

Services Agreement

This Agreement, for the provision of services is entered into this 1st day of July, 2023, by and between the SAN DIEGO COUNTY SUPERINTENDENT OF SCHOOLS (hereinafter referred to as "SDCOE") and California Association for Bilingual Education (hereinafter referred to as "Contractor") who agrees to provide the following services to the SDCOE:

1. Scope of Services.

Contractor shall provide services as described in Exhibit "A" entitled "Special Provisions" attached hereto and made a part hereof.

In the event of a conflict in or inconsistency between the terms of this agreement and Exhibit A, the Agreement shall prevail. Unless specifically stated otherwise, the order of precedence for the purpose of determining any conflict or inconsistency between the terms of this agreement and any other documents shall be as follows 1) Any amendment to this agreement, 2) this agreement, 3) Exhibit(s) to this agreement, 4) Other associated documents named in the agreement.

2. Term of Agreement.

This Agreement shall be effective from the period commencing July 1, 2023 through June 30, 2024, unless sooner terminated by SDCOE as provided in the section of this Agreement entitled "Termination." Upon expiration or termination of this Agreement, Contractor shall return to SDCOE any and all equipment, documents or materials and all copies made thereof which Contractor received from SDCOE or produced for SDCOE for the purposes of this Agreement.

3. Termination.

This Agreement may be terminated with or without cause by SDCOE. Termination without cause shall be effective only upon thirty (30) days' written notice to the Contractor. During said thirty-day period shall perform all consulting services in accordance with this Agreement.

This Agreement may also be terminated by either party for cause in the event of a material breach of this Agreement, misrepresentation in connection with the formation of this Agreement or the performance of services, or the failure to perform services. Termination for cause shall be effected by delivery of written notice by the non-breaching party. It is understood and agreed the termination may be delivered via email and shall be effective on the date sent.

4. Compensation and Reimbursement.

The SDCOE will compensate Contractor at a rate of \$250,000, not to exceed a total of two hundred and fifty thousand dollars (\$250,000). Contractor understands and agrees that there shall be no payment in instances where services are not provided. All payments are made based upon a net 30 basis from receipt and approval of submitted invoice. The SDCOE reserves the right to prorate any compensation based upon the services actually performed.

Invoices must include the SDCOE assigned agreement number stipulated on the first page of this Agreement. Contractor will invoice SDCOE monthly for services that have been completed in the previous month.

Contractor may be reimbursed for reasonable and necessary expenses in accordance with SDCOE reimbursement policies provided such expenses are pre-approved as listed in Exhibit A or by the SDCOE

contract designee via written amendment to this agreement. Expense reimbursement requests require receipts and will not be reimbursed without accompanying receipts.

Contractor is solely responsible for the payment of any applicable federal or state taxes incurred under this Agreement.

SDCOE shall pay for services rendered pursuant to this Agreement. No payment shall be made for any extra, further, or additional services without a duly executed amendment. In no event shall Contractor submit an invoice for an amount in excess of the maximum amount of compensation provided above either for a task or the entire Agreement, unless this Agreement is modified prior to the submission of such an invoice by a properly executed amendment.

5. Confidential Relationship.

SDCOE may from time to time communicate to Contractor certain information to enable Contractor to effectively perform the services. Contractor shall treat all such information as confidential, whether or not so identified, and shall not disclose any part thereof without the prior written consent of the SDCOE. Contractor shall limit the use and circulation of such information, even within its own organization, to the extent necessary to perform the services. The foregoing obligation of this Paragraph 5, however, shall not apply to any part of the information that (i) has been disclosed in publicly available sources of information; (ii) is, through no fault of Contractor, hereafter disclosed in publicly available sources of information; (iii) is now in the possession of Contractor without any obligation of confidentiality; (iv) is required to be disclosed by operation of law; or (v) has been or is hereafter rightfully disclosed to Contractor by a third party, but only to the extent that the use or disclosure thereof has been or is rightfully authorized by that third party.

Contractor shall not disclose any reports, recommendations, conclusions or other results of the services or the existence of the subject matter of this Agreement without the prior written consent of the SDCOE. In its performance hereunder, Contractor shall comply with all legal obligations it may now or hereafter have respecting the information or other property of any other person, firm or corporation.

6. Public Records Act.

Contractor acknowledges that the SDCOE is a public agency subject to the requirements of the California Public Records Act Cal. Gov. Code section 6250 et seq. The SDCOE acknowledges that Contractor may submit information that Contractor considers confidential, proprietary, or trade secret information pursuant the Uniform Trade Secrets Act (Cal. Civ. Code section 3426 et seq.), or otherwise protected from disclosure pursuant to an exemption to the California Public Records Act (Government Code sections 6254 and 6255). Contractor acknowledges that the SDCOE may submit to Contractor information that the SDCOE considers confidential or proprietary or protected from disclosure pursuant to exemptions to the California Public Records Act (Government Code sections 6254 and 6255). Upon request or demand of any third person or entity not a party to this Agreement ("Requestor") for production, inspection and/or copying of information designated by a Disclosing Party as Confidential Information, the Receiving Party as soon practical but within three (3) days of receipt of the request, shall notify the Disclosing Party that such request has been made, by telephone call, letter sent via facsimile and/or by US Mail to the address and facsimile number listed at the end of the Agreement. The Disclosing Party shall be solely responsible for taking whatever legal steps are necessary to protect information deemed by it to be Confidential Information and to prevent release of information to the Requestor by the Receiving Party. If the Disclosing Party takes no such action, after receiving the foregoing notice from the Receiving Party, the Receiving Party shall be permitted to comply with the Requestor's demand and is not required to defend against it.

7. Ownership of Documents.

All memoranda, reports, plans, specifications, maps and other documents prepared or obtained under the terms of this Agreement by or for SDCOE shall be the property of SDCOE and shall be delivered to SDCOE by Contractor upon demand.

Services provided to the SDCOE, and all participating schools therein, and all related materials including, but not limited to; audio; video; images; Contractor's name, slogans, quotes, writings; posters; and any other related materials which are exclusively owned by the Contractor will remain the exclusive property of the Contractor.

8. Fund Availability

Funding of this Agreement, if funded by the SDCOE, is contingent upon appropriation and availability of funds. Work performed in advance of Agreement approval shall be done at the sole risk of Contractor. In the event the funds are not available by operation of law or budget determination, SDCOE shall have the exclusive right to withhold funding.

9. Data Privacy and Protection

All SDCOE content/data (to include but not limited to: students, teachers, interns, aides, Principals, and other administrative personnel) involved in this agreement shall continue to be the property of and under the control of the SDCOE.

All content/data created by the SDCOE or by its students or personnel using the service(s) provided by Contractor pursuant to this Agreement will cease to be retained by the Contractor at the conclusion of this Agreement and will, in fact, be removed from the Contractor's records.

The Contractor will not use any information in a student or personnel record for any purposes other than those required or specifically permitted by this Agreement. Any other use of the SDCOE's student and personnel information will not be undertaken without the express, written consent of the SDCOE.

The Contractor certifies it uses and adheres to the following methods to ensure the privacy and security of all electronically stored information:

- transmission of student and personnel information is always via secure protocols (SFTP, SSL and/or encryption)
- no data transmission occurs via email
- student and personnel data are stored in an encrypted form and programmatic access to that data is done using secure coding standards without visible account or password information
- all server systems including data storage are maintained in a locked, secure, environmentally controlled facility
- all server systems have been hardened with industry standard recommended measures for security protection

The Contractor will notify the SDCOE within 24 hours of the Contractor discovering an unauthorized access or disclosure of SDCOE data.

The Contractor and the SDCOE will work together to ensure compliance with FERPA regulations as applicable.

10. No Assignments.

Neither any part nor all of this Agreement may be assigned or subcontracted, except as otherwise specifically provided herein, or to which SDCOE, in its sole discretion, consents to in advance thereof in writing. Any assignment or subcontracting in violation of this provision shall be void.

11. Audit.

Contractor agrees to maintain and preserve, until three (3) years after termination of the Agreement with the SDCOE and to permit the State of California or any of its duly authorized representatives, to have access to and to examine and audit any pertinent books, documents, papers, and records related to this Agreement.

12. Independent Contractor.

It is expressly understood that at all times, while rendering the services described herein, and in complying with any terms and conditions of this Agreement, Contractor is acting as an independent contractor and not as an officer, agent, or employee of the SDCOE. Except as SDCOE may specify in writing, Contractor shall have no authority express or implied, to act on behalf of SDCOE in any capacity whatsoever as an agent. Contractor shall have no authority, express or implied, to bind SDCOE to any obligation whatsoever.

13. Licenses, Permits, Etc.

Contractor represents and declares to SDCOE that it has all licenses, permits, qualifications, and approvals of whatever nature that is legally required to practice its profession. Contractor represents and warrants to SDCOE that Contractor shall, at its sole cost and expense, keep in effect at all times during the term of this Agreement, any license, permit, or approval which is legally required for Contractor to practice its profession.

14. Contractor's Insurance.

The Contractor shall maintain and shall cause each Subcontractor to maintain Public Liability and Property Damage Insurance to protect them and the SDCOE from all claims for personal injury, including accidental death, as well as from all claims for property damage arising from the operations under this Agreement. The minimum amounts of such insurance shall be as hereinafter set forth.

Required Amounts of Insurance:

General Liability

Bodily Injury and	\$1,000,000
Comprehensive form - Property Damage	Amount
Products/Completed	
Operations	

Auto Liability

Bodily Injury and	\$100,000/\$300,000
Comprehensive form - Property Damage	Amount
Owned, Non-owned Hired Combined	

The Contractor shall file, with the SDCOE, Certificates of Insurance indicating a thirty-day (30) cancellation notice and naming the **SAN DIEGO COUNTY SUPERINTENDENT OF SCHOOLS** as an additional insured.

15. Workers' Compensation.

The Contractor shall provide workers' compensation insurance or shall self-insure their services in compliance with provisions of Section 3700 of the Labor Code of the State of California. A Certificate of Insurance may be provided, providing for such, or Contractor shall sign and file on company letterhead stationery with the SDCOE the following certificate:

"I am aware of the provisions of Section 3700 of the Labor Code which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provision of that Code, and I will comply with such provision before commencing the performance of the work of this Agreement."

16. Tuberculosis Clearance.

Contractor shall certify in writing that Contractor's employees, volunteers, and subcontractors receive clearance for TB. In such cases where Contractor does not have in-person contact with students, contractor shall not be required to obtain TB clearance.

17. Pupil Safety/School Safety Act.

Contractor shall comply with all provisions of Education Code section 45125.1 et seq., as applicable to the determination below. The SDCOE has completed the "Pupil Safety Provisions" below certifying the level of contact that Contractor is expected to have with SDCOE'S pupils.

The SDCOE has determined that greater than limited contact (including electronic contact) with pupils may occur under the terms of this Agreement. Fingerprinting and certification will be required of the Contractor. No work may take place until the requirements of Education Code section 45125.1 have been met.

The SDCOE has determined that limited contact with pupils may occur under the terms of this Agreement. In lieu of fingerprinting, a SDCOE employee will provide supervision at all times when the Contractor has contact with pupils.

The SDCOE has determined that there will be no contact with pupils under the terms of this Agreement.

The above determination is made by Erin Mahoney, Senior Director, Community Schools

Signature _____ Date _____

18. Indemnification.

To the fullest extent allowable by law, Contractor agrees to hold harmless, defend, and to indemnify the SDCOE, accept any and all responsibility for loss or damage to any person or entity, including SDCOE, and to indemnify, hold harmless, and release SDCOE, its officers, agents, and employees, from and against any actions, claims, damages, liabilities, disabilities, or expenses, that may be asserted by any person or entity, including Contractor, that arise out of, pertain to, or relate to Contractor's or its agents', employees', contractors', subcontractors', or invitees' performance or obligations under this Agreement. Contractor agrees to provide a complete defense for any claim or action brought against SDCOE based upon a claim relating to such Contractor's or its agents', employees', contractors', subcontractors', or invitees' performance or obligations under this Agreement. Contractor's obligations under this Section apply whether or not there is concurrent negligence on SDCOE's part, but to the extent required by law, excluding liability due to SDCOE's conduct. SDCOE shall have the right to select its legal counsel at Contractor's expense, subject to Contractor's approval, which shall not be unreasonably withheld. This indemnification obligation is not limited in any way by any limitation on the amount or type of damages

or compensation payable to or for Contractor or its agents under workers' compensation acts, disability benefits acts, or other employee benefit acts.

19. Tobacco-Free Facility.

The SDCOE is a tobacco-free facility. Tobacco use (smoked or smokeless) is prohibited at all times on all areas of or within SDCOE property.

20. Notices.

All notices, legal or otherwise, shall be provided as follows:

SDCOE: Erin Mahoney, Senior Director, Community Schools
6401 Linda Vista Rd
San Diego, CA 92111
858-290-5623
erin.mahoney@sdcoe.net

With copy to: Chief Business Officer and
SDCOE Legal Services
6401 Linda Vista Rd
San Diego, CA 92111

Contractor: California Association for Bilingual Education
Dr. Edgar Lampkin, Chief Executive Officer
20888 Amar Road
Walnut, CA 91789

21. Amendment.

No oral or other agreements or understandings shall be effective to modify or alter the written terms of this Agreement. This Agreement may be amended or modified only by a written instrument signed by the SDCOE and by a duly authorized representative of the Contractor.

22. Governing Law/Venue.

In the event of litigation, the Agreement and related matters shall be governed by and construed in accordance with the laws of the State of California. Venue shall be with the appropriate state or federal court located in San Diego County.

23. Mediation.

In the event of any dispute, claim, question, or agreement or disagreement arising from or relating to this Agreement or breach thereof, the parties hereto shall use their best efforts to settle the dispute, claim, question, or disagreement. To this effect, they shall consult and negotiate with each other in good faith, recognize their mutual interests, and attempt to reach a just and equitable solution satisfactory to both parties. If the parties are unable to resolve the issue(s) within a period of thirty (30) days, then upon notice of either party to the other, all disputes, claims, questions, or disagreements shall be resolved through mediation. The parties will select a mediator by their mutual agreement, within 30 days. If there can be no such agreement, each party will submit a list of five mediator choices to the other, rank ordered by preference. The mediator will then be selected based on a further discussion, unless an individual is on both lists and then that person would have preference. Each party shall bear its own costs, including without limitation one half of the cost of the fees and costs of mediation.

24. Compliance with Law.

The Contractor shall be subject to, and shall comply with, all federal, state, and local laws and regulations applicable to its performance under this Agreement including, but not limited to: licensing, employment, purchasing practices, wages, hours, and conditions of employment, including non-discrimination COVID requirements as stated in Exhibit B to this agreement.

To the extent that this Agreement may be funded by fiscal assistance from another governmental entity, Contractor and any subcontractor(s) shall comply with all applicable rules and regulations to which SDCOE is bound by the terms of such fiscal assistance program.

25. Debarment, Suspension or Ineligibility Clause.

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

- i. Are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any federal agency, and;
- ii. Have not, within a three-year period preceding this Agreement, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with containing, 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. Contractor certifies that no employee, officer, agent, or subcontractor who may come in contact with students in performance of this Agreement, has been convicted of a serious or violent felony.

26. Authorization to Perform Services.

Contractor is not authorized to perform services or incur costs under this agreement until executed by both the Contractor and approved by signature of the SDCOE Superintendent of Schools or his designee, the Deputy Superintendent, Chief Business Officer.

27. Employment with Public Agency and Retirees.

Contractor, if an employee of another public agency, agrees that Contractor will not receive salary or remuneration, other than vacation pay, as an employee of another public agency for the actual time in which services are being performed pursuant to this Agreement. Retirees should seek guidance from their respective retirement system to avoid a loss of retirement benefits.

In the event that Contractor or any employee, agent, or subcontractor of Contractor providing services under this Agreement is determined by a court of competent jurisdiction, the California Public Employees Retirement System (PERS) or the State Teachers Retirement System (STRS) to be eligible for enrolment as an employee of SDCOE, Contractor shall indemnify, defend, and hold harmless SDCOE for the payment of any employee and/or employer contributions for such retirement benefits on behalf of Contractor or its employees, agents, or subcontractors, as well as payment for any penalties and interest on such contributions, which would otherwise be the responsibility of SDCOE.

28. Conflict of Interests.

Contractor may serve other clients, but none whose activities or whose business, regardless of location, would place the Contractor in a "conflict of interest" as the term is defined in the Political Reform Act, codified at California Government Code Section 81000 et seq. Contractor shall not employ any SDCOE official in the work performed pursuant to this Agreement. No officer or employee of SDCOE shall have any financial interest in this Agreement that would violate California Government Code Sections 1029 et seq. Contractor warrants that it is not now, nor has it been in the previous twelve (12) months, an

employee, agent, appointee, or official of SDCOE. Contractor understands that if this Agreement is or was made in violation of Government Code 1090 et seq. the entire Agreement is void and Contractor will not be entitled to any reimbursement of expenses, and Contractor will be required to reimburse SDCOE for any sums paid to the Contractor. Contractor understands that, in addition to the foregoing, it may be subject to criminal prosecution for a violation of Government Code 1090 and, if applicable, will be disqualified from holding public office in the State of California.

29. Counterparts.

This Agreement (and any amendments) may be executed in multiple counterparts, each of which shall be deemed an original, but all of which, together, shall constitute one and the same instrument. Documents delivered electronically shall be valid and binding.

30. Severability.

If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.

31. Entire Agreement.

This Agreement represents the entire Agreement and understandings of the parties hereto and no prior writings, conversations or representations of any nature shall be deemed to vary the provisions hereof. This Agreement may not be amended in any way except by a writing duly executed by both parties hereto.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed, such parties acting by their representatives being thereunto duly authorized.

**SAN DIEGO COUNTY SUPERINTENDENT
OF SCHOOLS**

California Association for Bilingual Education

By (Authorized Signature)

By (Authorized Signature)

Michael Simonson

Edgar Lampkin

Name (Type or Print)

Name (Type or Print)

Deputy Superintendent, Chief Business Officer

Chief Executive Officer

Title

Title

Date

Date

EXHIBIT A SPECIAL PROVISIONS

A. Scope of Services.

In order to meet the needs of the Community Engagement Initiative (CEI) 2.0, the Contractor will provide the following services:

1. Key staff are identified to serve as point of contact and attend all project related meetings, cohort convenings, conferences, webinars, etc.
2. Convene Lead Agency Meetings for planning and deliverables.
 - a. Meet with CEI consortium partners virtually or as requested by lead agency partners to align work toward project deliverables or as determined by partners.
3. Collaborate with CEI partners to build and scale up capacity of LEAs associated with the CEI initiative through Cohort Convenings.
 - a. Participate in run of show and debrief meetings for PLLX and PLLN meetings
 - b. Participate in facilitating and supporting PLLX and PLLN meetings virtually and in person
 - c. Support preparation of materials and activities for PLLX and PLLN meetings
4. Co-design and/or contribute to the development of resources and artifacts to support community engagement to include but not be limited to:
 - a. Universally accessible content for online learning modules
 - b. Resources to support Technical Assistance
 - c. Materials for LEAs to use in support implementation of community engagement
5. Collaborate with CEI partners to review and vet related resources.
6. Participate in evaluation of the CEI 2.0 Initiative's effectiveness to include but not limited to (5):
 - a. Provide feedback to evaluators to inform the evaluation of PLLX and PLLN meetings.

EXHIBIT B
COVID-19 Vaccination & Testing Requirements

The San Diego County Office of Education (“SDCOE”) is a public agency that has a duty to implement health and safety protocols to address COVID-19 in accordance with all state and local regulations. As a Contractor/Vendor for SDCOE, you are responsible for ensuring that your agents and employees are complying with applicable state, county and SDCOE guidelines whenever services are performed on all SDCOE operated facilities.

It is the responsibility of the Contractor/Vendor to ensure there is no interruption of service to SDCOE if the Contractor/Vendor and any employee, volunteer and/or agent of the Contractor/Vendor fails to adhere to COVID-19 state and local regulations. Failure by the Contractor/Vendor to comply with the terms of this Addendum or any applicable county or state health order, may result in termination of the agreement to provide services.

This Addendum is hereby incorporated into the Agreement as though fully set forth. No other terms or conditions of the Agreement are changed, and in the event of a conflict the terms of This Exhibit B shall prevail.