



# SERVICES AGREEMENT

This agreement is entered into between Lodi Unified School District, hereinafter called the "District", and ProCare Therapy hereinafter called the "Contractor". Contractor shall provide the following services:  
Psychologist Services for students within the district.

**A. Term of the Agreement / Effective Date of Agreement**

The term of this Agreement shall be 10/28/2021, through 6/30/2022, ("Term"). The Parties have no obligation to renew this Agreement after the expiration of this Term.

**B. Compensation**

District agrees to pay Contractor fees at the rate of \$[\$ 127.00] per [hour] for Services satisfactorily performed. Contractor shall not increase the rate over the course of this Agreement. Total fees ("the Fee") paid by District to Contractor shall not exceed \$[\$ 130,000.00]. Any work performed by Contractor in excess of the Fee shall not be compensated. District agrees to pay the Fee, up to the maximum amount provided herein, within sixty (60) days of receipt of a detailed invoice from Contractor, including any additional supporting documentation District reasonably requests.

**C. Notice to Parties**

Unless otherwise specified, all notices to be given by the Parties hereto shall be in writing and served by depositing the same in the United States Post Office, postage prepaid and registered, as follows:

To District: Lodi Unified School District  
ATTN: Marie Caffese  
1305 E. Vine St.  
Lodi, CA 95240

To Contractor: ProCare Therapy  
ATTN: Erika York  
5550 Peachtree Parkway  
Peachtree Corners, GA 30092

**D. Responsibility of Equipment**

Contractor at its sole cost and expense shall provide and furnish all tools, labor, materials, equipment, transportation services and any other items (collectively, "Equipment") which are required or necessary to perform the Services in a manner which is consistent with generally accepted standards of the profession for similar services. Notwithstanding the foregoing, District shall not be responsible for any damages to persons or property as a result of the use, misuse or failure of any Equipment used by Contractor or the Contractor Parties, even if such Equipment is furnished, rented or loaned to Contractor or the Contractor Parties by District. Furthermore, District may reject any Equipment or workmanship that does not conform to the requirements of

this Agreement and Contractor must then promptly remedy or replace it at no additional cost to District and subject to District's reasonable satisfaction.

**E. Contractor Qualifications**

Contractor represents and warrants to District that Contractor, and all of Contractor's employees, agents or volunteers (the "Contractor Parties"), have in effect and shall maintain in full force throughout the Term of this Agreement all licenses, credentials, permits and any other qualifications required by law to perform the Services, as applicable, and to fully and faithfully satisfy all of the terms set forth in this Agreement. Contractor and any Contractor Parties performing Services shall be competent to perform those Services.

**F. Employment Relationship/Contractor Responsibilities**

Contractor shall be deemed at all times to be an independent contractor of the District; Contractor and Contractor Parties are not employees of the District. Contractor shall be wholly responsible for the manner in which it performs the Services required of it under this Agreement. Nothing contained in this Agreement shall be construed as creating an employment or agency relationship between the District, and the Contractor or its Contractor Parties.

Contractor shall complete and file with District a W-9 form.

**G. Insurance**

Contractor shall provide all insurance as provided in Exhibit A, attached hereto.

**H. Indemnification**

1. Contractor shall indemnify and hold harmless District, District's Board and its Trustees, and District's officers, employees, authorized volunteers, and agents, from and shall defend them against all third party liabilities, obligations, losses, damages, judgments, costs or expenses (including legal fees and costs of investigation - collectively "Losses") arising from, in connection with or caused by:
  - a. Personal injury or property damage caused directly or indirectly, by any act or omission of the Contractor; or
  - b. Any infringement of patent, copyright, trademark, trade secret or other proprietary right caused by Contractor. Notwithstanding the foregoing, Contractor shall have no obligation under this section with respect to any Loss that is caused solely by the active negligence or willful misconduct of the District and is not contributed to by any act or omission (including any failure to perform any duty imposed by law) by Contractor, or its Contractor Parties.

**I. Liability of District**

District's payment obligations under this Agreement shall be limited to the payment provided for in Section B, entitled "Compensation," of this Agreement. District shall not be liable for any special, consequential, indirect or incidental damages, including but not limited to, lost profits in connection with this Agreement.

**J. Taxes**

All payments made by District to Contractor pursuant to this Agreement shall be reported to the applicable federal and state taxing authorities as required. District will not withhold any money from fees payable to Contractor, including FICA (social security), state or federal unemployment insurance contributions, or state or

federal income tax or disability insurance. 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 and the Contractor Parties and otherwise in connection with this Agreement.

**K. Early Termination/Default**

Either party may terminate this Agreement at any time by giving thirty (30) days advance written notice to the other party, however the parties may agree in writing to a shorter notice period. Notwithstanding the foregoing, District may terminate this Agreement at any time by giving written notice to Contractor if Contractor materially breaches any of the terms of this Agreement, any act or omission of Contractor or the Contractor Parties exposes District to potential liability or may cause an increase in District's insurance premiums, Contractor is adjudged a bankrupt, Contractor makes a general assignment for the benefit of creditors or a receiver is appointed because of Contractor's insolvency. Such termination shall be effective immediately upon Contractor's receipt of the notice.

**L. Proprietary and Confidential Information**

Contractor understands and agrees that, in connection with this Agreement, Contractor may have access to private or confidential information which may be owned or controlled by District and that such information may contain proprietary details, the disclosure of which to third parties will be damaging to District, its employees, or students. The Contractor also understands and agrees that the disclosure of such information may violate state and/or federal law and may subject Contractor to civil liability. Consequently, Contractor agrees that all information disclosed by District to the Contractor shall be held in strict confidence and used only in performance of the Agreement, unless disclosure is required by law or court order. Contractor shall exercise the same standard of care to protect such information as is used to protect its own proprietary data.

Contractor shall maintain the confidentiality of and protect from unauthorized disclosure any and all individual student information received from the District or Student, including but not limited to student names and other identifying information. Contractor shall not use such student information for any purpose other than carrying out the obligations under this Agreement. Upon termination of this Agreement, and upon written request from the District, Contractor shall turn over to District all student data related to the Services provided to any Student pursuant to this Agreement.

**M. Audit and Inspection of Records**

Contractor agrees to maintain and make available to District accurate books and accounting records relative to its activities under this Agreement. Contractor will permit District to audit, examine and make excerpts and transcripts from such books and records, and to make audits of all invoices and other data related to all other matters covered by this Agreement, whether funded in whole or in part under this Agreement. Contractor shall maintain such data and records in an accessible location and condition for a period of not less than three years after a final payment under this Agreement or until after final audit has been completed, whichever is later.

**N. Subcontracting/Assignment**

Contractor is prohibited from subcontracting or assigning this Agreement or any Services provided pursuant to this Agreement.

**O. Non-Discrimination**

Contractor agrees that it shall not discriminate on the basis of sex, race, religious creed, national origin, age, marital status, sexual orientation, gender, AIDS/ARC/HIV status, or disability, in its performance under this Agreement.

**P. Criminal Background Checks**

1. Contractor shall comply with the requirements of California Education Code section 45125.1, which requires criminal background checks **for anyone who is going to have direct unsupervised contact with Students**. Criminal background checks may include, but are not limited to: obtaining clearance from both the California Department of Justice and from the Federal Bureau of Investigation for Contractor's employees, prior to service with any Student.
2. Contractor shall be responsible for the costs of the Fingerprinting clearances, as applicable.
3. Contractor agrees to comply with the requirements and reporting obligations contained in the California Child Abuse and Neglect Reporting Act, California Penal Code sections 11164-11174.3 and to obtain appropriate training to ensure compliance, as applicable.
4. Contractor further agrees and acknowledges that if at any time during the Term of this Agreement Contractor learns or becomes aware of additional information which differs in any way from the representations set forth above, or Contractor or Contractor Parties add personnel, Contractor shall immediately notify District and prohibit any new personnel from having any direct unsupervised contact with District students until the fingerprinting and background check requirements have been satisfied and District determines whether any contact is permissible.

**Q. Tuberculosis Certification**

1. The Contractor agrees that all employees, agents or volunteers whose functions require **contact with students** to complete tuberculosis testing as described in California Education Code section 49406. The examination shall consist of an approved intradermal tuberculin test, which, if positive, shall be followed by an x-ray of the lungs. Thereafter, the Contractor shall complete a TB test every 4 years if the Contractor is still rendering services to District.
2. The Contractor shall be responsible for the costs of the examination.

**R. Modification of Agreement**

The Parties may amend this Agreement in writing by mutual consent. Changes, including any increase or decrease in the amount of the Contractor's compensation, shall only be effective upon proper approval from the District and execution of a duly authorized written amendment to this Agreement.

**S. Agreement Interpretation/Administrative Remedy**

The District's Superintendent is the authorized representative of the District in the interpretation and enforcement of all Services performed in connection with this Agreement.

Should any question arise as to the meaning and intent of this Agreement, the matter shall, prior to any action or resort to any other legal remedy, be referred to District's Superintendent who shall decide the true meaning and intent of the Agreement.

**T. Compliance with Americans with Disabilities Act**

The Contractor acknowledges that, pursuant to the Americans Disabilities Act ("ADA"), programs, services and other activities provided by a public entity to the public, whether directly or through a contractor, must be accessible to the disabled public. The Contractor shall provide the Services specified in this Agreement in a manner that complies with the ADA, as applicable, and any and all other applicable federal, state and local disability rights legislation. Contractor agrees not to discriminate against disabled persons in the provision of Services, benefits or

activities provided under this Agreement and further agree that any violation of this prohibition on the part of the Contractor, its Contractor Parties will constitute a material breach of this Agreement.

**U. Compliance with Laws**

The Contractor shall keep itself fully informed of the applicable state and federal law affecting the performance of this Agreement, and shall at all times comply with such laws as they may be amended from time to time. The Contractor must have and maintain all current licenses and qualifications as required by law to perform the Services as indicated in this Agreement. This requirement includes, but is not limited to, the completion and retention of the attached Drug-Free Workplace Certification and Independent Contractor Student Contact Form.

**V. Governing Law; Venue**

This Agreement shall be governed by the laws of the State of California. The venue for all litigation relative to this Agreement shall be the County of San Joaquin, State of California.

**W. Section Headings**

The section headings contained herein are for convenience in reference and are not intended to define the scope of any provision of this Agreement.

**X. Entire Agreement**

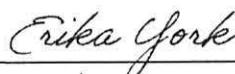
This Agreement contains the entire Agreement between the Parties and supersedes all other oral or written provisions.

**Y. Board Approval/Ratification**

The effectiveness of this Agreement and any amendment hereto is contingent upon approval or ratification by the District's Governing Board.

IN WITNESS WHEREOF the Parties hereto have executed this Agreement the year and date first above written above.

LODI UNIFIED SCHOOL DISTRICT  
By:   
(Signature) 11/21/2021  
Name: Leonard Kahn  
Title: CBO

CONTRACTOR ProCare Therapy  
By:   
(Signature)  
Name: Erika York  
Title: Director of Educational Reso

**ATTACHMENTS**

**INDEPENDENT CONTRACTOR STUDENT CONTACT FORM**

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Contractor Name: ProCare Therapy

Supervisor/Foreman Name: Erika York

Start Date: 10/28/2021 Completion Date: 6/30/2022

Location of Work: 5550 Peachtree Parkway Hours of Work: 7am - 6pm

Length of Time on Grounds: 8 hours

Number of Employees on the Job: 1

Yes

No

Employees will have more than limited contact with students as determined by District or if by Contractor, please explain:

\_\_\_\_\_  
\_\_\_\_\_

If yes, the following steps will be taken to ensure student safety (check):

A physical barrier will be installed at the worksite to limit contact with pupils.

Employees will be continually monitored and supervised by an employee who has not been convicted of a violent or serious felony.

Name of Supervising Employee:

\_\_\_\_\_

Date of Department of Justice verification that supervising employee has not been convicted of a violent or serious felony:

\_\_\_\_\_

Name of employee who is the custodian of the Department of Justice verification information:

\_\_\_\_\_

District agrees: Employees will be surveilled by District's personnel.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Date: 11/1/2021

Signature:

Erika York

Title: Director of Educational Res

Print Name:

Erika York

*Note: This document must be executed and submitted with the Agreement*

## DRUG-FREE WORKPLACE CERTIFICATION

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This Drug-Free Workplace Certification is required pursuant to Government Code Sections 8350 et seq., the Drug-Free Workplace Act of 1990. The Drug-Free Workplace Act of 1990 requires that every person or organization awarded a contract or grant for the procurement of any property or services from any State agency must certify that it will provide a drug-free workplace by doing certain specified acts. In addition, the Act provides that each contract awarded by a State agency may be subject to suspension of payments or termination of the contract, or both, and the contractor may be subject to debarment from future contracting if the state agency determines that specified acts have occurred.

Pursuant to Government Code section 8355, every person or organization awarded a contract or grant from a State agency shall certify that it will provide a drug-free workplace by doing all of the following:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited in the person's or organization's workplace and specifying actions which will be taken against employees for violations of the prohibition;

(b) Establishing a drug-free awareness program to inform employees about all of the following:

- (1) The dangers of drug abuse in the workplace;
- (2) The person's or organization's policy of maintaining a drug-free workplace;
- (3) The availability of drug counseling, rehabilitation and employee-assistance programs;
- (4) The penalties that may be imposed upon employees for drug abuse Violations;

(c) Requiring that each employee engaged in the performance of the contract or grant be given a copy of the statement required by subdivision (a) and that, as a condition of employment on the contract or grant, the employee agrees to abide by the terms of the statement.

**I, the undersigned, agree to fulfill the terms and requirements of Government Code Section 8355 listed above and will publish a statement notifying employees concerning (a) the prohibition of controlled substance at the workplace, (b) establishing a drug-free awareness program, and (c) requiring that each employee engaged in the performance of the contract or grant be given a copy of the statement required by Section 8355(a) and requiring that the employee agree to abide by the terms of that statement.**

I also understand that if the Owner determines that I have either (a) made a false certification herein, or (b) violated this certification by failing to carry out the requirements of Section 8355, that the contract or grant awarded herein is subject to suspension of payments, termination, or both. I further understand that should I violate the terms of the Drug-Free Workplace Act of 1990, I may be subject to debarment in accordance with the requirements of Section 8350 et seq.

I acknowledge that I am aware of the provisions of Government Code Section 8350 et seq. and hereby certify that I will adhere to the requirements of the Drug-Free Workplace Act of 1990.

Date: 11/1/2021

Signature: 

Title: Director of Educational Res

Print Name: Erika York

*Note: This document must be executed and submitted with the Agreement*

**EXHIBIT A**

**INSURANCE**

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Contractor, at its expense, shall procure and maintain for the duration of the Agreement, insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Services hereunder by the Contractor, or its Contractor Parties.

***Minimum Scope of Insurance***

Coverage shall be at least as broad as:

1. Commercial General Liability on an occurrence form. Liability deductible or Self-Insured Retention not to exceed \$5,000. Claims Made coverage will not be accepted. Coverage shall be at least as broad as ISO form CG0001. Policy to include abuse and molestation coverage, however District may waive this requirement if the Contractor work/services does not include any contact with students.
2. Automobile Liability including owned, non-owned, and hired automobiles. If insured by a Personal Auto Policy, it must include a Business Use Endorsement. Auto Liability can be waived by District if Contractor will not use an automobile for any phase of the work performed by this Agreement.
3. Workers' Compensation insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limit of \$1,000,000 per Accident for Bodily Injury or Disease. Workers' Compensation can be waived by District if no employees and Contractor qualifies as an independent contractor.
4. Professional Liability / Errors & Omissions Liability / Malpractice / Educators Legal Liability insurance appropriate to the Contractor's profession. Claims Made Coverage form is acceptable, however retroactive date must be before the date of the Agreement and insurance maintained for at least three (3) years after completion of contract of the Services. Architects' and Engineers' coverage is to be endorsed to include contractual liability.

***Minimum Limits of Insurance***

Contractor shall maintain limits no less than:

- |   |             |  |
|---|-------------|--|
| 1. General Liability:                                       | \$2,000,000 | General Aggregate                                |
|   | \$2,000,000 | Products/Completed Operations Aggregate          |
|   | \$1,000,000 | Personal & Advertising Injury                    |
|   | \$1,000,000 | Each Occurrence                                  |
| 2. Automobile Liability:                                    | \$1,000,000 | Per Accident for Bodily Injury & Property Damage |
| 3. Workers' Compensation:                                   | Statutory   | As required by the State of California           |
| Employer's Liability  | \$1,000,000 | Per Accident for Bodily Injury or Disease        |
| 4. Professional Liability, E&O or Educators Legal Liability | \$1,000,000 | Per Occurrence                                   |
| 5. Sexual Abuse or Molestation:                             | \$1,000,000 | Each Incident                                    |



Any insurance proceeds available to Contractor that are broader than or in excess of the specified minimum insurance coverage and/or limits shall be available to the District as an additional insured. Furthermore, the requirements for coverage and limits shall be (1) the minimum coverage and limits specified in the Contract or Agreement, or (2) the broader coverage and maximum limits of coverage of any insurance policy or proceeds available to the Named Insured, whichever is greater.

**Deductibles and Self-Insured Retentions:** Any deductibles or self-insured retentions must be declared to the District. At the option of the District, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects to the District, its officers, officials, employees and volunteers; or the Contractor shall provide a financial guarantee satisfactory to the District guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

### ***Other Insurance Provisions***

The general liability and auto liability insurance policies are to contain, or be endorsed to contain, the following provisions:

1. **Additional Insured:** To the fullest extent permitted by law, the District, its elected or appointed officials, employees, agents and volunteers are to be covered as insureds as respects: liability arising out of work or operations performed by or on behalf of the Contractor; or automobiles owned, leased, hired or borrowed by the Contractor.
2. **Primary Insurance:** For any claims related to this project, the Contractor's insurance coverage shall be primary insurance as respects the District, its elected or appointed officials, employees, agents and volunteers. Any insurance or self-insurance maintained by the District, its elected or appointed officials, employees, agents and volunteers shall be excess of the Contractor's insurance and shall not be required to contribute with it.
3. **Abuse/Molestation:** Evidence the Contractors insurance includes coverage for physical abuse molestation claims.
4. **Waiver of Subrogation:** Contractor hereby grants to District a waiver of any right to subrogation which any insurer of said Contractor may acquire against the District by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the District has received a waiver of subrogation endorsement from the insurer.

### ***Notice of Cancellation***

Each Insurance policy required above shall state that coverage shall not be canceled, except with notice to the District.

### ***Acceptability of Insurers***

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A- VII, unless otherwise acceptable by District and admitted to do business in the state of California, or accepted by the Surplus Lines Association to do business in California. If Contractor is a Public Entity, coverage maintained in whole or in part in the form of participation by the Contractor in a joint powers authority or other program providing pooled property and liability coverage is acceptable.

***Subcontractors***

Contractor shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein.

***Special Risks or Circumstances***

District reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage or other special circumstances.

***Indemnity***

Contractor agrees to defend, indemnify, and hold harmless the District and its elected or appointed officials, agents, employees and volunteers from any and all third party liability or loss arising in any way out of the Contractor's negligence in the performance of this Contract, including but not limited to any claim due to injury and/or damage sustained by the Contractor and or the Contractor's employees or agents.

***Proof of Insurance***

Contractor shall furnish the District with certificates and endorsements affecting coverage required by the agreement/contract. The endorsements are to be signed by the person authorized by that Insurer to bind coverage on its behalf. All endorsements are to be received and approved by the District before work commences. However, failure to do so shall not operate as a waiver of these insurance requirements.

The District reserves the right to require complete, certified copies of all declaration of pages of required insurance policies, including endorsements effecting the coverage required by these specifications at any time.

Mail all certificates and endorsements to:

Lodi Unified School District  
Attn: Risk Management  
1305 E. Vine Street  
Lodi, California 95240