

Board Office Use: Legislative File Info.	
File ID Number	20-0336
Introduction Date	2/26/2020
Enactment Number	20-0286
Enactment Date	2/26/2020 os



**OAKLAND UNIFIED  
SCHOOL DISTRICT**  
Community Schools, Thriving Students

# Memo

**To** Board of Education

**From** Kyla Johnson-Trammell, Superintendent  
Moinca Thomas, Network Superintendent

**Board Meeting Date**

**Subject** Professional Services Contract  
Contractor: The Achievement Network  
Services For: Coaching and Professional Development

**Action Requested and Recommendation** Approval \_\_\_\_\_ by the Board of Education of Professional Services Contract between the District and The Achievement Network, for the latter to provide Coaching and professional development for teachers to be able to facilitate greater learning for students of the English Language Arts Common Core standards.

for the period of 07/01/19 through 06/30/20 in an amount not to exceed 28,000.00.

**Background**  
(Why do we need these services? Why have you selected this vendor?)

ANET will begin by conducting a site specific review process to fully understand each school's strengths and needs. Using observations, school document analysis and focus groups, ANET will build context in each school's beliefs and practices, connected to following areas: Prioritization, schedule, dedicated leadership, culture of continuous learning and standard-based instruction. Then ANET will work alongside each school team to develop and arc of activates and training that address the challenges present at each school site. ANET will support school in setting foundations building strong data culture while leveraging ANET'S expertise and ability to asset though leadership throughout the process.

**Competitively Bid** Was this contract competitively bid? Yes  
If no, exception: No exception because was competitively bid

**Fiscal Impact** Funding resource(s): General Fund

**Attachments** • Professional Services Contract

# PROFESSIONAL SERVICES CONTRACT ROUTING FORM 2019-2020



**OAKLAND UNIFIED  
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## Basic Directions

Additional directions and related documents are on the Contracts Website (intranet)

Services cannot be provided until the contract is fully approved and a Purchase Order has been issued.

1. Contractor and OUSD contract originator (principal or manager) reach agreement about scope of work and compensation.
2. Ensure contractor meets the consultant requirements (including the Excluded Party List, Insurance and Talent Consultant Verification )
3. Contractor and OUSD contract originator complete the contract packet together and attach required attachments.

Attachment  
Checklist

- ☐ For All Consultants: Authorization to Work, which indicates vendor has cleared the registration and background check
- ☐ For All Consultants: Results page of the Excluded Party List (<https://www.sam.gov/>)
- ☐ For All Consultants: Statement of qualifications (organization); or resume (individual consultant).

## Contractor Information

Contractor Name	The Achievement Network	Contractor's Contact	Renee Montmeny		
OUSD Vendor ID #	1007304	Title	Procurement Manager		
Street Address	One Beacone Street Floor 2	City, State	Boston, MA	Zip Code	02108
Telephone	610-505-1098	Email (required)	rmontmeny@achievementnetwork.org		
Contractor History	Previously been an OUSD contractor? Yes		Worked as an OUSD employee? Yes		

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

Anticipated Start Date	07/01/19	Date Work Will End	06/30/20	Other Expenses	0.00
Pay Rate Per Hour (required)	N/A	Number of Hours (required)	N/A		

Requisition No.	Budget Number	Resource Name	Amount
VR20-02699	010-0002-0-1110-1000-5825-181-1810-0002-0204-99999	Consultant Fund	28,000.00

Total Contract Amount

## OUSD Contract Originator Information

Name of OUSD Contact	Minh-Tram Nguyen	Email	tram.nguyen@ousd.org
Site/Dept. Name	181-EnCompass Academy	Site #	181
		Phone	510-639-3350

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

Services cannot be provided before the contract 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.

1.	Administrator / Manager (Originator)	Name	Minh-Tram Nguyen	Phone	510-639-3350	Fax	510-639-3352
	Site/Department (Name & #)	181-EnCompass Academy		Date Approved	10/17/19		
	Signature	<input checked="" type="checkbox"/> Administrator verifies vendor is not excluded on <a href="https://www.sam.gov/">https://www.sam.gov/</a>					
2.	Resource Manager	Type of Funds: <input type="checkbox"/> Restricted <input type="checkbox"/> Unrestricted <input type="checkbox"/> Grant					
	<input type="checkbox"/> Scope of work indicates compliant use of restricted resource and is in alignment with school site plan (CSSSP)						
	Signature			Date Approved			
	Signature (if using multiple restricted resources)			Date Approved			
3.	Network Superintendent/Executive Director						
	Signature	Micaela Thomas		Date Approved			
4.	Chiefs / Deputy Chiefs	Consultant Aggregate <input type="checkbox"/> Under <input type="checkbox"/> Over \$ _____					
	<input type="checkbox"/> Services described in the scope of work align with needs of department or school site						
	<input type="checkbox"/> Consultant is qualified to provide services described in the scope of work						
	Signature			Date Approved			
5.	Superintendent, Board of Education Signature on the legal contract						
Legal Required if not using standard contract		Approved		Denied - Reason		Date	
Procurement	Date Received			PO Number			

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**OAKLAND UNIFIED  
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## PROFESSIONAL SERVICES CONTRACT 2019-2020

This Agreement is entered into between The Achievement Network (CONTRACTOR) and Oakland Unified School District (OUSD). OUSD is authorized by Government Code Section 53060 to contract for the furnishing of special services and advice in financial, economic, accounting, engineering, legal, and administrative matters with persons specially trained, experienced, and competent to perform such services. CONTRACTOR warrants it is specially trained, experienced, and competent to provide such services. The parties agree as follows:

- Services:** CONTRACTOR shall provide the services ("Services" or "Work") as described in **Exhibit "A,"** attached hereto and incorporated herein by reference.
- Term:** The term of this Agreement shall be from 7/1/19 (or the day immediately following approval by the Superintendent if the aggregate amount CONTRACTOR has contracted with the District is below \$92,600 in the current fiscal year; or, approval by the Board of Education if the total contract(s) exceed \$92,600, whichever is later) to 6/30/20. The work shall be completed no later than 6/30/20.
- Compensation:** OUSD agrees to pay CONTRACTOR for services satisfactorily rendered pursuant to this Agreement. The compensation under this Contract shall not exceed twenty-eight thousand Dollars (\$28,000) [per fiscal year], at an hourly billing rate not to exceed N/A per hour. This sum shall be for full performance of this Agreement and includes all fees, costs, and expenses incurred by Contractor including, but not limited to, labor, materials, taxes, profit, overhead, travel, insurance, subcontractor costs, and other costs.

If CONTRACTOR will be compensated hourly for services provided under this Contract, CONTRACTOR shall describe in Exhibit "A," attached hereto, the specific scope of services to be delivered on an hourly basis to OUSD.

OUSD shall not be liable to CONTRACTOR for any costs or expenses paid or incurred by CONTRACTOR in performing services for OUSD, except as follows: N/A.

Payment for Work shall be made for all undisputed amounts in monthly installment payments within forty-five (45) days after CONTRACTOR submits an invoice to OUSD for Work actually completed and after OUSD's written approval of the Work, or the portion of the Work for which payment is to be made.

The granting of any payment by OUSD, or the receipt thereof by CONTRACTOR, shall in no way lessen the liability of CONTRACTOR to correct unsatisfactory work, although the unsatisfactory character of that work may not have been apparent or detected at the time a payment was made. Work, which does not conform to the requirements of this Agreement, may be rejected by OUSD and in that case must be replaced by CONTRACTOR without delay.

- Equipment and Materials:** CONTRACTOR shall provide all equipment, materials, and supplies necessary for the performance of this Agreement.
- CONTRACTOR Qualifications / Performance of Services:**
  - CONTRACTOR Qualifications:** CONTRACTOR warrants it is specially trained, experienced, competent and fully licensed to provide the Services identified in this Agreement in conformity with the laws and regulations of the State of California, the United States of America, and all local laws, ordinances and/or regulations, as they may apply.
  - Standard of Care:** CONTRACTOR represents that CONTRACTOR has the qualifications and ability to perform the Services in a professional manner, without the advice, control or supervision of OUSD. CONTRACTOR's services will be performed, findings obtained, reports and recommendations prepared in accordance with generally and currently accepted principles and practices of its profession for services to California school districts and in accordance with applicable law, code, rule, regulation, and/or ordinance.
    - CONTRACTOR shall ensure that any individual performing work under the Agreement requiring a California license shall possess the appropriate license required by the State of California. All personnel shall have sufficient skill and experience to perform the work assigned to them.
    - CONTRACTOR shall carefully study and compare all documents, findings, and other instructions and shall at once report to District, in writing, any error, inconsistency, or omission that CONTRACTOR or its employees may discover. CONTRACTOR shall use professional efforts in identifying any errors, inconsistencies, or omissions.
  - District Approval.** The work completed herein must meet the approval of OUSD and shall be subject to OUSD's general right of inspection and supervision to secure the satisfactory completion thereof.

6. **Certificates/Permits/Licenses/Registration:** CONTRACTOR and all CONTRACTOR's employees or agents shall secure and maintain in force such certificates, permits, licenses and registration as are required by law in connection with the furnishing of Services pursuant to this agreement.
7. **Invoicing:** Invoices furnished by CONTRACTOR under this Agreement must be in a form acceptable to OUSD. All amounts paid by OUSD shall be subject to audit by OUSD. Invoices shall include, but not be limited to: Contractor name, Contractor address, invoice date, invoice number, purchase order number, name of school or department service was provided to, period of service, name of the person performing the service, date service was rendered, brief description of services provided, number of hours of service, hourly rate, total payment requested.
8. **Notices:** All notices and invoices provided for under this Agreement shall be in writing and either personally delivered during normal business hours or sent by U.S. Mail (certified, return receipt requested) with postage prepaid to the other party at the address set forth below:

OUSD Representative:

Name: Minh-Tram Nguyen  
Site /Dept.: EnCompass Academy  
Address: 1025 81st Avenue  
Oakland, CA 94621  
Phone: 510-639-3350  
Email: tram.nguyen@ousd.org

CONTRACTOR:

Name: Renee Montmeny  
Title: Procurement Manager  
Address: One Beacon Street, Floor 2  
Boston, MA 02108  
Phone: 617-505-1098  
Email: rmontmeny@achievementnetwork.org

Notice shall be effective when received if personally served or, if mailed, three days after mailing. Either party must give written notice of a change of address.

9. **Status of Contractor:** This is not an employment contract. CONTRACTOR, in the performance of this Agreement, shall be and act as an independent contractor. CONTRACTOR understands and agrees that it and all of its employees shall not be considered officers, employees, agents, partner, or joint venture of OUSD, and are not entitled to benefits of any kind or nature normally provided employees of OUSD and/or to which OUSD's employees are normally entitled, including, but not limited to, State Unemployment Compensation or Worker's Compensation. CONTRACTOR shall assume full responsibility for payment of all Federal, State, and local taxes or contributions, including unemployment insurance, social security and income taxes with respect to CONTRACTOR's employees. In the performance of the work herein contemplated, CONTRACTOR is an independent contractor or business entity, with the sole authority for controlling and directing the performance of the details of the work, OUSD being interested only in the results obtained.

10. **Insurance:**

1. Unless specifically waived by OUSD, the following insurance is required:

- i. If CONTRACTOR employs any person to perform work in connection with this Agreement, CONTRACTOR shall procure and maintain at all times during the performance of such work, Workers' Compensation Insurance in conformance with the laws of the State of California (including, but not limited to, Labor Code section 3700) and Federal laws when applicable. Employers' Liability Insurance shall not be less than One Million Dollars (\$1,000,000) per accident or disease.
- ii. CONTRACTOR shall maintain Commercial General Liability insurance, including automobile coverage, with limits of at least One Million Dollars (\$1,000,000) per occurrence for corporal punishment, sexual misconduct, harassment, bodily injury and property damage. The coverage shall be primary as to OUSD and shall name OUSD as an additional insured with the additional insured endorsement provided to OUSD within 15 days of effective date of the Agreement (and within 15 days of each new policy year thereafter during the term of this Agreement). Evidence of insurance must be attached. Endorsement of OUSD as an additional insured shall not affect OUSD's rights to any claim, demand, suit or judgment made, brought or recovered against CONTRACTOR. The policy shall protect CONTRACTOR and OUSD in the same manner as though each were separately issued. Nothing in said policy shall operate to increase the Insurer's liability as set forth in the policy beyond the amount or amounts shown or to which the Insurer would have been liable if only one interest were named as an insured.
- iii. If CONTRACTOR is offering OUSD professional advice under this Contract, CONTRACTOR shall maintain Errors and Omissions insurance or Professional Liability insurance with coverage limits of One Million Dollars (\$1,000,000) per claim.

**OR**

- iv. CONTRACTOR is not required to maintain any insurance under this agreement. (Completed and approved Waiver of Insurance Form is required from OUSD's Risk Management.) Waiver of insurance does not release CONTRACTOR from responsibility for any claim or demand.
11. **Assignment:** The obligations of CONTRACTOR under this Agreement shall not be assigned by CONTRACTOR without the express prior written consent of OUSD.
12. **Non-Discrimination:** It is the policy of OUSD that in connection with all work performed under Contracts there be no discrimination because of race, color, ancestry, national origin, religious creed, physical disability, medical condition, marital status, sexual orientation, gender, or age; therefore, CONTRACTOR agrees to comply with applicable Federal and California laws including, but not limited to, the California Fair Employment and Housing Act beginning with Government Code Section 12900 and Labor Code



**Professional Services Contract**

Section 1735 and OUSD policy. In addition, CONTRACTOR agrees to require like compliance by all its subcontractor(s). CONTRACTOR shall not engage in unlawful discrimination in employment on the basis of actual or perceived; race, color, national origin, ancestry, religion, age, marital status, pregnancy, physical or mental disability, medical condition, veteran status, gender, sex, sexual orientation, or other legally protected class.

13. **Waiver:** No delay or omission by either party in exercising any right under this Agreement shall operate as a waiver of that or any other right or prevent a similar subsequent act from constituting a violation of the Agreement.

14. **Termination:**

1. **For Convenience by OUSD:** OUSD may at any time terminate this Agreement upon 30 days prior written notice to CONTRACTOR. OUSD shall compensate CONTRACTOR for services satisfactorily provided through the date of termination. In addition, OUSD may terminate this Agreement for cause should CONTRACTOR fail to perform any part of this Agreement. In the event of termination for cause, OUSD may secure the required services from another contractor. If the cost to OUSD exceeds the cost of providing the services pursuant to this Agreement, CONTRACTOR shall pay the additional cost.

2. **With Cause by District.** OUSD may terminate this Agreement upon giving of written notice of intention to terminate for cause. Cause shall include:

- i. material violation of this Agreement by the CONTRACTOR; or
- ii. any act by CONTRACTOR exposing OUSD to liability to others for personal injury or property damage; or
- iii. CONTRACTOR is adjudged bankrupt, CONTRACTOR makes a general assignment for the benefit of creditors, or a receiver is appointed on account of CONTRACTOR's insolvency.

Written notice by OUSD shall contain the reasons for such intention to terminate and, unless within three (3) calendar days after that notice the condition or violation shall cease or satisfactory arrangements for the correction thereof be made, this Agreement shall upon the expiration of the three (3) calendar days cease and terminate. In the event of this termination, OUSD may secure the required Services from another CONTRACTOR. If the expense, fees, and/or costs to OUSD exceeds the cost of providing the Services pursuant to this Agreement, CONTRACTOR shall immediately pay the excess expense, fees, and/or costs to OUSD upon the receipt of OUSD's notice of these expense, fees, and/or costs. The foregoing provisions are in addition to and not a limitation of any other rights or remedies available to OUSD.

Upon termination, CONTRACTOR shall provide OUSD with all documents produced maintained or collected by CONTRACTOR pursuant to this Agreement, whether or not such documents are final or draft documents.

15. **Conduct of CONTRACTOR:** By signing this Agreement, CONTRACTOR certifies compliance with the following requirements and will provide OUSD with evidence of staff qualifications, which include:

1. **Tuberculosis Screening:** CONTRACTOR is required to screen employees who will be working at OUSD sites for more than six hours. CONTRACTOR agents who work with students must submit to a tuberculosis risk assessment as required by Education Code 49406 within the prior 60 days. If tuberculosis risk factors are identified, CONTRACTOR agents must submit to an intradermal or other approved tuberculosis examination to determine that he/she is free of infectious tuberculosis. If the results of the examination are positive, the CONTRACTOR agent shall obtain an x-ray of the lungs. At his/her discretion, CONTRACTOR agent may choose to submit to the examination instead of the risk assessment.

2. **Fingerprinting of Employees and Agents.** Contractor will have no direct contact with students.

In the event that OUSD, in its sole discretion, at any time during the term of this contract, desires the removal of any CONTRACTOR related persons, employee, representative or agent from an 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.

16. **No Rights in Third Parties:** This Agreement does not create any rights in, or inure to the benefit of, any third party except as expressly provided herein.

17. **OUSD's Evaluation of CONTRACTOR and CONTRACTOR's Employees and/or Subcontractors.** OUSD may evaluate CONTRACTOR in any manner which is permissible under the law. OUSD's evaluation may include, without limitation:

- 1. Requesting that OUSD employee(s) evaluate CONTRACTOR and CONTRACTOR's employees and subcontractors and each of their performance.
- 2. Announced and unannounced observance of CONTRACTOR, CONTRACTOR's employee(s), and/or subcontractor(s).

18. **Limitation of OUSD Liability:** Other than as provided in this Agreement, OUSD's financial obligations under this Agreement shall be limited to the payment of the compensation provided in this Agreement. Notwithstanding any other provision of this Agreement, in no event, shall OUSD be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including, but not limited to, lost profits or revenue, arising out of, or in connection with, this Agreement for the services performed in connection with this Agreement.

19. **Confidentiality:** CONTRACTOR and all CONTRACTOR's agents, personnel, employee(s), and/or subcontractor(s) shall maintain the confidentiality of all information received in the course of performing the Services. CONTRACTOR understands that student records are confidential and agrees to comply with all state and federal laws concerning the maintenance and disclosure of student records. This requirement to maintain confidentiality shall extend beyond the termination of this Agreement. Contractors will be permitted access to student data only where permissible under state and federal law and only after executing OUSD's Confidentiality Agreement Regarding Student Data.

## Professional Services Contract

20. **Conflict of Interest:** CONTRACTOR shall abide by and be subject to all applicable, 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 without the prior approval of OUSD Human Resources.

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 in writing.

21. **Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion:** CONTRACTOR certifies to the best of his/her/its knowledge and belief, that it and its principals are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency according to Federal Acquisition Regulation Subpart 9.4, and by signing this contract, certifies that this vendor does not appear on the Excluded Parties List (<https://www.sam.gov/>).
22. **Severability:** If any term, condition or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions will nevertheless continue in full force and effect, and shall not be affected, impaired or invalidated in any way.
23. **Provisions Required By Law Deemed Inserted:** Each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to be inserted herein and this Agreement shall be read and enforced as though it were included therein.
24. **Captions and Interpretations:** Section and paragraph headings in this Agreement are used solely for convenience, and shall be wholly disregarded in the construction of this Agreement. No provision of this Agreement shall be interpreted for or against a party because that party or its legal representative drafted such provision, and this Agreement shall be construed as if jointly prepared by the Parties.
25. **Calculation of Time:** For the purposes of this Agreement, "days" refers to calendar days unless otherwise specified.
26. **Copyright/Trademark/Patent/Ownership:** CONTRACTOR understands and agrees that all matters produced under this Agreement shall become the property of OUSD and cannot be used without OUSD's express written permission. OUSD shall have all right, title and interest in said matters, including the right to secure and maintain the copyright, trademark, and/or patent of said matter in the name of OUSD (specifically excluding any underlying pre-existing intellectual property). OUSD may, with CONTRACTOR's prior written consent, use CONTRACTOR's name in conjunction with the sale, use, performance and distribution of the matters, for any purpose and in any medium. These matters include, without limitation, drawings, plans, specifications, studies, reports, memoranda, computation sheets, the contents of computer diskettes, artwork, copy, posters, billboards, photographs, videotapes, audiotapes, systems designs, software, reports, diagrams, surveys, source codes or any other original works of authorship, or other documents prepared by CONTRACTOR or its Sub-CONTRACTORS in connection with the Services performed under this Agreement. All works shall be works for hire as defined under Title 17 of the United States Code, and all copyrights in those works are the property of OUSD.
27. **Audit.** Consultant shall establish and maintain books, records, and systems of account, in accordance with generally accepted accounting principles, reflecting all business operations of Consultant transacted under this Agreement. Consultant shall retain these books, records, and systems of account during the Term of this Agreement and for three (3) years thereafter. Consultant shall permit the District, its agent, other representatives, or an independent auditor to audit, examine, and make excerpts, copies, and transcripts from all books and records, and to make audit(s) of all billing statements, invoices, records, and other data related to the Services covered by this Agreement. Audit(s) may be performed at any time, provided that the District shall give reasonable prior notice to Consultant and shall conduct audit(s) during Consultant's normal business hours, unless Consultant otherwise consents.
28. **Litigation:** This Agreement shall be performed in Oakland, California and is governed by the laws of the State of California, but without resort to California's principles and laws regarding conflict of laws. The Alameda County Superior Court shall have jurisdiction over any litigation initiated to enforce or interpret this Agreement.
29. **Incorporation of Recitals and Exhibits:** Any recitals and exhibits attached to this Agreement are incorporated herein by reference. CONTRACTOR agrees that to the extent any recital or document incorporated herein conflicts with any term or provision of this Professional Services Contract, the terms and provisions of this Professional Services Contract shall govern.
30. **Integration/Entire Agreement of Parties:** This Agreement constitutes the entire agreement between the Parties and supersedes all prior discussions, negotiations, and agreements, whether oral or written. This Agreement may be amended or modified only by a written instrument executed by both Parties.
31. **Drug-Free / Smoke Free Policy:** No drugs, alcohol, and/or smoking are allowed at any time in any buildings and/or grounds on OUSD property. No students, staff, visitors, CONTRACTORS, or subcontractors are to use controlled substances, alcohol or tobacco on these sites.
32. **Counterparts:** This Agreement and all amendments and supplements to it may be executed in counterparts, and all counterparts together shall be construed as one document.
33. **Signature Authority:** Each party has the full power and authority to enter into and perform this Agreement, and the person signing this Agreement on behalf of each Party has been given the proper authority and empowered to enter into this Agreement.

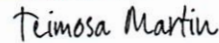


34. **W-9 Form:** If CONTRACTOR is doing business with OUSD for the first time, complete and return with the signed Contract the W-9 form.
35. **Indemnification:** To the furthest extent permitted by California law, CONTRACTOR shall indemnify, defend and hold harmless OUSD, its Governing Board, agents, representatives, officers, consultants, employees, trustees, and volunteers ("the Indemnified Parties") from any and all claims or losses accruing or resulting from injury, damage, or death of any person or entity arising out of or in any way related to the performance of this Agreement. CONTRACTOR also agrees to hold harmless, indemnify, and defend the Indemnified Parties from any and all claims or losses incurred by any supplier, contractor, or subcontractor furnishing work, services, or materials to CONTRACTOR arising out of or in any way related to the performance of this Agreement. CONTRACTOR shall, to the fullest extent permitted by California law, defend the Indemnified Parties at CONTRACTOR's own expense, including reasonable attorneys' fees and costs, and OUSD shall have the right to accept or reject any legal representation that CONTRACTOR proposes to defend the Indemnified Parties. This provision survives termination of this Agreement.
36. **Force Majeure:** ANET shall not be deemed in breach hereunder for any cessation, interruption or delay in the performance of its obligations due to causes beyond its reasonable control, including, without limitation earthquake, flood, or other natural disaster, act of God, labor controversy, civil disturbance, terrorism, war (whether or not officially declared) or the inability to obtain sufficient supplies, transportation, or other essential commodity or service required in the conduct of its business, or any change in or the adoption of any law, regulation, judgment or decree.
37. **Contract Publicly Posted:** This contract, its contents, and all incorporated documents are public documents and will be made available by OUSD to the public online via the Internet.
38. **Contract Contingent on Governing Board Approval:** OUSD shall not be bound by the terms of this Agreement until it has been formally approved by OUSD's Governing Board, and no payment shall be owed or made to CONTRACTOR absent that formal approval. This Agreement shall be deemed approved when it has been signed by the Board of Education, and/or the Superintendent as its designee.

OAKLAND UNIFIED SCHOOL DISTRICT

  
\_\_\_\_\_  
☒ President, Board of Education  
☐ Superintendent  
☐ Chief or Deputy Chief  
  
  
\_\_\_\_\_  
Secretary, Board of Education  
2/27/2020  
Date

CONTRACTOR

DocuSigned by:  
  
\_\_\_\_\_  
6179B9C951A040F  
Contractor Signature  
1/30/2020  
Date

Teimosia Martin  
\_\_\_\_\_  
Print Name, Title

Form approved by OUSD General Counsel for 2018-19 FY

Professional Services Contract

**EXHIBIT "A" SCOPE OF WORK**

**[IF A CONTRACTOR PROVIDES AN ACCEPTABLE DESCRIPTION OF SERVICES AS PART OF A PROPOSAL, THAT DESCRIPTION OF SERVICES MAY BE ATTACHED WITHOUT ANY TERMS, CONDITIONS, LIMITATIONS, ETC., FROM THAT PROPOSAL.]**

- 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.

Training and Coaching: Member specific coaching/training sessions (as agreed to between ANet's coach and Member). The number of coaching interactions provided is based upon Member's purchased service model. Coaching interaction topics are focused by the partner's instructional priorities and practice level and vary depending on partner needs. The focus of coaching interactions may include but are not limited to any of the following:

- i. Beginning of Year meetings (late spring/early summer or late summer, set focus and priorities for the year, map out overall approach for coaching interactions)
- ii. Partnership Kick-Off Meeting: orientate teachers and leaders around partnership, instructional purpose of assessments (if purchased by Member), and tools
- iii. Classroom observations with school leadership
- iv. Planning Support with leaders/Instructional Leadership Team (based on need)
- v. Data Meeting Support with leaders/ILT (based on need)
- vi. Observations of adapted instruction with school leadership, vii. Mid-Year and End of Year Meetings to monitor and review progress



**Professional Services Contract**

- 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.

As a result of this service, school leader participants and district leaders will develop a vision for success and set measurable outcomes for the school year. Participants will develop a stakeholder engagement plan. Participants will set a foundation for building a strong adult culture with data in their schools.

**3. Alignment with Single Plan for Student Achievement – SPSA (required if using State or Federal Funds):**

Please select:

- ☐ **Action Item included in Board Approved SPSA** (no additional documentation required) – 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.

## ADDENDUM TO PROFESSIONAL SERVICES CONTRACT 2019-20

This Addendum ("Amendment") modifies the Professional Services Contract 2019-20 between The Achievement Network, Ltd. ("Contractor" or "ANet") and Oakland Unified School District ("OUSD") (the "Agreement"). Each of ANet and OUSD may be referred to herein individually as a "Party" or collectively as the "Parties." This Addendum is effective as of the effective date of the Agreement (the "Effective Date").

WHEREAS, the Parties enter into the Agreement whereby the Contractor agreed to perform work and services for 181-EnCompass Academy, a school within OUSD ("Member"); and

WHEREAS, the Parties have agreed to make the following modifications to the terms to the Agreement.

NOW THEREFORE, in consideration of the mutual covenants and agreements of the Parties, the receipt and sufficiency whereof being hereby acknowledged, the Parties hereby agree to amend the Agreement as follows:

A. The following provisions are hereby added to and/or modify the Agreement:

1. Use Rights: ANet hereby grants to Member during the term of the Agreement (the "Term") the following rights:

1.1 Platform. A non-exclusive, non-transferable right to access and use the MyAchievementnetwork.org solely for Member's internal education-related purposes at Member's facility in connection with the provision of services by ANet.

1.2 Resources. A non-exclusive, non-transferable license to use and reproduce in hard copy form the Resources (defined below) provided to Member during the provision of services to Member, solely for Member's internal, informational purposes related to Member's educational mission. "Resources" means protocols and templates to facilitate planning including standards and objectives guides aligned to state standards and common core standards, and lesson plans and examples to facilitate re-teaching.

1.3 Other Downloadable Content: With respect to such additional content and materials that are owned by or licensed to ANet and made available for download by Member through proper use of the Platform (collectively, "Additional Content", and together with Resources, "ANet Content"), a non-exclusive license, non-transferable to download a copy of any portion of such Additional Content, and use such Additional Content solely for Member's internal purposes in connection with the provision of services by ANet.

1.4 Permitted Users. "Permitted Users" shall mean the employees, board members and volunteers of Member with a professional need to know or need to access the Platform and ANet Content in connection with the implementation of the Program. ANet will either issue to Member or authorize a Member administrator to create and issue to each Permitted User, a user identification number and/or password for access to and use of the Platform. Member and its Permitted Users are responsible for maintaining the confidentiality of all user identification numbers and/or passwords and for ensuring that each user identification number and/or password is used only by the Permitted User to which it was issued. Member shall be solely responsible for the Permitted Users' compliance with this Agreement, and for any and all activities that occur under Member's account. Member will restrict Permitted Users from sharing passwords. Member will immediately notify ANet of any unauthorized use of Member's account or any user identification number and/or password, or any other breach of security known to Member.

1.5 Restrictions. The rights and licenses set forth in this Section 2 are granted subject to the following restrictions:

(a) The Platform and ANet Content shall be used or accessed only by Permitted Users; and

(b) Member shall not, directly or indirectly, and Member shall not encourage or assist, or knowingly permit any User to: (i) reverse engineer, decompile, disassemble or otherwise attempt to discover the object code or source code of the Platform; (ii) modify, translate, or create derivative works based on any element of the Program or the Platform; (iii) license, sublicense, sell, resell, rent, lease, distribute, assign, or transfer its rights to use the Platform or any elements of the ANet services, or otherwise commercially exploit or make available to any third party any portion of the Platform or ANet services; (iv) use the Platform for timesharing purposes, to process data on behalf of third parties, or otherwise for the benefit of any person or entity other than for the benefit of Member and Permitted Users at Member's facility; (v) remove any proprietary notices from any materials furnished or made available to Member; (vi) publish any evaluation of the Platform without ANet's prior written consent; (vii) use the Platform for any purpose other than its intended purpose; (xiii) use or access the Platform from or for the benefit of any facility or location other than the Member's primary facility; (ix) circumvent or otherwise interfere with any user authentication or security of the Platform, or disrupt the integrity or performance of the Platform; (x) attempt to gain unauthorized access to the Platform or its related systems or networks or any ANet Content; or (xi) use the Platform to store or transmit infringing, libelous, or otherwise unlawful or tortuous content or material, or to store or transmit content or material in violation of any rights of any third party.

2. Ownership; Reservation of Rights. Subject only to the rights expressly granted to Member under this Agreement, as between ANet and Member, all rights, title and interest in and to the ANet Content and the Platform, and any other ANet materials furnished or made available hereunder, and all modifications and enhancements thereof, including all copyright rights, patent rights and other intellectual property rights in each of the foregoing, will remain with and belong exclusively to ANet or ANet's licensors and providers, as applicable.

### 3. Confidentiality

3.1 Confidential Information. ANet understands that the information provided by or exchanged with OUSD (and Member) may contain identifiable student data. OUSD and ANet therefore agree as follows. ANet and all of its agents, personnel and employees shall maintain the confidentiality of all OUSD information received. ANet understands that student records are confidential and agrees to comply with all state and federal laws, including but not limited to the Family Educational Rights and Privacy Act (FERPA); Article 1, Section 1 of the California Constitution; and California Education Code Section 49062, et seq., concerning the maintenance and disclosure of pupil records and data, as follows:

(a) Definition: "Confidential Information" means any and all information or data, regardless of whether it is in tangible form, disclosed orally or in writing, by either Party (the "Disclosing Party") to the other Party (the "Receiving Party"), (a) that the Disclosing Party has identified as confidential or proprietary (either orally or in writing), and (b) such information which is reasonably understood by a reasonable person to be confidential or proprietary information of the Disclosing Party; provided, however, that in any event ANet's Confidential Information shall include (i) all information relating to the Program, including without limitation the ANet Content, and (ii) the terms of this Agreement, including without limitation pricing information. The term "Confidential Information" shall also mean OUSD's trade secrets, confidential knowledge, know-how, Student Personal Identity Data, student records, personnel records, or other proprietary information or materials of OUSD or in OUSD's possession and all information that a reasonable person would consider sensitive or confidential in nature.

(b) ANet agrees to take strict precautions to safeguard OUSD student Confidential Information and to limit access to such Confidential Information to ANet's authorized personnel or agents who require such access and have agreed to use similar precautions to safeguard OUSD student Confidential Information.

(c) ANet agrees to promptly return all such Confidential Information and related materials to OUSD if required by OUSD upon termination of the Agreement or at such time as may be requested by OUSD.



(d) ANet shall not, other than for the purposes permitted under the Agreement (i) use any OUSD Confidential Information; (ii) disclose OUSD Confidential Information to any third parties; (iii) reverse engineer, disassemble, or decompile any OUSD Confidential Information, or make any derivatives or translations of the OUSD Confidential Information, without OUSD's prior written consent.


(e) The foregoing requirements to maintain confidentiality of OUSD's Confidential Information shall extend beyond the termination of the Agreement.

(f) *Exclusions:* Information and data will not be deemed "Confidential Information" if such information: (i) is known to the Receiving Party prior to receipt from the Disclosing Party directly or indirectly from a source other than one having an obligation of confidentiality to the Disclosing Party; (ii) becomes known (independently of disclosure by the Disclosing Party) to the Receiving Party directly or indirectly from a source other than one having an obligation of confidentiality to the Disclosing Party; (iii) becomes publicly known or otherwise ceases to be secret or confidential, except through a breach of this Agreement by the Receiving Party; or (iv) is independently developed by the Receiving Party without use of or reference to the Disclosing Party's Confidential Information.

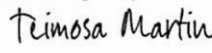
(g) *Obligations:* The Parties shall use reasonable measures to protect the secrecy of, avoid disclosure and unauthorized use or reproduction of the other Party's Confidential Information. Without restricting or otherwise limiting the exercise by a Party of the rights and licenses expressly granted to it under this Agreement, Confidential Information may be disclosed to only (1) such employees and consultants of the Parties as may have a need to know such information in connection with the exercise of its rights and performance of its obligations under this Agreement, and (2) legal or financial advisors of the Parties, provided that such employees and consultants are bound by written agreements, and advisors are bound by ethical duties, in each case respecting such Confidential Information in accordance with the terms of this Section.

Each of the Parties has caused this Addendum to be executed on its behalf by its duly authorized representatives as of the Effective Date and agrees that an electronic signature of a duly authorized representative constitutes a valid signature for such Party.

#### OAKLAND UNIFIED SCHOOL DISTRICT

By:   
 Print Name: Jody London  
 Title: President, BOE  
 Date: 2/27/2020

#### THE ACHIEVEMENT NETWORK, LTD.

By:   
 Print Name: Teimosa Martin  
 Title: Vice President, West Region  
 Date: 1/30/2020