scope of work has changed: Provide brief description of revised scope of work including a measurable description of expected final results, such as services, materials, products, and/or reports; attach additional pages as necessary.  
 Revised scope of work attached. OR, The CONTRACTOR agrees to provide the following amended services:  
 Amendment will allow SES Provider to serve students on the wait list at eligible Program Improvement sites to receive tutoring services through the SES program (see attached exhibit). Agency services include but are not limited to tutoring in Mathematics and/or Language Arts; Individual Learning Plans for each student; Progress Reports to parents and school sites for the period of December 19, 2012 through June 13, 2013.

2. **Terms (duration):**  The term of the contract is unchanged.  The term of the contract has changed.  
 If the term has changed: The contract term is extended by an additional \_\_\_\_\_ (days/weeks/months), and the amended expiration date is \_\_\_\_\_.

3. **Compensation:**  The contract price is unchanged.  The contract price has changed.  
 If the compensation has changed: The contract price is amended by  
 Increase of \$ 39,171.66 to original contract amount  
 Decrease of \$ \_\_\_\_\_ to original contract amount  
 and the new contract total is one hundred thousand eight hundred ninety six and dollars (\$ 100,896.70)

4. **Remaining Provisions:** All other provisions of the Agreement, and prior Amendment(s) if any, shall remain unchanged and in full force and effect as originally stated.

5. **Amendment History:**  
 There are no previous amendments to this Agreement.  This contract has previously been amended as follows:

No.	Date	General Description of Reason for Amendment	Amount of Increase (Decrease)
			\$
			\$
			\$

6. **Approval:** This Agreement is not effective and no payment shall be made to Contractor until it is approved. Approval requires signature by the State Administrator, the Board of Education, and/or the Interim Superintendent as their designee.

OAKLAND UNIFIED SCHOOL DISTRICT

President, Board of Education  
 Superintendent or Designee

Edgar Rakestraw, Jr.  
 Edgar Rakestraw, Jr., Secretary  
 Board of Education

3/28/13  
 Date

3/28/13  
 Date

CONTRACTOR

Mary Cockburn 3/20/13  
 Contractor Signature Date

Mary Cockburn - Federal Programs Manager  
 Print Name, Title

File ID Number: 13-0418  
 Introduction Date: 3/27/13  
 Enactment Number: 13-0501  
 Enactment Date: 3/27/13  
 By: ea

EXHIBIT "A" Scope of Work

DESCRIPTION OF SERVICES TO BE PERFORMED BY CONTRACTOR

CONTRACTOR's entire Proposal is not made part of this Agreement. [IF A CONTRACTOR PROVIDES AN ACCEPTABLE DESCRIPTION OF SERVICES AS PART OF A PROPOSAL, THAT DESCRIPTION OF SERVICES CAN BE ATTACHED WITHOUT ANY TERMS, CONDITIONS, LIMITATIONS, ETC., FROM THAT PROPOSAL.]

Summary for Board Memo and Board Agenda – Must accurately align with scope of work below.

Approval by the Board of Education of Amendment No.1 of the Memorandum of Understanding between District and Applied Scholastics International, Saint Louis, MO for the latter to provide eligible students on the wait list at eligible Program Improvement sites (see Exhibit A) tutoring services through the SES program. Agency services include but are not limited to tutoring in Mathematics and/or Language Arts; Individual Learning Plans for each student; Progress Reports to parents and school sites for the period of December 19, 2012 through June 13, 2013, in an amount not to exceed \$39,171.66, increasing the agreement from \$61,725.04 to \$100,896.70.

SCOPE OF WORK

Applied Scholastics International will provide a maximum of 602.64 hours of services at a rate of \$ 65.00 per hour for a total not to exceed \$39,171.66. Services are anticipated to begin on 12/19/2012 and end on 06/13/2013.

1. Description of Services to be Provided: Provide a description of the service(s) the contractor will provide. Be specific about what service(s) OUSD is purchasing and what this Contractor will do.

Applied Scholastics International, Saint Louis, MO will provide Supplemental Educational Services (SES) in the form of out-of-school tutorial services for students who attend the following schools: Bret Harte Middle, Claremont Middle, Edna Brewer Middle, Elmhurst, Frick Middle, Fruitvale Elementary, Manzanita Community, Madison Middle, Markham Elementary, Roosevelt Middle, Roots International, United for Success, Urban Promise Academy, Westlake Middle.

This SES program will be utilizing Title I funds under No Child Left Behind, section 116(c) for the period of December 19, 2012 through June 13, 2013, in an amount not to exceed \$39,171.66 (maximum reimbursable amount).

2. Specific Outcomes: What are the expected outcomes from the services of this Contract? Be specific. For example, as a result of the service(s): 1) How many more Oakland children are graduating from high school? 2) How many more Oakland children are attending school 95% or more? 3) How many more students have meaningful internships and/or paying jobs? 4) How many more Oakland children have access to, and use, the health services they need? Provide details of program participation (Students will...) and measurable outcomes (Participants will be able to...). NOT THE GOALS OF THE SITE OR DEPARTMENT.

Supplemental Educational Services are additional academic instruction designed to increase the academic achievement of students in schools in need of improvement. Services will be provided to students in grades K-12. For the 2012-2013 school year, it is estimated that services will be provided to 3,504 students. These services may include academic assistance, must be provided outside the regular school day and be high quality, research-based, and specifically designed to increase the student academic achievement 1116(c)(12)(c).

3. Alignment with District Strategic Plan: Indicate the goals and visions supported by the services of this contract: (Check all that apply.)

- Ensure a high quality instructional core
Develop social, emotional and physical health
Create equitable opportunities for learning
High quality and effective instruction
Prepare students for success in college and careers
Safe, healthy and supportive schools
Accountable for quality
Full service community district

**4. Alignment with Single Plan for Student Achievement (required if using State or Federal Funds)**

Please select:

**Action Item included in Board Approved SPSA (no additional documentation required)** – Action Item Number: \_\_\_\_\_

**Action Item added as modification to Board Approved SPSA** – Submit the following documents to the Resource Manager either electronically via email or scanned documents, fax or drop off.

1. Relevant page of SPSA with action item highlighted. Page must include header with the word "Modified", modification date, school site name, both principal and school site council chair initials and date.
  2. Meeting announcement for meeting in which the SPSA modification was approved.
  3. Minutes for meeting in which the SPSA modification was approved indicating approval of the modification.
  4. Sign-in sheet for meeting in which the SPSA modification was approved.
-



**AMENDMENT ROUTING FORM**

**2012-2013**

**PROFESSIONAL SERVICES CONTRACT AMENDMENT No. 1**

**Directions**

**Services beyond the original contract cannot be provided until the amendment has been fully approved and the Purchase Order amount has been increased by Procurement.**

1. Contractor and OUSD contract originator reach agreement on modification to original Scope of Work.
2. Insert the amendment number (i.e. if this is the first amendment enter "1," second enter "2," etc.) at the top of the amendment.
3. If contract total amount has increased, the scope of work has changed. OUSD contract originator creates new requisition with the original PO number referenced in the item description.
4. OUSD contract originator submits amendment packet to Procurement for approval within two weeks of creating the requisition.

**When the contract amendment is approved Procurement will add additional funds to the original Purchase Order.**

**Attachment Checklist**

- Contract amendment packet including Board Memo and Amendment Form
- Amended Scope of work (Be specific as to what additional work is being done by this consultant.)
- A Board Approved copy of the original contract and any prior Amendments.

**OUSD Staff Contact** Emails about this contract should be sent to: (Required) susana.ramirez@ousd.k12.ca.us

**Contractor Information**

Contractor Name	Applied Scholastics International	Agency's Contact	Mary Cockburn			
OUSD Vendor ID #	1003689	Title	SES Provider			
Street Address	11755 Riverview Drive	City	Saint Louis	State	MO	Zip 63138
Telephone	(314) 355-6355	Email	m.cockburn@appliedscholastics.org			

**Compensation and Terms - Must be within the OUSD Billing Guidelines**

Original Contract Amount	\$ 61,725.04	Original PO Number	P1304488		
Amended Amount	\$ 39,171.66	New Requisition #	R0312867		
New Total Contract Amount	\$ 100,896.70	Start Date	12/19/2012	End Date	06/13/2013
Pay Rate Per Hour (Required)	65.00	Number of Hours (Required)	602.64		

**Budget Information**

*If you are planning to multi-fund a contract using LEP funds, please contact the State and Federal Office before completing requisition.*

Resource #	Resource Name	Org Key	Object Code	Amount
3010	Title I - SES	998 4856201	5825	\$ 39,171.66
			5825	\$
			5825	\$

**Approval and Routing (in order of approval steps)**

Additional services above original contract amount cannot be provided before the amendment is fully approved and the Purchase Order amount has been increased by Procurement.

OUSD Administrator verifies that this vendor does not appear on the Excluded Parties List (<https://www.epls.gov/epls/search.do>)

1.	<b>Site Administrator or Manager</b>	Name	Susana Ramirez	Phone	5108791046	Fax	
	Site / Department	SES State and Federal Compliance					
2.	Signature					Date Approved	2/25/13
	<b>Resource Manager, if using funds managed by:</b>	<input checked="" type="checkbox"/> State and Federal <input type="checkbox"/> Quality, Community, School Development <input type="checkbox"/> Family, Schools, and Community Partnerships					
	Signature					Date Approved	2/25/13
3.	<b>Regional or Executive Officer</b>						
	Signature					Date Approved	
4.	<b>Deputy Superintendent Instructional Leadership / Deputy Superintendent Business Operations</b>	Consultant Aggregate Under <input type="checkbox"/> Over <input type="checkbox"/> \$50,000					
	Signature					Date Approved	2/26/13
5.	<b>Superintendent or Board of Education</b>	Signature on the legal contract					
<b>Legal Required if not using standard contract</b>		Approved				Denied - Reason	Date 3/5/13
<b>Procurement</b>	Date Received					PO Number	

<b>Board Office Use: Legislative File Info.</b>	
File ID Number	12-3044
Introduction Date	12-12-2012
Enactment Number	12-2939
Enactment Date	12-12-12



**OAKLAND UNIFIED  
SCHOOL DISTRICT**

*Community Schools, Thriving Students*

## Memo

**To** Board of Education

**From** Tony Smith, Ph.D., Superintendent  
By: Maria Santos, Deputy Superintendent, Instruction, Leadership & Equity-in-Action  
Vernon Hal, Deputy Superintendent, Business & Operations

**Board Meeting Date** December 12, 2012

**Subject** Memorandum of Understanding - Applied Scholastics International - 998/Supplemental Educational Services (SES) of State and Federal Compliance

**Action Requested** Approval of a Memorandum of Understanding between Oakland Unified School District and Applied Scholastics International, Saint Louis, MO, Supplemental Educational Services to be primarily provided to meet State and Federal Compliance for the period of December 19, 2012 through June 13, 2013 utilizing Title I funds under No Child Left Behind, section 116(e), in an amount not to exceed \$61,725.04 (maximum reimbursable amount).

**Background** In the Elementary and Secondary Education Act, as amended in 2001, Section 1116(e) of Title I, Part A requires provision of SES academic tutoring for eligible students from schools identified as PI Year 2 or greater. Supplemental Educational Services (SES) are additional academic instruction provided outside of the regular school day and designed to increase the academic achievement of students. SES, or free tutoring, must be high quality; research based, and specifically designed to increase student academic achievement. Eligible students are all low-income students who attend Title I PI Years 2 through 5 schools. In those instances when the LEA is not the approved SES provider chosen by the parent via an equitable selection process, the LEA establishes service agreements with SES providers approved by the State Board of Education (SBE). Each SBE approved SES provider servicing the LEA must provide the LEA with its approved application to show the design of the tutoring plan that was proven to be effective according to the results submitted to the CDE in the application.

**Discussion** Approval by the Board of Education of a Memorandum of Understanding between Oakland Unified School District and Applied Scholastics International, Saint Louis, MO for the latter to provide tutoring in Mathematics and/or Language Arts to eligible students, as determine by No Child Left Behind guidelines. Individual Learning Plan and Applied Scholastics International must provide student progress reports to parents and teachers for all eligible students receiving Supplemental Educational Services (SES). Services are to be provided for the period of December 19, 2012 through June 13, 2013 in an amount not to exceed \$61,725.04



**OAKLAND UNIFIED  
SCHOOL DISTRICT**

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**Recommendation** Approval by the Board of Education of a Memorandum of Understanding between Oakland Unified School District and Applied Scholastics International, Saint Louis, MO. Services to be primarily provided to SES to State and Federal Compliance for the period of December 19, 2012 through June 13, 2013 utilizing Title I funds under No Child Left Behind, section 116(e), in an amount not to exceed \$61,725.04 (maximum reimbursable amount).

**Fiscal Impact** Funding Resource: Title I in an amount not to exceed \$61,725.04

**Attachments**

- Memorandum of Understanding including scope of work
- Exhibit A - Individual Services Agreement/Statement of Qualifications
- Exhibit B - Insurance Certification
- Exhibit C - TB & Fingerprinting Background Check Certification
- Exhibit D - Staff Qualifications and Invoicing Forms

**MEMORANDUM OF UNDERSTANDING  
BETWEEN  
OAKLAND UNIFIED SCHOOL DISTRICT (OUSD) and  
SES CONTRACTOR  
2012-2013**

**1. Memorandum of Understanding**

This Memorandum of Understanding (hereinafter referred to as "MOU", "Contract" or "Agreement") is entered into this December 19, 2012 between the Oakland Unified School District (hereinafter referred to as "OUSD") and Applied Scholastics International (hereinafter referred to as "CONTRACTOR") to provide Supplemental Educational Services (hereinafter referred to as "SES" or "Supplemental Educational Services") in the form of tutorial services to designated eligible students under the following federal guidelines:

**No Child Left Behind, Supplemental Educational Services, Title I, Section 1116(e).**

It is understood that this Contract does not commit OUSD to pay for Supplemental Educational Services, unless and until the OUSD SES Department approves the provision of Supplemental Educational Services to any particular student by CONTRACTOR.

**2. Terms of Contract**

The term of this Contract shall begin on December 19, 2012, and end on June 13, 2013 ("Term").

**3. Individual Learning Plan**

3.1 Before CONTRACTOR begins Supplemental Educational Services to any particular student, CONTRACTOR shall submit to OUSD an executed Individual Learning Plan (hereinafter referred to as "ILP") as specified by the OUSD SES Department for said OUSD student. CONTRACTOR shall use OUSD ILP. This form shall acknowledge CONTRACTOR'S intent to provide all services specified in the student's ILP.

3.2 This Contract shall include an ILP developed for each OUSD student to whom CONTRACTOR is to provide Supplemental Educational Services. The CONTRACTOR will complete, on behalf of OUSD, the ILP for each student the CONTRACTOR serves. An ILP shall only be issued for OUSD students enrolled with the approval of the OUSD SES Department and shall outline specific achievement goals as determined by individual student assessment.

3.3 Any and all changes to an OUSD student's educational program shall be made solely on the basis of a revision to the OUSD student's ILP. At any time during the term of this Contract, an OUSD student's parent, CONTRACTOR, or OUSD may request a review of an OUSD student's ILP.

#### **4. Scope of Work**

**4.1 OUSD and CONTRACTOR shall also enter into an Individual Services Agreement (hereinafter referred to as "ISA"), in the form of Exhibit A, which is attached hereto and made a part hereof and generally describes CONTRACTOR'S program.**

**4.2 Under this Contract, CONTRACTOR shall conduct the following scope of work:**

- (a) Provide English language arts and/or mathematics instruction outside of school hours;**
- (b) Ensure that instruction and content is aligned with the State mathematics or language arts student academic achievement standards per ESEA 1116 (e)(5)(b);**
- (c) Ensure that eligible students with disabilities, including students under Section 504, will receive appropriate services and accommodations;**
- (d) Ensure, to the extent practicable, that Limited English Proficient students will receive appropriate services;**
- (e) Develop an ILP based upon a template furnished by OUSD, unless other arrangements are agreed upon by CONTRACTOR and the OUSD, for each individual student in consultation with parents and OUSD staff, including how the student's progress will be measured, and a timetable for improving achievement [(Sec 1116 (e)(3) (A));**
- (f) Provide a copy of each ILP to the parent, Site Administrator and OUSD SES office by January 25, 2013;**
- (g) Make every effort, to the extent possible, to communicate in a language that the parent understands and provide translation services for all parent meetings;**
- (h) Follow and implement District Facility Use procedures and pay any applicable fees if a school site location is to be utilized;**
- (i) Utilize the OUSD SES Attendance Log format and Electronic Spreadsheet to report monthly attendance for services provided to expedite confirmation of students served and assist OUSD in collecting valuable data about services rendered;**
- (j) Provide incentives for students, if applicable, that are reasonable and presented in a timely manner (See Section 41: Incentives and Marketing);**
- (k) Align ILP with the student's IEP in the case of a student with a disability;**
- (l) Provide student progress reports to student, student's parents, school Site Administrator, teachers, and the OUSD SES office in recommended or similar format minimally every fifteen (15) hours of service;**
- (m) Prohibit the disclosure to the public the identity of any student eligible for, or receiving SES services without the written permission of the student's parents (Sec 1116 (e)(3)(E));**
- (n) Ensure that SES services will be provided consistent with applicable health, safety, and civil rights laws as required under ESEA 1116 (e)(5)(c);**
- (o) Provide instruction that will be secular, neutral and non-ideological;**
- (p) Coordinate the scheduling of on-site sessions with existing on-site after school programs;**
- (q) Provide OUSD SES Office with updated contact information for (1) CONTRACTOR accounts manager responsible for invoices, (2) local CONTRACTOR coordinator responsible for OUSD SES services at OUSD and (3) all staff providing direct service to OUSD students;**
- (r) Follow OUSD after-school policies and procedures for services;**
- (s) Comply with all procedures concerning enrollment, contracting, attendance reporting, and billing as specified by the OUSD SES Office;**
- (t) Ensure that onsite tutors meet the following minimum qualifications for an instructional aide: a high school diploma or its equivalency and one of the following: (i) an AA degree; or completion of 48 semester units in college; or (ii) successful completion of the Instructional Assistant exam, administered by the Alameda County Office of Education.**

**4.3 As the LEA in reference to NCLB Act, 20 USC Section 6316(3)(3) for the purpose of providing Supplementary Educational Services to eligible students in the district, the responsibilities of OUSD include the following:**

- (a) Provide an annual notice to potential providers of SES the opportunity to work with OUSD students;**
- (b) Host an orientation meeting for approved SES providers seeking to provide services in OUSD;**
- (c) Establish and implement eligibility/priority processes for**

students; (d) Develop a list of approved providers from which parents/guardians may select; (e) Prohibit all SES providers from disclosing to the public the identity of any student eligible for, or receiving, Supplemental Educational Services without the written permission of the student's parents/guardian; (f) Monitor services provided by approved provider; (g) Enter into MOU contractual agreements with SES providers per number of Parent Requests for services; (h) Develop, in consultation with parents (and the provider chosen by the parents) a statement of specific achievement goals for the student, how the student's progress will be measured, and a timetable for improving achievement; (i) Prominently display on its Web site, in a timely manner to ensure that parents have current information: (i) beginning with data for the 2007-2008 school year and for each subsequent school year, the number of students who were eligible for and the number of students who participated in SES; and (ii) for the current school year, the list of providers approved by the SEA to serve in the LEA and the locations where services are provided (j) Assist the SEA in identifying potential providers within the LEA; (k) Investigate and forward any complaint or reported instances of inappropriate conduct by CONTRACTOR to the SEA, the California Department of Education.

### *Exhibit A - Individual Services Agreement*

#### **5. Integration**

This Contract and all attachments and amendments thereto including the ISA, each ILP, and the OUSD SES policies and procedures constitute the entire agreement between OUSD and CONTRACTOR. This Contract supersedes any prior or contemporaneous written or oral understanding or agreement. This Contract may be amended only by written amendment executed by both parties. Notwithstanding the preceding sentence, OUSD may modify or amend this Contract without CONTRACTOR'S consent to conform to federal and state laws and regulations.

#### **6. Definitions**

The following definitions shall apply for purposes of this Contract:

- a. The term "Supplemental Educational Services" means "additional academic instruction designed to increase the academic achievement of students in low-performing schools." These services may include academic assistance such as tutoring, remediation and other educational interventions, provided that such approaches are consistent with the content and instruction used by the local educational agency (LEA, in this case, OUSD) and are aligned with the State of California's academic content standards. Supplemental Educational Services must be provided outside of the regular school day. Supplemental Educational Services must be high quality, research-based, and specifically designed to increase student academic achievement. [NCLB, Title I, Part A, Section 1116(e)(12)(C)]
- b. The term "authorized OUSD representative" means an OUSD administrator assigned to the OUSD SES Program.
- c. The term "credential" means a valid credential, life diploma, permit, or document in education, special education or student personnel services issued by, or under the jurisdiction of, the State Board of Education if issued prior to 1970 or the California Commission on Teacher Credentialing, which entitles the holder thereof to perform services for which certification qualifications are required as defined in Title 5 of the California Code of Regulations section 3001(j).

- d. The term "qualified" means that a person has met federal and state certification, licensing, registration, or other comparable requirements (e.g., professional development, coursework completed, etc.) which apply to the area in which he or she is providing Supplemental Educational Services, or, in the absence of such requirements, the state-education-agency-approved or recognized requirements, and adheres to the standards of professional practice established in federal and state law or regulation.
- e. The term "license" means a valid non-expired document issued by a licensing agency within the Department of Consumer Affairs or other state licensing office authorized to grant licenses and authorizing the bearer of the document to provide certain professional services or refer to themselves using a specified professional title. If a license is not available through an appropriate state licensing agency, a certificate of registration with the appropriate professional organization at the national or state level which has standards established for the certificate that are equivalent to a license shall be deemed to be a license as defined in Title 5 of the California Code of Regulations section 3001(r).
- f. The term "eligible students" means those students identified by OUSD who meet specific requirements under Title I.
- g. The term "parent" means the natural parent, adoptive parent, parent surrogate, legal guardian, or any other adult granted educational decision-making rights by the natural or adoptive parent or a court of competent jurisdiction.
- h. The term "days" means calendar days unless otherwise specified.
- i. The phrase "billable day" means a service day meeting the requirements for payment under this Contract.
- j. The phrase "billable day of attendance" shall have the meaning set forth in Section 22 of this Contract.
- k. The phrase "billable hour" means a service hour, which is direct tutor-pupil instruction time as determined by the ISA.
- l. The phrase "home school" means an OUSD student's actual school of attendance identified on the student list or on the registration form.
- m. The term "incentive" means any up-front monetary or material gifts valued at no more than \$2.00 given to parents or students to encourage them to choose a specific provider to provide Supplemental Educational Services to their child, and incentives valued at \$50.00 in the aggregate used within a provider's program to encourage students to reach certain achievement or attendance levels AFTER they have begun service.

**7. Notices**

All notices provided for by this Contract shall be in writing.

Notices mailed to OUSD shall be addressed to:	Notices mailed to CONTRACTOR shall be addressed to:
Susana Ramirez, Director of State & Federal Compliance	Name: Mary Cockburn/Federal Programs Manager
Oakland Unified School District (OUSD)	Applied Scholastics International
SES Office 1025 2 <sup>nd</sup> Ave., Room 116 Oakland, CA 94606 Susana.ramirez@ousd.k12.ca.us	Address: 11755 Riverview Drive City, State Zip: Saint Louis, MO 63138 Phone:505-281-5377/direct 314-355-6355 m.cockburn@appliedscholastics.org

Notices shall be mailed, e-mailed or delivered by hand and shall be effective as of the date of receipt by addressee.

## **8. Maintenance of Records/Confidentiality**

8.1 CONTRACTOR will comply with all federal, state and local laws, rules and regulations regarding personally identifiable information concerning District students, employees and agents over which CONTRACTOR has control or to which CONTRACTOR has access, as well as any other student or District employee data provided or made available to CONTRACTOR in connection with this Contract (including, without limitation, all applicable provisions of the Health Insurance Portability and Accountability Act, the Family Educational Rights and Privacy Act and the Children's Internet Protection Act), and will observe all District security procedures related to the foregoing, as in effect from time to time.

8.2. All records shall be maintained by CONTRACTOR as required by state and federal laws and regulations. Notwithstanding the foregoing sentence, CONTRACTOR shall maintain all records for at least five (5) years after the termination of this Contract. For purposes of this Contract, "records" shall include, but not be limited to: pupil records as defined by California Education Codes sections 49061(b); registers and roll books of tutors and/or daily service providers; daily service logs and notes and other documents used to record the provision of services including ILPs; staff lists specifying credentials held and documents evidencing other staff qualifications, social security numbers, dates of hire, and dates of paid staff and volunteer sign-in sheets; liability and worker's compensation insurance policies; Supplemental Educational Services agency certifications; statements of income and expenses; general journals; cash receipts and disbursement books; general ledgers and supporting documents; federal/state payroll quarterly reports (Form 941/DE3DP); and bank statements and canceled checks.

8.3. This Contract, all communications and information obtained by CONTRACTOR from District relating to this Contract, and all information developed by CONTRACTOR under this Contract including without limitation all pupil records and the identity of OUSD students being served by CONTRACTOR shall be kept confidential. Except as provided in Subsection 8.5 and 8.8, without prior written consent of an authorized representative of District, CONTRACTOR shall neither divulge to, nor discuss with, any third party either the work and services provided hereunder, or any communication or information in connection with such services or work, except as required by law. Prior to any disclosure of such matters, whether as required by law or otherwise, CONTRACTOR shall inform the District, in writing, of the nature and reasons for such disclosure. CONTRACTOR shall not use any communications or information obtained from District for any purpose other than the performance of this Contract, without District's written consent.

8.4 At the conclusion of the performance of this Contract and upon the written request of OUSD, CONTRACTOR shall return to District all written materials constituting or incorporating any communications or information obtained from District. Upon District's specific approval, CONTRACTOR may retain copies of such materials, subject to the requirements of Subsections 8.1, 8.2 and 8.3.

8.5 CONTRACTOR may disclose to any subcontractor, or District approved third parties, any information otherwise subject to Section 8 that is reasonably required for the

performance of the subcontractor's work. Prior to any such disclosure, CONTRACTOR shall obtain the subcontractor's written agreement to the requirements of Section 8 and shall provide a copy of such agreement to District.

8.6 CONTRACTOR represents that it shall not publish or cause or be disseminated through any press release, public statement, or marketing or selling effort any information which is related to this Contract or the services provided hereunder without prior written approval of District.

8.7 CONTRACTOR shall maintain OUSD pupil records in a secure location to ensure confidentiality and prevent unauthorized access. CONTRACTOR shall maintain a current list of the names and positions of CONTRACTOR'S employees and agents who have access to confidential records (as described in Subsection 8.1, 8.2 and 8.3). CONTRACTOR shall maintain an access log for each OUSD student's pupil record which lists all persons, agencies, or organizations requesting or receiving information with respect to such pupil record. Such log shall be maintained as required by California Education Code section 49064 and include the name, title, agency/organization affiliation, and date/time of access for each individual requesting or receiving information from the OUSD student's pupil record. Such log need not record access to the OUSD student's pupil records by: (a) the OUSD student's parent; (b) an individual to whom written consent has been executed by the OUSD student's parent; or (c) employees of OUSD or CONTRACTOR having a legitimate educational interest in requesting or receiving information from the pupil record. For purposes of clause (c) above, "employees of OUSD or CONTRACTOR" do not include subcontractors.

8.8 CONTRACTOR shall grant access to pupil records, and comply with all requests for copies of pupil records, as required by state and federal laws and regulations.

8.9 CONTRACTOR'S obligation under this Section 8 shall survive cancellation, termination, or expiration of this Contract.

## **9. Severability Clause**

If any provision of this Contract is held, in whole or in part, to be unenforceable for any reason, the remainder of that provision and of the entire Contract shall be severable and remain in effect.

## **10. Successors in Interest**

This Contract binds CONTRACTOR'S successors and assignees.

## **11. Venue and Governing Law**

All questions concerning the validity, interpretation and performance of this Contract shall be governed by and decided in accordance with the laws of the State of California without regard to choice of law principles. The parties hereby submit and consent to venue and the exclusive jurisdiction of any state or federal courts located within the City of Oakland, California and irrevocably agree that all actions or proceedings relating to this Contract shall be litigated in such courts.

## **12. Termination for Convenience**

12.1 The OUSD may, by written notice to the CONTRACTOR, terminate this Contract in whole or in part at any time, for the OUSD's convenience and without cause. Upon receipt of such notice, the CONTRACTOR shall:

(a) Immediately discontinue all services affected (unless the notice directs otherwise) and

(b) Deliver to the OUSD all information and material as may have been involved in the provision of services whether provided by the OUSD or generated by the CONTRACTOR in the performance of this Contract, whether completed or in process. Termination of this Contract shall be as of the date of receipt by the CONTRACTOR of such notice.

12.2 If the termination is for the convenience of the OUSD, CONTRACTOR shall submit a final invoice within 60 days of termination, and the OUSD shall pay the CONTRACTOR the sums earned for services actually performed prior to the effective date of termination and other reasonable costs incurred by the CONTRACTOR to implement the termination in accordance with the provisions of this Contract.

12.3 The CONTRACTOR shall not be entitled to anticipatory, lost profits, or consequential damages as a result of any termination under this section. Payment to the CONTRACTOR in accordance with this section shall constitute the CONTRACTOR'S exclusive remedy for any termination hereunder.

12.4 Either party may terminate this Agreement with or without cause by providing Thirty (30) days' notice, in writing, to the other party. Upon the expiration of said notice, this Agreement shall become of no further force or effect whatsoever and each of the parties hereto shall be relieved and discharged here from.

12.5 Services to an individual student may be terminated by CONTRACTOR with consent of the OUSD if the student fails to attend 3 or more sessions, per written parental request, the student's dis-enrollment from the District, if this MOU is terminated, or if the student's conduct or behavior threatens the safety or well-being of that student, other students or staff members, or substantially detracts from the learning environment.

## **13. Termination for Default**

13.1 The OUSD may, by written notice to the CONTRACTOR, terminate this Contract in whole or in part at any time because of the failure of the CONTRACTOR to fulfill its contractual obligations and the District may, in its sole discretion, provide CONTRACTOR with a reasonable period within which to cure the default. Upon receipt of such notice, the CONTRACTOR shall:

(a) Immediately discontinue all services affected (unless the notice directs otherwise) and

(b) Deliver to the OUSD all information and material as may have been involved in the provision of services whether provided by the OUSD or generated by the CONTRACTOR in the performance of this Contract, whether completed or in process (unless the notice directs otherwise). Termination of this Contract shall be as of the date of receipt by the CONTRACTOR of such notice.

13.2 If the termination is due to the failure of the CONTRACTOR to fulfill its contractual obligations, the CONTRACTOR shall be liable to the District for any reasonable costs or

damages occasioned to the District thereby. The expense of completing the Services, or any other costs or damages otherwise resulting from the failure of the CONTRACTOR to fulfill its obligations, will be charged to the CONTRACTOR and will be deducted by the District out of such payments as may be due or may at any time thereafter become due to the CONTRACTOR. If such costs and expenses are in excess of the sum which otherwise would have been payable to the CONTRACTOR, then the CONTRACTOR shall promptly pay the amount of such excess to the OUSD upon notice of the excess so due.

13.3 If, after the notice of termination for failure to fulfill contract obligations, it is determined that the CONTRACTOR has not so failed, the termination shall be deemed to have been effected for the convenience of the OUSD subject to Section 12.

13.4 The CONTRACTOR shall not be entitled to any anticipatory, lost profits, or consequential damages as a result of any termination under this section. Payment to the CONTRACTOR in accordance with this section shall constitute the CONTRACTOR'S exclusive remedy for any termination hereunder. The rights and remedies of the OUSD provided in this section are in addition to any other rights and remedies provided by law or under this Contract.

#### **14. Termination for Change of Control**

In the event that CONTRACTOR undergoes a change in control where voting or other control of CONTRACTOR is acquired, directly or indirectly, in a single transaction or series of related transactions, or all or substantially all of CONTRACTOR'S assets are acquired, by any entity (other than an Affiliate), or CONTRACTOR is merged with or into another entity (other than an Affiliate) to form a new entity, then, at any time within nine (9) months after the last to occur of these events, OUSD may terminate this Agreement by (a) giving CONTRACTOR ninety (90) calendar days' prior written notice and (b) designating a date upon which the termination(s) will be effective.

#### **15. Termination for Insolvency**

OUSD may terminate this Agreement in its entirety if CONTRACTOR (a) becomes insolvent or is unable to meet its debts as they mature, (b) files a voluntary petition in bankruptcy or seeks reorganization or to effect a plan or other arrangement with creditors, (c) files an answer or other pleading admitting, or fails to deny or contest, the material allegations of an involuntary petition filed against it pursuant to any applicable statute relating to bankruptcy, arrangement or reorganization, (d) is adjudicated a bankrupt or makes an assignment for the benefit of its creditors generally, (e) applies for, consents to or acquiesces in the appointment of any receiver or trustee for all or a substantial part of its property, or (f) any such receiver or trustee is appointed and not discharged within thirty (30) calendar days after the date of such appointment.

#### **16. Insurance**

16.1 CONTRACTOR shall, at his, her, or its sole cost and expense, maintain in full force and effect, during the term of this Agreement, the following insurance coverage from a California licensed insurer with an A minus (A-), VII, or better rating from A.M. Best, sufficient to cover any claims, damages, liabilities, costs and expenses (including counsel fees) arising out of or in connection with CONTRACTOR'S fulfillment of any of its

obligations under this Contract or either party's use of the Work or any component or part thereof:

(a) **COMMERCIAL GENERAL LIABILITY** insurance which shall include contractual, products and completed operations, corporal punishment and sexual misconduct and harassment coverage, and bodily injury and property damage liability insurance with combined single limits of not less than \$1,000,000 per occurrence.

(b) **WORKERS COMPENSATION** insurance, as required by the California Labor Code, with not less than the statutory limits.

16.2 **CONTRACTOR**, no later than the date that this Contract is signed, and periodically thereafter upon request, shall furnish the District with certificates of insurance evidencing such coverage. Satisfactory evidence of insurance shall include standard insurance company Certificate of Liability Insurance form ACORD 25-S or the Marsh, Inc. insurance certificate form. The certificate of insurance shall include a thirty (30) day non-renewal notice provision. The policies of insurance providing the coverages referred to above shall name the Oakland Unified School District as an additional insured with respect to any potential tort liability, irrespective of whether such potential liability might be predicated on theories of negligence, strict liability or products liability. Premiums on all insurance policies shall be paid by **CONTRACTOR** and shall be deemed included in **CONTRACTOR'S** obligations under this contract at no additional charge. Failure to maintain the above mentioned insurance coverage shall be cause for termination of this Contract.

16.3 If at any time said policies of insurance lapse or become canceled, this Contract shall become void. The acceptance by OUSD of the above-required insurance does not serve to limit the liability or responsibility of the insurer or **CONTRACTOR** to OUSD.

16.4 If OUSD determines that change in insurance coverage obligations under this section is necessary, OUSD may reopen negotiations to modify the insurance obligations.

#### *Exhibit B - Insurance Certificates*

### **17. Indemnification and Hold Harmless**

17.1 **CONTRACTOR** shall indemnify, hold harmless and defend the Oakland Unified School District and each of its officers, officials, employees, volunteers and agents from any loss, liability, fines, penalties, forfeitures, costs or damages (whether in contract, tort or strict liability, including but not limited to personal injury, death at any time and property damage) incurred by the District, **CONTRACTOR** or any other person and from any claims, demands and actions in law or equity (including attorney's fees and litigation expenses), arising or alleged to have arisen directly or indirectly out of performance of this Agreement.

17.2 **CONTRACTOR'S** obligations under the preceding sentence shall apply jointly and severally regardless of whether OUSD or any of its officers, officials, employees, volunteers or agents are actively or passively negligent, but shall not apply to any loss or liability, fines, penalties, forfeitures, costs or damages caused solely by the active negligence or by the willful misconduct of OUSD.

17.3 If **CONTRACTOR** should subcontract all or any portion of the work or activities to be performed under this agreement, **CONTRACTOR** shall require each subcontractor to

indemnify, hold harmless and defend OUSD, its officers, officials, employees, volunteers or agents in accordance with the terms of paragraphs 17.1 and 17.2.

### **18. Independent Contractor and Conflict of Interest**

18.1 CONTRACTOR shall provide all services under this Contract as an independent CONTRACTOR, and neither party shall have the authority to bind or make any commitment on behalf of the other. Nothing contained in this Contract shall be deemed to create any association, partnership, joint venture or relationship of principal and agent, master and servant, or employer and employee between the parties or any affiliates of the parties, or between the OUSD and any individual assigned by CONTRACTOR to perform any services for the OUSD. If the OUSD is held to be a partner, joint venturer, co-principal, employer or co-employer of CONTRACTOR or any person performing services on CONTRACTOR'S behalf, CONTRACTOR shall defend, indemnify and hold harmless the OUSD from and against any and all claims for loss, liability, or damages arising from that holding, as well as any expenses, costs, taxes, penalties and interest charges incurred by the OUSD as a result of that holding.

18.2 CONTRACTOR shall abide by and be subject to all applicable OUSD policies, regulations, statutes or other laws regarding conflict of interest. CONTRACTOR shall not hire any officer or employee of OUSD to perform any service by this Agreement, with the exception of OUSD teachers hired to tutor students in the SES program. CONTRACTOR affirms to the best of his/her/its knowledge, there exists no actual or potential conflict of interest between CONTRACTOR's family, business or financial interest and the services provided under this Agreement, and in the event of change in either private interest or services under this Agreement, any question regarding possible conflict of interest which may arise as a result of such change will be brought to OUSD's attention in writing. Through its execution of this Agreement, CONTRACTOR acknowledges that it is familiar with the provisions of section 1090 et seq. and Section 87100 et seq. of the Government Code of the State of California, and certifies that it does not know of any facts which constitute a violation of said provisions. In the event CONTRACTOR receives any information subsequent to execution of this Agreement, which might constitute a violation of said provisions, CONTRACTOR agrees it shall notify OUSD of this information.

### **19. Subcontracting**

19.1 CONTRACTOR shall provide written notification to OUSD before subcontracting for Supplemental Educational Services pursuant to this Contract. CONTRACTOR shall subcontract only with Supplemental Educational Service providers that have received state certification or approval or independent contractors paid under IRS 1099 rules and only after receiving OUSD's prior written consent. CONTRACTOR shall incorporate all of the provisions of this Contract in all subcontracts, to the fullest extent reasonably possible. Furthermore, when CONTRACTOR enters into subcontracts for the provision of Supplemental Educational Services for any OUSD student, CONTRACTOR shall ensure that such subcontract shall require the subcontractor to keep in effect appropriate policies of liability insurance including, but not limited to, general liability and professional liability policies acceptable to OUSD with the limits stated in Section 16. CONTRACTOR shall ensure that such subcontract shall require the subcontractor's insurance provider to send written notice of cancellation to OUSD at least thirty (30) days prior to cancellation or material change in coverage or terms of policy.

19.2 If the CONTRACTOR hires independent contractors paid under IRS 1099 rules to perform services under this Contract, CONTRACTOR must demonstrate compliance with the insurance requirements of Section 16, with respect to each such independent contractor by either:

- (a) Covering each such independent contractor under CONTRACTOR'S own insurance, as evidenced by submitting complete copies of all relevant insurance policies of CONTRACTOR; or
- (b) Submitting insurance certificates evidencing that each such independent contractor has its own insurance and has coverage which complies with the insurance requirements of Section 16.

19.3 CONTRACTOR shall not provide transportation or subcontract for transportation services for OUSD students unless OUSD and CONTRACTOR agree otherwise in writing.

19.4 Failure of the CONTRACTOR to require its subcontractor(s) to obtain and maintain the same minimum limits and coverages and to provide the required certificates, endorsements and policies as described in Section 16 shall also constitute a material breach of, and may result in, termination of the Contract.

## **20. Appropriate Educational Services**

Unless otherwise agreed to between CONTRACTOR and OUSD, CONTRACTOR shall be responsible for the provision of all appropriate supplies, equipment, assessments, and/or facilities for OUSD students, as specified in the OUSD student's ILP and the ISA. CONTRACTOR shall make no charge of any kind to parents for Supplemental Educational Services as specified in the OUSD student's ILP (including, but not limited to, screenings, OUSD designated and other assessments, or interviews that occur prior to or as a condition of the OUSD student's enrollment under the terms of this Agreement).

## **21. Instructional Minutes**

The total number of minutes per day provided by CONTRACTOR shall be specified in the ISA and in each OUSD student's ILP and all instruction shall be provided outside of the normal school day.

## **22. Calendars**

CONTRACTOR shall be provided with an OUSD-developed/approved calendar. CONTRACTOR shall provide services pursuant to the OUSD-developed/approved calendar and as specified in the ISA and the OUSD student's ILP. CONTRACTOR shall bill only for services provided on billable days of attendance as specified and agreed to in writing by the OUSD and included in the ISA and OUSD student's ILP.

## **23. Complaint Procedures**

CONTRACTOR shall maintain and adhere to its own written procedures for responding to parent complaints. These procedures shall include annually notifying and providing parents of OUSD students with appropriate information (including complaint forms) for the following: (1) Uniform Complaint Procedures pursuant to Title 5 of the California Code of Regulations section 4600 *et seq.*; (2) Nondiscrimination policy pursuant to Title 5 of the California Code of Regulations section 4960 (a); (3) Sexual Harassment Policy,

California Education Code 231.5 (a) (b) (c); (4) Title IX Student Grievance Procedure, Title IX 34 CFR 106.8 (a) (d) and 106.9 (a), and any other policies required by law. CONTRACTOR shall provide documentation of these procedures to the OUSD SES Department no later than the date that this Contract is signed.

#### **24. OUSD Student Progress Reports/Report Cards and Assessments**

24.1 CONTRACTOR shall provide to parents, SES Department, and each OUSD student's home school written progress reports/report cards pursuant to the requirements specified by the OUSD SES Department. A copy of the progress reports/report cards shall be maintained at the CONTRACTOR'S place of business and made available upon request of OUSD and/or the OUSD student's parent(s).

24.2 If applicable, CONTRACTOR shall administer OUSD designated pre-test assessments at the beginning of service to each OUSD student and administer OUSD designated post-test assessments to each OUSD student before the end of the term of the relevant student's ILP. CONTRACTOR shall not charge the OUSD student's parent(s) or OUSD for the provision of progress reports, report cards, and/or any assessments including the designated or any other pre and post test assessments, any interviews, or meetings. CONTRACTOR shall be responsible for purchase of the designated assessment tools necessary to comply with the above through the company chosen by the OUSD, if applicable.

#### **25. OUSD Student Change of Enrollment**

If the OUSD student's change of enrollment is to a home school (where the child actually attends classes) outside of OUSD's service boundaries or an OUSD home school (where the child actually attends classes) whose students are not eligible for Supplemental Educational Services under the No Child Left Behind Act, OUSD shall not be responsible for the costs of services delivered after the OUSD student's change of enrollment. The OUSD shall not be responsible for the costs of services if the application form states an OUSD home school (where the child actually attends classes) whose students are not eligible for Supplemental Educational Services under the No Child Left Behind Act.

#### **26. Withdrawal of OUSD Student from Program**

CONTRACTOR shall immediately report, by telephone, to the OUSD SES Department when an OUSD student is withdrawn by parent from services. CONTRACTOR shall confirm such telephone call in writing as specified by the OUSD SES Department.

#### **27. Parent Access**

CONTRACTOR shall provide for reasonable parental access to OUSD students and all facilities including, but not limited to, the instructional setting, recreational activity areas, and meeting rooms. CONTRACTOR shall comply with any known court orders regarding parental visits and access to OUSD students.

#### **28. Monitoring**

28.1 CONTRACTOR shall allow access by OUSD to CONTRACTOR'S facilities (including on-line and in-home sessions) for periodic monitoring of each OUSD student's instructional program and shall be invited to participate in a review of each student's

progress. OUSD shall have access to observe each OUSD student at work (including during on-line and in-home sessions), observe the instructional setting, interview CONTRACTOR, and review each OUSD student's records and progress. Such access shall include unannounced monitoring visits (including during on-line and in-home sessions). When making site visits, OUSD shall initially report to CONTRACTOR'S site administrative office, if applicable. If CONTRACTOR provides online services, before services are provided under this Contract, CONTRACTOR shall provide to OUSD all website addresses, passwords, and any other information necessary to permit OUSD to access CONTRACTOR'S online services.

28.2 CONTRACTOR shall participate in an annual review process as deemed appropriate by OUSD. This review will address, among other things, programmatic aspects of the CONTRACTOR, compliance with relevant state and federal regulations, assessments of OUSD students, OUSD student achievement growth, and Contract compliance.

28.3 CONTRACTOR shall participate in any reviews, including without limitation, self reviews as required by law.

28.4 CONTRACTOR understands that OUSD reserves the right to institute a program audit with or without cause. The program audit may include, but is not limited to, a review of core compliance areas of health and safety; curriculum/instruction; related services; and contractual, legal, and procedural compliance.

## **29. Personnel Clearance Requirements**

29.1 CONTRACTOR shall comply with the requirements of California Education Code sections 45125.1, 35021.1, 35021.2 and Title 5, California Code of Regulations section 13075.2, including, but not limited to:

- (a) Obtaining clearance from both the California Department of Justice (hereinafter referred to as "CDOJ") OR the home state Department of Justice or an equivalent agency, if they do not reside in California, AND clearance from the Federal Bureau of Investigation (hereinafter referred to as "FBI"), for CONTRACTOR'S employees, and volunteers, and subcontractors prior to providing services to any OUSD student unless CONTRACTOR determines that the employees, volunteers, and subcontractors will have no contact with OUSD students. Such DOJ/equivalent agency and FBI clearance shall occur within the past calendar year and include a determination that any such person has not been convicted of a violent or serious felony as those terms are defined in California Education Code section 45122.1, unless despite such person's conviction of a violent or serious felony, he or she has met the criteria to be eligible for employment pursuant to California Education Code section 45125.1(f) (1) or (2). Tutors who do not live in the United States and whose criminal records are not available to the FBI through their home countries, cannot be cleared to work with OUSD students. In addition, CONTRACTOR shall make a request for subsequent arrest service from the DOJ/equivalent agency as required by California Penal Code section 11105.2 with respect to each such person.
- (b) Obtaining clearance for tuberculosis (TB). CONTRACTOR shall certify in writing that CONTRACTOR'S employees and volunteers and subcontractors have been tested and received clearance for TB within the past four years. (Tutors providing service via telephone or Internet only do not need TB clearance.)

29.2 CONTRACTOR shall certify in writing on CONTRACTOR's letterhead to OUSD that CONTRACTOR has at all times complied with this Section of the Contract. Clearance certifications shall be submitted to the OUSD SES Department pursuant to the requirements of the OUSD SES Department.

*Exhibit C - Fingerprinting/TB letter*

**30. Verification of Licenses, Credentials and other Documents**

30.1 Before the start of Service and monthly thereafter, CONTRACTOR shall submit to OUSD a staff list, and all current licenses, credentials, permits and/or other documents (e.g., proof of professional development or coursework, completed, etc.) which entitle the holder to provide Supplemental Educational Services held by individuals employed, contracted, and/or otherwise hired or utilized by CONTRACTOR to provide Services under this Contract. CONTRACTOR shall, in a manner specified by the OUSD SES Department, notify OUSD each month with the submission of the invoices when personnel changes occur which may affect the provision of Supplemental Educational Services to OUSD students.

30.2 CONTRACTOR shall monitor the status of licenses, credentials, permits and/or other documents for all individuals employed, contracted, and/or otherwise hired or utilized by CONTRACTOR to provide Services under this Contract. CONTRACTOR shall provide to OUSD monthly updated information regarding the status of licenses, credentials, permits and/or other documents upon request.

**31. Onsite Services**

31.1 CONTRACTOR will participate in technical assistance, training, orientation, monthly meetings and other support and resource development activities provided by OUSD and collaborative partners in conducting program planning, implementation, and evaluation. These include required regular meetings with the school principal or other identified designee to ensure collaboration with the school vision.

31.2 CONTRACTOR staff and agents who directly supervise students must meet the following minimum qualifications for an instructional aide: a high school diploma or its equivalency and one of the following: (a) an AA degree; or completion of 48 semester units in college; or (b) successful completion of the Instructional Assistant exam, administered by the Alameda County Office of Education.

31.3 For all elementary and middle school students, CONTRACTOR shall, before the first session, agree with the parent or guardian on students' pick up arrangements at the end of each session. In no case shall the CONTRACTOR leave the school site until all students have been picked up, unless specific arrangements have been made with the student's parent or guardian.

31.4 If students are scheduled to attend another afterschool program after the SES session, CONTRACTOR shall be responsible in ensuring that the student is accompanied to the next program.

31.5 CONTRACTOR shall appoint a coordinator/lead staff person for each school site hosting an onsite SES program. The coordinator shall be present and accessible at the school site any time that CONTRACTOR is conducting SES programs.

## **32. Health and Safety**

32.1 CONTRACTOR shall comply with all applicable federal, state, local and OUSD laws, regulations, ordinances, policies, and procedures, as well as OUSD policies and procedures, regarding student health and safety.

32.2 For all elementary and middle school students, CONTRACTOR shall, before the first session, agree with the parent or guardian on students' pick up arrangements at the end of each session.

32.3 CONTRACTOR shall comply with the official OUSD Nutritional Policy with regard to student snacks and incentives.

## **33. Facilities and Facilities Modifications**

33.1 In the event that OUSD, in its sole discretion, at any time during the term of this Agreement, desires the removal of any CONTRACTOR related persons, employee, representative or agent from the OUSD school site and, or property, CONTRACTOR shall immediately upon receiving notice from OUSD of such desire, cause the removal of such person or persons at no cost or liability to OUSD.

33.2 Other than services provided in the student's home, CONTRACTOR shall provide Supplemental Educational Services to OUSD students in facilities that comply with all applicable federal, state, and local laws, regulations, and ordinances related, but not limited to: disability access; fire, health, sanitation, and building standards and safety; fire warning systems; zoning permits; and occupancy capacity. CONTRACTOR shall be responsible for any structural changes and/or modifications to CONTRACTOR'S facilities as required complying with applicable federal, state, and local laws, regulations, and ordinances.

## **34. Incident/Accident Reporting**

CONTRACTOR shall submit, within 24 hours by mail, any accident or incident report to the OUSD SES Department. CONTRACTOR shall submit accident or incident reports pursuant to the procedures specified by the OUSD SES Department.

## **35. Child Abuse Reporting**

CONTRACTOR hereby agrees that all staff members, including volunteers, are familiar with and agree to adhere to its child and dependent adult abuse reporting obligations and procedures as specified in California Penal Code section 11166. A written statement acknowledging the legal requirements of such reporting and verification of staff adherence to such reporting shall be submitted to the OUSD SES Department no later than the date that this Contract is signed. CONTRACTOR must develop and/or maintain a written child abuse reporting procedure.

## **36. Reporting of Missing Children**

CONTRACTOR assures OUSD that all staff members, including volunteers, are familiar with and agree to adhere to requirements for reporting missing children as specified in California Education Code section 49370. A written statement acknowledging the legal

requirements of such reporting and verification of staff adherence to such reporting shall be submitted to the OUSD SES Department no later than the date that this Contract is signed. CONTRACTOR must develop and/or maintain a written missing children reporting procedure.

### **37. Enrollment, Contracting, Attendance Reporting, and Billing Procedures**

37.1 CONTRACTOR shall comply with all procedures concerning enrollment, contracting, attendance reporting, and billing as specified by the OUSD SES Department.

37.2 CONTRACTOR shall maintain separate registers for each OUSD student that fully describe the Services provided. Original attendance forms (i.e. daily service logs and notes describing the Services provided) shall be initialed daily by the student and completed by the actual service provider whose signature shall appear on such forms and shall be available for review, inspection, or audit by OUSD during the Term and for a period of five (5) years thereafter. CONTRACTOR shall verify the accuracy of minutes of reported attendance that is the basis of services being billed for payment.

37.3 CONTRACTOR must begin providing services to students by February 11, 2013, and must provide at least 80% of their services to 90% of the enrolled students by April 19, 2013. CONTRACTOR must begin providing service to ALL students by the date that allows each student sufficient time to receive the total number of hours of service to be provided to each student as indicated in the ISA and prior to the testing period unless otherwise agreed to in writing between the CONTRACTOR and the OUSD.

37.4 Funds will be encumbered from the OUSD Title I budget on behalf of CONTRACTOR for the school year 2012-2013 up to and not to exceed **\$504**

37.5 The Agreed upon hourly reimbursement rate is equal to **\$65/hr**

37.6 Payments for full provision of services for each student will equal the required 2011-2012 OUSD PPA rate as cited on the California Department of Education website. In no event shall OUSD incur any obligation or expense in excess of the state/federal reimbursement amount.

37.7 Payments will be made on a positive attendance basis, equal to the PPA amount divided by the total number of hours of instructional services projected to be provided. There are no options for multiple hourly rates or "free hours" in OUSD.

37.8 CONTRACTOR shall receive compensation only for sessions attended by OUSD students and Supplemental Educational Services actually provided to OUSD students. CONTRACTOR shall not receive compensation for homework or assignments completed outside of the direct tutoring session. CONTRACTOR shall not receive compensation for OUSD student absences. CONTRACTOR shall not receive compensation for more than one hour each for the administration of the pre-test and post-test assessments. CONTRACTOR shall not receive compensation for initial assessment if the student completes less than 2 hours of direct tutoring service. CONTRACTOR shall not receive compensation for parent orientation meetings, individualized parent meetings, meetings with OUSD staff or Site Administrators. Start up costs will not be paid for, nor will additional itemized listing of supplies or administrative overhead. These costs should be built into the hourly rate.

37.9 CONTRACTOR shall submit invoices and related documents to OUSD for payment, for each calendar month when education or related services were provided. Invoices and related documents shall be submitted on a form and in a manner prescribed by the OUSD SES Department. Invoices for payment of services for SES must be itemized, accompany detailed attendance reports and include evidence of the following staff qualifications for each CONTRACTOR employee and agent, including employees of subcontracting agencies and volunteers: TB Clearance, current CA Department of Justice fingerprint clearance, and Instructional Aide requirement. CONTRACTOR will utilize the required OUSD invoicing and staff qualifications forms for regular invoice submission. The invoices must be submitted on CONTRACTOR letterhead and have a CONTRACTOR representative's signature before submission to the OUSD SES office. No invoice shall be processed unless an ILP has been submitted for each student billed for in that invoice. If an invoice is submitted in violation of these terms, OUSD may withhold payment.

37.10 Payment shall only be made for students whose names have been provided to CONTRACTOR by OUSD for the Term specified in this Contract. If CONTRACTOR submits an invoice billing for students not specified by the OUSD for SES Services, OUSD may withhold payment.

37.11 Invoices will be processed once a month and must be received in the OUSD SES office by the 10<sup>th</sup> of each month. Invoices received after the 10<sup>th</sup> of the month will not be processed until the following month. Invoices received after June 20, 2013 will not be paid.

37.12 To qualify for payment, invoices shall be submitted no later than forty-five (45) days after the end of the calendar month in which the services were rendered unless otherwise agreed to in writing by the CONTRACTOR and the OUSD. OUSD shall make payment to CONTRACTOR based on the number of billable days of attendance and billable hours of service at rates specified in this Contract.

37.13 Payment shall be within forty-five (45) days after OUSD's receipt of invoices prepared and submitted as specified by the OUSD SES Department. CONTRACTOR shall correct deficiencies and resubmit billing invoices no later than thirty (30) days after the invoice is returned by OUSD. OUSD shall pay properly submitted rebilling invoices no later than forty-five (45) days after the date a completely corrected rebilling invoice is received by OUSD. Payment shall be mailed to the CONTRACTOR'S official organizational address on file with OUSD.

#### ***Exhibit D - Invoicing and Staff Qualifications Forms***

### **38. Right to Withhold Payment**

38.1 OUSD may withhold payment to CONTRACTOR when: (a) CONTRACTOR has failed to perform, in whole or in part, under the terms of this Contract, ISA, and/or ILP; (b) CONTRACTOR was overpaid by OUSD as determined by inspection, review, and/or audit of CONTRACTOR'S program, work, and/or records; (c) education and/or related services are provided to OUSD students by personnel who are not appropriately credentialed, licensed, or otherwise qualified as provided in this Contract; (d) OUSD has not received, as per OUSD SES Department's policies and procedures, all documents concerning one or more OUSD students enrolled in CONTRACTOR'S educational program or has not received said documents in a timely fashion; or (e) CONTRACTOR

receives payment from another agency or funding source for a service provided to an OUSD student. If the basis for the withholding is subsection (d) of this section, OUSD may only withhold the proportionate amount of the bill related to that pupil for the time period after the violation occurred and until it is cured including submitting new invoice documents that exclude the charges for said pupils. If the basis for withholding is subsections (a) and/or (b), OUSD may only withhold the value of the service CONTRACTOR failed to perform or the amount of any overpayment. If the basis for the withholding is subsection (c), OUSD may only withhold payment for services provided by the applicable individual. If the basis for the withholding is subsection (e), OUSD may only withhold the amount paid to CONTRACTOR by the agency or funding source for the service provided to the OUSD student.

38.2 If OUSD determines that cause exists to withhold payment to CONTRACTOR, OUSD shall, within ten (10) days of this determination, provide to CONTRACTOR written notice that OUSD is withholding payment. Such notice shall specify the basis or bases for OUSD's withholding payment and the amount to be withheld. Within thirty (30) days from the date of receipt of such notice, CONTRACTOR shall take all necessary and appropriate action to correct the deficiencies that form the basis for OUSD's withholding payment or submit a written request for extension to correct the deficiencies unless the deficiency is timeliness which cannot be cured. Upon receipt of CONTRACTOR'S written request for showing good cause, OUSD shall extend CONTRACTOR'S time to correct deficiencies (usually an additional thirty (30) days) otherwise payment will be denied.

#### **39. Payment for Staff Absences**

If CONTRACTOR'S service provider is absent, CONTRACTOR shall provide a qualified (as defined in section 6 of this Contract and as determined by OUSD) substitute. OUSD shall not pay for services unless a qualified substitute is provided and/or CONTRACTOR provides documentation evidencing the provision of "make-up" services by a qualified service provider.

#### **40. Payment for Student Absences**

OUSD shall not be responsible for the payment for Services when a student is absent.

#### **41. Incentives and Marketing**

41.1 The CONTRACTOR shall not provide any up-front incentive valued at over \$2.00 per student to parents or students to encourage signing up for CONTRACTOR'S services or to encourage any other student or parent to sign up for CONTRACTOR'S services. Acceptable are such items as pencils, pens, magnets, etc. In any marketing information or other explanation, either verbally and in writing, and in the delivery of services, CONTRACTOR may not offer to parents and/or students incentives valued at more than \$50.00 in the aggregate per student as achievement and/or attendance incentives once the student has signed up for CONTRACTOR'S services.

41.2 The CONTRACTOR'S policy as to how students earn achievement and/or attendance incentives (which shall not exceed the maximum allowable set forth above) and the specific incentives with their specific costs must be fully explained in the ISA and approved by the OUSD.

41.3 CONTRACTOR may not offer any incentive/payment of any amount to any OUSD personnel, representative, volunteer or parent employed by one of the SES eligible schools for helping CONTRACTOR to recruit parents and students to sign up for CONTRACTOR'S Supplemental Educational Services.

41.4 CONTRACTOR shall not engage in SES marketing on any school site or within 20 yards of any OUSD school site outside of designated SES informational fairs. SES Providers participating in any SES informational fairs at OUSD must follow rules set forth by the OUSD SES Office and must return a signed copy of the CERTIFICATION OF COMPLIANCE TO OUSD SUPPLEMENTAL EDUCATIONAL SERVICES PROVIDER FAIR PROCEDURES along with this MOU.

41.5 Applications with CONTRACTOR's name pre-printed on them (i.e. not handwritten by the parents) will be considered invalid and will not be accepted.

41.6 Applications submitted without signatures will be considered invalid and will not be accepted.

#### **42. Budget Reductions**

In the event that during the term of this Contract, the State of California through the California Department of Education or the Board of Education of the District fails to appropriate sufficient funds to fund the Contract, reduces or terminates funding with respect to the relevant program, or otherwise directs budget cutbacks, District may either (a) terminate the Contract, without further liability to the District, or (b) propose an amendment to the Contract for a reduced scope of Services and/or at a lower price, which may be retroactive to the beginning of the term hereof. Any such amendment shall require the mutual agreement of the parties. Further, if the Board of Education suspends payments to contractors due to budget cutbacks by the State of California, District shall have the option to suspend performance of the Contract and suspend payments to the CONTRACTOR until the State of California rescinds the suspension. In any event, the Contractor shall be paid in accordance with the Contract for Services performed through the date of termination, amendment (as more particularly set forth in the amendment) or suspension of payments. In no event shall District be liable for any special, consequential, indirect or incidental damages, including but not limited to lost profits arising out of or in connection with any termination, amendment or suspension of payments pursuant to this Section.

#### **43. Inspection and Audit**

43.1 The CONTRACTOR shall maintain and the OUSD shall have the right to examine and audit all of the books, records, documents, accounting procedures and practices and other evidence that reflect all costs claimed to have been incurred or fees claimed to have been earned under this Contract.

43.2 CONTRACTOR shall provide access to all records including, but not limited to: pupil records as defined by California Education Code section 49061(b); registers and roll books of teachers; daily service logs and notes describing the Services provided or other documents used to record the provision of related services; daily service logs and notes describing the Services provided and other documents including ILPs used to record provision of services provided; staff lists specifying credentials held, business licenses held, documents evidencing other qualifications, clearance documentation

referenced in Section 29; dates of hire, and dates of termination; staff time sheets; non-paid staff and volunteer sign-in sheets; and other related service subcontracts; tutoring schedules; liability and worker's compensation insurance policies; certifications; statements of income and expenses; general journals; cash receipts and disbursement books; general ledgers and supporting documents; federal/state payroll quarterly reports (Form 941/DE3DP); and bank statements and canceled checks. Such access shall include unannounced inspections by OUSD. CONTRACTOR shall make available to OUSD all budgetary information including operating budgets submitted by CONTRACTOR to OUSD for the relevant contract period being audited.

43.3 CONTRACTOR shall make said evidence and documents available at the office of OUSD or CONTRACTOR'S offices (to be specified by OUSD) at all reasonable times and without charge. Said evidence/documents shall be provided to OUSD within five (5) days of a written request from OUSD. CONTRACTOR shall, at no cost to OUSD, provide assistance for such examination or audit. OUSD's rights under this section shall also include access to CONTRACTOR'S offices for purposes of interviewing CONTRACTOR'S employees. If any document or evidence is stored in an electronic form, it shall be provided in a format that is accessible and readable by current software by the OUSD.

43.4 CONTRACTOR shall obtain from its subcontractors written agreements to the requirements of this section and shall provide a copy of such agreements to OUSD upon request by OUSD.

43.5 If an inspection, review, or audit by OUSD, a state agency, a federal agency, and/or an independent agency/firm determines that CONTRACTOR owes OUSD monies as a result of CONTRACTOR'S over billing or failure to perform, in whole or in part, any of its obligations under this Contract, OUSD shall provide to CONTRACTOR written notice demanding payment from CONTRACTOR and specifying the basis or bases for such demand. Unless CONTRACTOR and OUSD otherwise agree in writing, CONTRACTOR shall pay OUSD the full amount owed as result of CONTRACTOR'S over billing and/or failure to perform, in whole or in part, any of its obligations under this Contract, as determined by an inspection, review, or audit by OUSD, a state agency, a federal agency, and/or an independent agency/firm. CONTRACTOR shall make such payment to OUSD within thirty (30) days of receipt of OUSD's written notice demanding payment.

#### **44. No Waiver; Amendment**

44.1 This Contract may be amended or modified only by written amendment executed by both parties to this Contract.

44.2 No terms or provisions of this Contract will be deemed waived by the District except for budget reductions deemed by submitted, signed ILPs and no breach by the CONTRACTOR excused, unless such waiver or consent will be in writing and signed by the District. Any consent by the District to, or waiver of, a breach by the CONTRACTOR, whether express or implied, will not constitute consent to, a waiver of, or excuse for any other different or subsequent breach. The failure by the District to exercise any right provided for under this Contract will not be deemed a waiver of that right or of any other right hereunder.

**45. Certification Regarding Debarment, Suspension or Ineligibility for Award (34 CFR 85)**

By signing this Agreement, the CONTRACTOR certifies that the CONTRACTOR, and any of its principals and/or subcontractors:

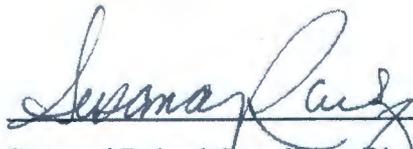
- a. Are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency, and;
- b. Have not, within a three-year period preceding this contract, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- c. Are not presently indicted for, or otherwise criminally or civilly charged by a government entity (Federal, State or local) with, commission of any of the offenses enumerated in paragraph b. (above) of this section; and
- d. Have not within a three-year period preceding this contract had one or more public transactions (Federal, State, or local) terminated for cause or default.

**[Remainder of page 21 BLANK]**

**46. Further Assurances/Signatures**

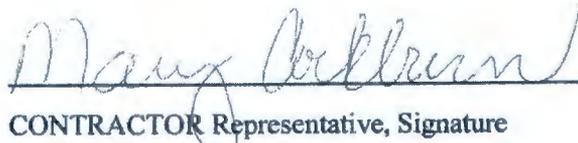
46.1 Each party shall provide such further documents and instruments and take such other actions as may be reasonably necessary or desirable to give effect to this Contract and to carry out its provisions.

46.2 The parties hereto have executed this Contract by and through their duly authorized agents or representatives. This Contract is effective on the December 19, 2012, and terminates at 5:00 PM on June 13, 2013, unless sooner terminated as provided herein.

  
\_\_\_\_\_  
State and Federal Compliance Director, OUSD  
Date 11/16/12

  
\_\_\_\_\_  
Jody London 12/13/12  
President, Board of Education  
Board Representative, OUSD

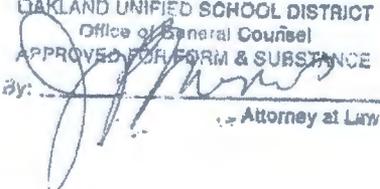
  
\_\_\_\_\_  
Edgar Rakestraw, Jr., Secretary  
Board of Education  
Date 12/13/12

  
\_\_\_\_\_  
CONTRACTOR Representative, Signature  
Date 7/31/12

Mary Cockburn/Federal Programs Manager  
\_\_\_\_\_  
CONTRACTOR Representative, Title

**47. Attachments:**

- Exhibit A - Individual Services Agreement
- Exhibit B - Insurance Certificates
- Exhibit C - Fingerprinting/TB letter
- Exhibit D - Invoicing and Staff Qualifications Forms

OAKLAND UNIFIED SCHOOL DISTRICT  
Office of General Counsel  
APPROVED FOR FORM & SUBSTANCE  
By:   
\_\_\_\_\_  
Attorney at Law

File ID Number: 12-3044  
Introduction Date: 12-12-12  
Enactment Number: 12-2939  
Enactment Date: 12-12-12  
By: 

# **EXHIBIT A**

Oakland Unified School District

# ***Supplemental Educational Services***

*Academic Tutoring Services*

## **Individual Services Agreement 2012-2013\***

\* All answers must reflect/match your officially approved application to the California Department of Education.

Provider: Applied Scholastics International

Legal Name (if different): N/A

### FUNDING AND RELATED COSTS

- What are the per-hour per-student costs for services (based on a per-pupil-allocation of **\$1,397.92**)? (There must be **ONE** hourly rate for services **ONLY** and free hours are not permitted) (If the per-pupil rate for services increases or decreases, the OUSD will allow providers to amend their number of hours to reflect the changes) \$65/hr
- Does this cost include all services and equipment necessary to access the services? YES
- How frequently will students receive service? For how many hours in total and how long a period in total during each session will students receive services? Include **ONLY** the number of hours that will be paid for by the OUSD under SES – do not include any “free” hours. (If the per-pupil rate for services increases or decreases, the OUSD will allow providers to amend their number of hours to reflect the changes) Where will services be delivered? (List all sites if individual franchises/clubs/centers, etc. are involved)

Tutoring sessions are delivered twice a week for 90 minutes (sometimes 2 hours). We will be able to deliver 21.5 hours of tutoring to each student.

Tutoring is delivered mainly in the student's home. We can set up to deliver at a public library as well. We do not have any center near or in Oakland at this time.

- What is the absolute maximum number of students provider is able to service?  
500

- What will be needed for students to access the services (i.e.: transportation to a site - where, how far from schools? Computer access - what kind, hook ups, internet access, specialized equipment, etc.)?  
If the student is being tutored at the library and not in their home, then transportation to the library is needed.

### PROVIDER SERVICES

- How will the provider ensure that content and instruction are consistent with the content used by and instruction provided by the OUSD and aligned with California state standards?

Our Applied Scholastics proprietary materials for remedial instruction are divided into small segments that can be aligned with the sub-objectives that flow from California Standards. Lesson Plans are formed around the sub-objectives, or performance indicators, and harmonize with the state framework utilizing the students' performance on the pre-tests.

- How do you ensure that the ILP is individually tailored to each student's needs?  
Based on the pre-assessments, parent and child interviews, information from school or district, a program (ILP) is developed for each student according to the expressed or assessed need. Students progress at a rate which allows mastery of concepts and skills at each step or level of their program. This varies from one student to another.
- In what content areas are providers prepared and qualified to provide support services to students as per the proposal approved by the state of California?

Reading, Language Arts and Math.

- What are the qualifications of the employees used to provide SES services to students?

The minimal qualifications for tutors are: (1) a high school diploma (or equivalent); (2) at least 60 hours of college credit or passing a Paraprofessional Examination given for NCLB requirement; (3) passing the required TB test, (4) clearance by DOJ & FBI background check; and (4) Pre-service training of at least 15 hours. Their training covers the Applied Scholastics methods, tutoring, curriculum training and SES administrative procedures. All tutors continue with in-service training each year.

- What training, guidelines, and support do employees providing service receive? (Describe completely the content of the training received by employees providing service.)

The initial required tutor workshops include training in: Study Technology (recognizing and overcoming study barriers); Orientation to the SES Program; Progress Reporting; SES, District and Applied Scholastics Policies and Procedures. Additionally tutors are trained in at least one of the following Remedial Reading Tutoring Curriculum for Grades K-8; Language Arts grades 3-8, or Math Tutoring for Grades K-4. Experienced tutors may also be trained in Math Tutoring grades 5-8 and writing student programs.

During the first year of service in the SES program a tutor is also expected to complete in-service training on communication and how to work with children. Other in-service training is provided as needed to strengthen tutor's knowledge of curriculum delivery (further reading, language arts and math curriculum) and study technology methods. (30+ hours)

**Guidelines:** Training includes SES and delivery of the program guidelines. Tutors are provided their own manuals of SES related policies and procedures; tutor manuals, district related procedures and forms. Applied Scholastics forms and procedures in alignment with program policies are part of their training and they receive their own copies of these. Training also includes guidelines on assessment and placement in reading and math and the tutor receives those guidelines issues and materials as well.

**Support:** Applied Scholastics has personnel in California who monitor the program and provide curriculum, tutoring and guideline adherence support to tutors and in addition there are personnel at the home office that monitor and support progress and the tutors can contact them for assistance as well.

- How does the provider guarantee that all provider employees are aware of child abuse reporting procedures?

We provide a description in the training for each tutor in their SES administration. We also issue a bright orange folder with forms, procedures and guidelines for a tutor to keep as part of their references and materials available at any time.

- What is the delivery mode for the service and what is the maximum tutor student ratio (i.e.: 1 to 1 tutoring, small group instruction, computer-based lessons with or without a live tutor, etc.)?

We do 1:1 tutoring mostly and some small groups of not more than 3 students to one tutor.

- Describe the general program of instruction to be provided to students including the materials to be used with the students as per the proposal approved by the state of California.

The Applied Scholastics Achievement Program was designed to be in alignment with State Standards. A correlation of the Applied Scholastics Achievement Program was conducted through careful examination of the California K-12 curriculum frameworks for grade K-8 (the grades we serve).

Applied Scholastics Achievement Program motivates and engages underachieving students in the learning process by first assessing for basic deficiencies, then by addressing identified academic deficiencies. The program balances the mastery of important facts, ideas and key terms with essential intellectual and practical skills that address present and future real-life needs of students. Hence, it is closely correlated to the California State Standards in reading and mathematics. Applied Scholastics Achievement Program reading remediation and language arts program addresses Strand 1.0, Word Analysis, Fluency, and Systematic Vocabulary Development and Strand 2.0 Reading Comprehension. Applied Scholastics Achievement program is aligned with the California Grade Level Expectations with an emphasis on identifying structural features text, connecting prior knowledge with information found in text, identifying answers in the text, making predictions, identifying main idea and supporting details, problems and solutions and vocabulary to increase comprehension.

At the foundation level, the most deficient readers receive academic support in phonics and phonemic awareness, fluency, vocabulary with progression toward comprehension skills. Beginning in fourth grade, the Applied Scholastics program has Study Guides available which address writing strategies and other aspects of Language Arts.

Applied Scholastics Mathematics component emphasizes computational and procedural skills, conceptual understanding, and problem solving. As such the materials align with all five strands of the California Strands for K-7th grade: Number Sense; Algebra and Functions; Measurement and Geometry; Statistics, Data Analysis and Probability; and Mathematical Reasoning with our focus being Number Sense and Mathematical Reasoning since these are often the struggling students' most deficient area in mathematics. Skills developed begin with a clear understanding of math vocabulary and moves students through number sense, data analysis, measurement, geometry and algebraic thinking.

The focus of individual programming for each student is: (1) first fill in learning gaps in the subject so the student can function more successfully at his appropriate grade level; (2) empower the student to be a more independent and strategic learner by teaching him the fundamental tools of learning (direct instruction) – (a) metacognition, or awareness of what he does understand and what he does not understand (Armbruster et al, Put Reading First, 2001) and (b)

precise strategies for overcoming learning barriers (Basic Study Manual, 1992) through the use of prior knowledge; and (3) through articulation with the classroom teachers, help the student apply learning techniques to classroom instruction (not homework) before delivery in the classroom to ensure mastery learning. Applied Scholastics Achievement Program utilizes scaffolding, flowcharts, diagrams, graphic organizers, use of manipulatives along with effective question and answer techniques.

**Materials:** The Applied Scholastics Achievement Program was designed in a modular fashion to allow individualization of instructional programs.

With lower level readers (K-3), emphasis is on the basic reading skills outlined by the National Reading Panel and the materials used are: Teaching Modern Phonics, the Applied Scholastics Level 3 and 4 Student Workbooks and vocabulary controlled readers. The phonics program includes vocabulary strategies and the use of manipulatives with focus on the smoothness of the learning continuum. Each word or symbol is defined as it is introduced in the program, including basic punctuation symbols, before the students encounter it in reading.

With higher level readers, comprehension and thinking skills are emphasized. Study Guides are used at this level in conjunction with appropriately leveled reading materials. The Study Guides focus on specific skills and vocabulary development.

The Applied Scholastics remedial math program is broken down into skills areas such as addition, subtraction, multiplication, division, measurement, time, fractions, decimals, percents, geometry, Algebra and so on. Manipulative objects are employed to demonstrate concepts such as place value, regrouping, and other concepts at each level.

- For Special Education students, how will the provider ensure that supplemental services provided for the student are consistent with the student's Individualized Education Plan (IEP), there is disability access and that any accommodations necessary are made?

In creating the student's instructional plan, the tutor consults any IEP or 504 program that exists to ensure that instruction is consistent with that plan. All facilities used by our organization are ADA compliant. Additionally, the Lead Tutor meets with each student and their parents at the start of the program so special accommodations, such as scheduling the student to be tutored one-on-one rather than in a group, can be made.

- For English Learner students, how will the provider ensure that there is primary language support provided for the student?

Applied Scholastics employs bi-lingual staff and tutors and either provides progress

reports in the student's native language (Spanish or other) or makes a bilingual tutor available for conversational interpretation of the progress report if written in English

- What is your organization's student behavior policy and what behavior intervention strategies does your organization use?

Our primary behavior intervention is communication. Since we tutor 1:1 or small groups, we communicate well with each student. Because of our methods and consulting understanding at every step, we seldom see major behavior problems. If we need further assistance, we communicate directly with the parent and seek their assistance and preference in resolving the matter.

### ASSESSMENT AND ACCOUNTABILITY

- What instrument does the provider currently use as a pretest and as a posttest and to monitor and assess student progress during services?

The instruments used are the proprietary assessments of Applied Scholastics in reading and phonics. Additionally the commercially available Wide Range Achievement Test (WRAT-4) is given in Word Reading, Sentence Comprehension, Spelling and Math. If the student is not reading on grade level per our assessment, the WRAT-4 or school teacher report, then the phonics assessment gives us further information to place the student in an appropriate reading remediation. If the student will be tutored in math, we also use our proprietary math assessment. Curriculum embedded tests inform the tutor on a regular basis of the student's progress.

- To what degree do current assessment measures used by the provider reflect California state content standards?

Our Applied Scholastics proprietary materials and embedded assessments for remedial instruction are divided into small segments that can be aligned with the sub-objectives that flow from California Standards. Lesson Plans are formed around three sub-objectives, or performance indicators, and harmonize with the state framework.

Our pre- and post-assessments in reading address word recognition; vocabulary; specific concepts such as the use of synonyms, antonyms and homographs; comprehension skills as well as decoding skills—all of which align with CA state standards in reading. In math our pre- and post tests address the concepts outlined in the CA content standards with an emphasis on grade level appropriate operations and math terminology.

- Local education agencies are required to develop contracts that provide for the termination of agreements with supplemental service providers if the provider is

unable to meet the goals or timelines of the agreement. How will the provider ensure that timelines are being met and that students are making sufficient progress toward learning goals? What does the provider currently include as a "guarantee" to consumers of the effectiveness of their service?

We ensure that timelines are being met and that students are making sufficient progress toward learning goals by assigning completion targets (based on hours) to the instructional elements of the student's program. These targets are the basis for continuous surveillance of student progress by the tutor and his supervisors as well as the parents.

Applied Scholastics does not make any type of guarantee in its informational flyers for consumers. We do, however, reference our record of success with students served, often achieving an average improvement of 1-2 grade levels in Reading or 1-2 grade levels in Math as measured by standardized tests after 30 hours of tutoring. Since the OUSD allocation will allow about 31 hours of tutoring, we anticipate an average gain in reading or math of more than one grade level per student.

## COMMUNICATION

- In addition to the required Attendance/Progress Reports after each 15 hours of service, how will the provider regularly evaluate student progress and report student progress to the parent?

Our program has student reviews for each Level on the Reading program and for each Math Study Checklist that allows us to continuously monitor each student's progress. At least once per month the tutor prepares a progress report on the student, which is sent to the parent. Conversations happen often with parents, including progress updates, when picking up their student.

- How does the provider monitor and report student attendance? What is the planned parent outreach if students fail to attend or participate in services? What procedures will be in place to notify parents, the school, and the OUSD SES Office if students fail to attend?

When a student is absent without excuse, his parents are called immediately. If the student is absent the next subsequent session, the parent is called and a letter is sent to the parent. If a student misses three sessions, regardless of reason, a notice is sent to the district and the parent is also notified in writing as well as contacted by phone. With the third or subsequent unexcused absence the tutor may request in writing that the student be dropped from our SES tutoring program.

- How will provider communicate the required complaint procedures to parents?  
(Copies of these procedures as well as Child Abuse and Missing Children

**Reporting Procedures were to be submitted to OUSD during contract process.)**

During the initial enrollment meeting with parents, we will inform them of our complaint and general communication procedures. They will also be given a card with contact information for the Tutor Coordinator should they have questions or want assistance.

Prepared by SES Provider: Applied Scholastics International/ Mary Cockburn  
Federal Pgms Mgr

Signature: Mary Cockburn

Date: 8/2/12

Approved by: (OUSD SES) \_\_\_\_\_

Signature: Susan King

Date: 11/16/12

# **EXHIBIT B**



# **EXHIBIT C**



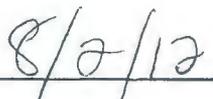
**Fingerprinting/Criminal Background Investigation**

CONTRACTOR certifies that CONTRACTOR has complied with the fingerprinting and criminal background investigation requirements of Education Code section 45125.1 with respect to all CONTRACTOR's employees, subcontractors, agents, and subcontractors' employees or agents ("Employees") regardless of whether those Employees are paid or unpaid, concurrently employed by OUSD, or acting as independent contractors of CONTRACTOR, who may have contact with OUSD pupils in the course of providing services pursuant to the Agreement, and the California Department of Justice has determined that none of those Employees has been convicted of a felony, as that term is defined in Education Code section 45122.1. Contractor further certifies that it has received and reviewed fingerprint results for each of its Employees and Contractor has requested and reviews subsequent arrest records for all Employees who may come into contract with OUSD pupils in providing services to the District under this Agreement.

**Tuberculosis Screening**

CONTRACTOR certifies that TB Clearance is on file for each Employee who may have contact with OUSD pupils in the course of providing services pursuant to this Agreement.

  
\_\_\_\_\_  
CONTRACTOR Representative, Signature

  
\_\_\_\_\_  
Date

\_\_\_\_\_  
CONTRACTOR Representative, Title

Celebrating Four Decades of Results



# **EXHIBIT D**



# INSERT ORGANIZATION'S LETTERHEAD HERE

To: OUSD Supplemental Educational Services (SES) Office  
 ATTN: Joaquín García/Susana Ramírez, Director  
 2111 International Boulevard, Room 11, Oakland, CA 94606  
 510-434-7770 x225 phone; 510-434-7772 fax

Pay to:		Vendor No.:	
Address:		Contact Person:	
Phone:		Title:	
Fax:		Billing Period:	
Contract/PO No.:		Requisition No.:	
Org Key/Account Code:	098-4856-201	Funding Source:	Title I - SES

School Site(s):	
-----------------	--

**Detailed Description of Services Performed:**

**Expenditures**

Detailed Description of Services Performed:	Expenditures
<p><small>It is noted that the supplemental services for students who are in the special interest number category following is provided for students in English Language Arts for students who are eligible for supplemental services. Supplemental services are provided for students who are in the special interest number category.</small></p>	
<b>FORMAT: Tutored X students for Y hours at an hourly rate of Z dollars per hour</b>	
▪	
▪	
▪	
▪	
▪	
▪	
<b>TOTAL AMOUNT</b>	

I certify that the included expenditures are in compliance with the SES guidelines.\*\*

\_\_\_\_\_  
 Signature and Title of Agency Representative

\_\_\_\_\_  
 Date

APPROVED that the services described above have been completed in a satisfactory manner and I have received all required reports. I also certify that the contractor's service invoice(s) do not exceed the approved MOU dollar amount.

\_\_\_\_\_  
 Signature of OUSD Director of State and Federal Compliance

\_\_\_\_\_  
 Date

**\*\* An SES Attendance Spreadsheet verifying the information above must be submitted to the SES office in order to process this invoice.**

## MEMORANDUM OF UNDERSTANDING ROUTING FORM 2012-2013

### Basic Directions

- Services cannot be provided until the MOU is fully approved and a Purchase Order has been issued.
1. Contractor and OUSD Administrator reach agreement about scope of work and compensation.
  2. Contractor and OUSD Administrator agreed upon terms are reflected in the Memorandum of Understanding.
  3. OUSD Administrator verifies contractor does not appear on the Excluded Parties List (<https://www.epls.gov/epls/search.do>)
  4. OUSD contract originator creates the requisition on IFAS.
  5. Within 2 weeks of creating the requisition, the OUSD Administrator submits completed MOU packet to Legal for approval.

### Agency Information

Agency Name	Applied Scholastics International		Agency's Contact Person	Mary Cockburn
Street Address	11755 Riverview Drive		Title	SES Provider
City	Saint Louis		Telephone	(314) 355-6355
State	MO	Zip Code	63138	Email
OUSD Vendor Number	1003689		m.cockburn@appliedscholastics.org	
Attachments	<input checked="" type="checkbox"/> Proof of general liability and workers' compensation insurance <input checked="" type="checkbox"/> Statement of qualifications <input checked="" type="checkbox"/> Program Planning Tool and Budget <input checked="" type="checkbox"/> Printout showing this vendor does not appear on the Excluded Parties List ( <a href="http://www.epls.gov/epls/search.do">www.epls.gov/epls/search.do</a> )			

### Compensation and Terms – Must be within OUSD Billing Guidelines

Anticipated Start Date	12/19/2012	Date work will end	06/13/2013	Total Contract Amount	\$61,725.04
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### Budget Information

Resource #	Resource Name	Org Key #	Object Code	Amount	Req. #
3010	Title I - SES	9984856201	5825	\$ 61,725.04	R0308684
			5825	\$	
			5825	\$	
			5825	\$	

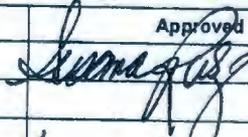
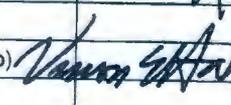
### OUSD Contract Originator Information

Name of OUSD Contact	Susana Ramirez	Email	susana.ramirez@ousd.k12.ca.us	
Telephone	(510) 273-0469	Fax	(510) 836-9717	
Site/Dept. Name	State & Federal Compliance	After School Program Enrollment Grades	K	through 12

### Approval and Routing (in order of approval steps)

Services cannot be provided before the MOU is fully approved and a Purchase Order is issued. Signing this document affirms that to your knowledge services were not provided before a PO was issued.

OUSD Administrator verifies that this vendor does not appear on the Excluded Parties List (<https://www.epls.gov/epls/search.do>)

Please sign under the appropriate column.	Approved	Denied – Reason	Date
1. Site Administrator			11-16-12
2. Oakland After School Programs Office			
3. Network or Executive Officer			
4. Cabinet (CAO, CCO, CFO, CSO, Asst Sup)			11-19-12
5. Board of Education or Superintendent			
Procurement	Date Received		