

LAKE HAVASU UNIFIED SCHOOL DISTRICT #1

AGENDA ACTION ITEM

TOPIC: APPROVAL OF PURCHASE OF CONTRACTED OCCUPATIONAL THERAPY SERVICES WITH THERAPIA STAFFING for 2017-18

SUBMITTED BY: Aggie Wolter, Director of Special Services

DATE FOR BOARD CONSIDERATION: February 21, 2017

RECOMMENDATION:

It is recommended that the Board approve the purchase of contracted Occupational Therapy services with Therapia Staffing for the 2017-18 school year not to exceed \$91,200.

RATIONALE:

LHUSD has taken action to recruit qualified therapy related services staff but has had difficulty filling these openings.

We are requesting approval to contract for occupational therapy services for the 17-18 school year with Therapia Staffing at a rate not to exceed \$65 hr. Therapia Staffing is one of the providers that were approved for the 16-17 school year by the Governing Board as part of our 16-17 related Services RFP process (RFP 16-17-01). We would like to exercise our option to extend the award for second year at the same rate.

This is a requirement to ensure the provision of services for eligible students to receive a free appropriate public education for students requiring related services as required under the Individuals with Disabilities Act (IDEA).

Funds from M& O budget will be used to pay for services.

This has been reviewed by purchasing.

Approved for Transmittal to Governing Board



Superintendent

THERAPIA STAFFING PROVIDER AGREEMENT

This THERAPIA STAFFING PROVIDER AGREEMENT is made and entered into as of the last date signed below (the "Effective Date") by and between Therapia Staffing, LLC a Florida limited liability company having its principal place of business at 7451 Wiles Road, Suite #107, Coral Springs, FL 33076 ("Therapia Staffing" or "Affiliate") and Lake Havasu Unified School District #1, ("Provider") whose mailing address is 2200 Havasupai Blvd, Lake Havasu City, AZ 86403.

WHEREAS, Therapia Staffing is engaged in the business of providing staffing services on a permanent, short-term and/or long term travel basis; and

WHEREAS, Client desires to engage Therapia Staffing, on a non-exclusive basis, to assist in providing the Services for Client; and

WHEREAS, Therapia Staffing desires to provide the Services for Client on a confidential basis, upon the terms and conditions set forth herein.

NOW, THEREFORE, for and in consideration of the promises and the mutual covenants and agreements herein set forth, Client and Therapia Staffing agree as follows;

I. Recitals.

The parties acknowledge and agree that the recitals stated above are true and correct and are incorporated herein by reference.

II. Description of Services.

Subject to the terms of this Agreement, Client hereby engages Therapia Staffing to provide Therapia Staffing Candidates for the purposes of providing Services to the Client. Therapia Staffing accepts such engagement with Client and shall render the Services in accordance with Client's specifications.

III. Relationship of the Parties:

- A. Independent Contractor: It is the express intent of Therapia Staffing and Client to treat the relationship created by this Agreement as that of an independent contractor, and not that of an employer/employee relationship. Therapia Staffing shall pay all wages, salaries, and other amounts due to its Therapia Staffing Candidates performing services under this Agreement and shall be solely responsible for withholding and paying any and all federal, state and local taxes, payroll taxes, social security payments, and any other applicable deductions, taxes, or payments, which may be due incident to the payment of such wages, salaries and other amounts to its Therapia Staffing Candidates performing services under this Agreement.
- B. Per Diem, Housing, and Travel Costs: Therapia Staffing shall be responsible for the payment and legal distribution of any per diem, housing, or travel costs paid to its Therapia Staffing Candidates in accordance with any services provided under this Agreement.
- C. Communication:
 1. Client and Therapia Staffing shall each designate a key individual to serve as main point of contact between the parties and to manage the day to day operations of the Agreement.

IV. Responsibilities of Therapia Staffing:

- A. Recruitment of Therapia Staffing Candidates: When Therapia Staffing receives a staffing need from Client, and Therapia Staffing has a potential Therapia Staffing Candidate to fill said need, Therapia Staffing agrees to submit the name, contact information, and profile of any potential Therapia Staffing Candidate to Client in a standardized form ("Therapia Staffing Candidate Profile Form") as specified by Client within a hardcopy form, electronic form, or within a Client -designated software application. Provided, however, that in the event the Therapia Staffing Candidate is also working with a recruiter of Client, and Provider is actively trying to place such Therapia Staffing Candidate in another Assignment, such Therapia Staffing Candidate shall be excluded from the pool of Therapia Staffing Candidates eligible for referral by the Therapia Staffing with respect to the new Assignment. Client agrees to notify the Therapia Staffing of any such Therapia Staffing Candidates upon submission by Therapia Staffing.

- B. Software: At Client's discretion, requests for Therapia Staffing Candidates may be made through software provided by Client to Therapia Staffing.
- C. Experience: Each Therapia Staffing Candidate supplied by Therapia Staffing must have the minimum amount of experience in the setting sought as required by Client. Provider shall prescreen all Therapia Staffing Candidates. However, the final determination of employment shall be made by the Client.
- D. Work Authorization: Therapia Staffing shall obtain and keep on file all documentation with respect to Therapia Staffing Candidates supplied to Client as required by Client, and the Bureau of Citizenship and Immigration Services to prove legal status to work and reside in the United States of America. In order to ensure compliance with this paragraph D., Client Provider may request to review said documentation.
- E. Credentialing and Standard of Practice:
 - 1. Therapia Staffing agrees to comply with all Quality Management standards as required by each Client. A representative of Client will coordinate receipt of all documentation from Therapia Staffing supporting compliance with all Client Quality Management standards prior to commencement of any assignment.
 - 2. Therapia Staffing shall provide Healthcare Professionals with the provisions of the HIPAA Act of 1996 concerning patient confidentiality.

V. Responsibilities of Client:

- A. Orientation: Client shall provide Therapia Staffing Candidates with proper orientation for their unit or department in accordance with the standards of the Joint Commission or other appropriate accreditation agency.

VI. No Solicitation:

- A. Therapia Staffing Candidates: During the Term of this Agreement, Client agrees not to solicit or engage any Therapia Staffing Candidate submitted to Client by Therapia Staffing not "Actively Working" with Provider, for a period of one (1) year following either the end date of the most recent assignment with Client, or an unsuccessful submission to Client.

VII. Terms and Termination:

- A. Term of Agreement: This Agreement will remain in effect for one (1) year and shall automatically renew for five (5) successive one (1) year terms unless otherwise terminated by either party. Either party may terminate this Agreement upon thirty (30) days written notice to the other party, or upon a breach of any Agreement term by the other party not cured within twenty (20) days after receipt of written notice describing the breach. Any current assignment shall survive such termination, unless the assignment is related to the breach
- B. Assignment Terms: Therapia Staffing Candidate shall be placed in assignments lengths of varying duration as requested by Client on an individual basis. Assignments may be extended as mutually agreed upon by Client, Provider, Therapia Staffing Candidate, and Therapia Staffing.
- C. Client may cancel any Therapia Staffing Candidate assignment for any reason with a thirty (30) day written notice. Should Client provide less than the required thirty (30) days' notice, Client will be billed for an amount equal to the remaining weeks of notice agreed hourly rate.
- D. Therapia Staffing may cancel Therapia Staffing Candidates assignment with thirty (30) days written notice.

VIII. Permanent Placement:

- A. The fee for our services is earned if our referred Candidate is hired, or the Provider engages the services of the Candidate, directly or indirectly, under any title or for any position (whether as a permanent, direct or temporary employee, consultant or independent contractor) by the Provider or any of its offices, divisions, subsidiaries or affiliates, as a direct or indirect result of our efforts, and such hire occurs within one (1) year after our most recent communication with Provider relating to such Candidate. The fee is also earned in the event the Provider refers our Candidate to another entity that engages the services of our Candidate or if our Candidate suggests or refers another potential Candidate who is engaged by the Provider or any office, division, subsidiary or affiliate thereof, within one (1) year after our most recent communication relating to such Candidate. Prior knowledge by Provider of any submitted Candidate shall not be asserted as a defense against payment of the fee provided for herein unless an interview is scheduled between Client and the submitted Candidate, or has taken place within 30 days prior to, on the date of submission by Therapia Staffing of the Candidate to Provider.

- B. Fees will be billed when an offer is made and verbally accepted, and are due as of the invoice date, not start date or contract date. Should the employee (Candidate) leave or be terminated for any reason within 30 days of starting work, and we are notified, in writing, of the separation within five (5) working days of said separation, we will, on a best efforts basis, attempt to replace said employee for the same position, and credit the fee paid for that employee against the fee for the replacement employee. This credit will remain available for a maximum of 365 days from the start date of the initial employee, and may only be used as an offset to the fee for any replacement employee. Once the candidate has started work, in no event will a refund of the fee be made. This replacement policy guarantee is effective only if payment of the fee is received within ten (10) days of the original invoice date. In the unlikely event that the candidate does not start his employment, Therapia Staffing will refund your fee if a new start date cannot be negotiated.
- C. In accordance with federal and state equal opportunity laws, we will refer all quality candidates, without regard to race, color, national origin, sex, age, physical handicap, or medical condition.
- D. Unless we have a signed written modification, your acceptance of our referrals constitutes your agreement with the above terms and conditions. Client shall pay all costs, including attorney's fees, incurred by Therapia Staffing in connection with any suit or other proceeding, with respect to the collection of fees pursuant to this agreement, which results in Therapia Staffing being awarded a fee pursuant to this agreement.
- E. All amendments in this contract to the standard Therapia Staffing Client Fee Schedule are considered onetime modifications. Should the fee not be paid within ten (10) days from the date of the invoice, a penalty of 1.5% per month will be paid in addition to the fee.
- F. During the term of this Agreement or within one year after termination thereof, should a Client choose to permanently hire a Therapia Staffing Candidate, the Client shall be obligated to pay Therapia Staffing a permanent conversion fee of 25% of first year's annual salary. The permanent conversion fee shall apply for a period of one (1) year following either the end date of the most recent assignment with Client, or an unsuccessful submission to Client of the Therapia Staffing Candidate.

IX. Billing and Payment:

- A. Timesheets: Therapia Staffing shall submit timesheets to Client on a weekly basis for services performed by Therapia Staffing Candidates during the prior week. Timesheets shall be supplied by Client and shall be itemized as follows:
 - i. Name of Therapia Staffing Candidate
 - ii. Dates of service
 - iii. Unit/Building worked
 - iv. Shifts worked
 - v. Total number of hours billed for each shift
 - vi. Hourly bill rate as set forth in Client specific attachment(s).

Provider shall use said timesheet to invoice Client for services performed by Therapia Staffing Candidate. Invoices will be sent out weekly by Therapia Staffing and payment shall be due from Client within thirty (30) days from invoice date.

- B. Payment: Client agrees to pay Therapia Staffing at the hourly rate (See Exhibit A) or the set fees established on the Client specific attachment(s), for temporary staffing or permanent placements. Provider shall pay. Invoice shall be itemized in the same format as the timesheets described in VIII. (A. above.)
- C. Billing Adjustments: Therapia Staffing shall have one hundred and twenty (120) days from Therapia Staffing Candidates assignment pay cycle to dispute any billing adjustments or short payments, or to back bill for any Therapia Staffing Candidate time.

X. Insurance and Indemnification:

- A. Workers Compensation and Employers Liability: During the term of this Agreement, Therapia Staffing shall maintain worker's compensation and employer's liability coverage sufficient to cover Therapia Staffing's legal and statutory obligations for damages due to bodily injury to Therapia Staffing Candidates as a result of employment.
- B. Professional Liability: During the term of this Agreement, Therapia Staffing shall maintain for itself and its Therapia Staffing Candidates, professional and general liability insurance coverage of at least One Million Dollars (\$1,000,000) per occurrence and Three Million Dollars (\$3,000,000) on an annual aggregate. Therapia Staffing further agrees that it shall maintain "continuous coverage" as defined by this Section, for the entire relevant term. The relevant term shall commence with the effective date of this Agreement and shall continue through the effective term of this Agreement, as well as any extensions or renewals hereof, and for a period thereafter of no less than five (5) years after the termination of this Agreement. In order to maintain continuous coverage for the entire relevant term, Therapia Staffing agrees that, if it changes insurers for any reason, it will provide continuous coverage by either obtaining "tail" insurance from the preceding carriers, or "nose" insurance from the subsequent carriers. It is understood and agreed that, in order to satisfy the requirements of this Section, the "tail" insurance must be of either unlimited type or of the type which would extend the discovery period beyond the last effective day of the last contract between the parties for a period of five (5) years. In order to satisfy the requirements of this Section for "nose" insurance, the retroactive effective date for such insurance must be at least the first date of the relevant period noted above.
- C. Unemployment Insurance: During the term of this Agreement, Therapia Staffing shall provide unemployment insurance as required by law for all Therapia Staffing Candidates.
- D. Automobile Liability: During the term of this Agreement, Therapia Staffing shall maintain automobile liability insurance in the amount of One Million (\$1,000,000) per occurrence covering Therapia Staffing its agents, employees (including Therapia Staffing Candidates), for property damage and bodily injury claims of the public arising out of the ownership, maintenance, or use of a vehicle, whether owned or non-owned. This coverage may be provided under the Therapia Staffing's general liability policy.
- E. Certificate of Insurance: Therapia Staffing shall provide Client with certificates of insurance as evidence that all coverage's required under this Agreement have been obtained and are in full force and effect. Client shall be named as an additional insured on all policies required under this Agreement except for worker's compensation. Certificates of insurance must be supplied within five (5) days of the Effective Date. All policies shall provide for written notice to Provider at least thirty (30) days prior to the cancellation or modification. Failure to provide proper insurance documentation shall result in suspension of Therapia Staffing's services until such documentation is provided.
- F. Indemnification by Provider and Client. Therapia agrees to indemnify, defend and hold harmless the Provider, its board members, officers, directors and employees for and hold them harmless from all suits, claims, liabilities, costs, expenses and debt, including reasonable attorneys' fees, incurred by Provider arising from, attributable to or caused by acts or omissions of Provider (or its officers, directors, shareholders or agents) or any Therapia Staffing Candidate in the performance of or related to the performance of the duties (including, but not limited to, injuries to Staffing Candidates that may or may not be covered by workers' compensation insurance) except to the extent such claims, liabilities, costs, expenses and debt result from acts or omissions of Provider, or its board members, officers, directors, employees, insurers, indemnitors or agents. If Provider or Client or its employee's negligent or intentional act, any act or omission constituting professional negligence or any act in breach of the terms of this Agreement causes the Therapia Staffing to incur costs, losses, claims, demands or liabilities of any kind, including attorneys' fees and costs (collectively "Damages"), Provider and Client agrees to indemnify and hold the Therapia Staffing harmless from and against such Damages to the extent allowed by Arizona law.

X. Miscellaneous.

- A. Notices. All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed to have been received by the person to whom it is addressed when delivered if delivered in person or three (3) days after it is deposited in the United States mail, if mailed by certified or registered mail, postage prepaid and addressed to the appropriate party at the following address, or at such other address as provided by a party in accordance with the notice provisions described herein:

If to Client:

Lake Havasu Unified School District
Attn: Roberta Hayes
2200 Havasupai Blvd,
Lake Havasu City, AZ 86403

Therapia Staffing LLC.
Jennifer Goldstein
7451 Wiles Road, Suite #107
Coral Springs, FL 33067

- B. Effect of Invalidity. Should any part or provision of this Agreement, for any reason, be declared invalid or illegal, such invalidity or illegality shall not affect the validity of any remaining portion, which remaining portion shall remain in force and effect as if this Agreement had been executed with the invalid or illegal portions thereof eliminated.
- C. Binding Effect. All the provisions herein contained shall be binding upon and inure to the benefit of the respective heirs, personal representatives, successors and assigns of the parties hereto; subject to the limitations of Section X.D.
- D. Assignment. The Therapia Staffing agrees that Therapia Staffing may not assign this Agreement in whole or in part to any other person or entity, by operation of law or otherwise, without the prior written consent of Provider. Any attempted assignment by the Therapia Staffing without Client's prior written consent shall be null and void.
- E. Entire Agreement. This Agreement constitutes the entire agreement between the parties hereto pertaining to the subject matter hereof and supersedes all prior and contemporaneous agreements, understandings, letters of intent, negotiations and discussions, whether written or oral, of the parties with respect to the subject matter hereof. No supplement, modification or waiver of this Agreement shall be binding unless executed in writing by the parties to be bound thereby.
- F. Amendments. Any amendments to this Agreement shall be in writing and signed by the parties hereto.
- G. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be an original, and each of such counterparts shall together constitute but one and the same agreement.
- H. No Waiver. No waiver of any provision of this Agreement shall be effective against either party hereto unless it is in writing and signed by the party granting the waiver. No waiver of any provision hereof shall be deemed a continuing waiver or a waiver of any other provision hereof.
- I. Applicable Law; Venue. This Agreement shall be construed in accordance with the laws of the State of Arizona. In the event of any legal action or proceeding arising from this Agreement, the parties agree that the state court forum for said litigation shall be in Mohave County, Arizona, in the court of appropriate jurisdiction, and that the federal court jurisdiction shall be in the District of Arizona. The parties hereto submit to the exclusive jurisdiction of such courts and hereby waive any objection or defense to such jurisdiction or venue, including any defense based upon inconvenient forum.
- J. Headings. The headings to the various sections of this Agreement have been inserted for convenience of reference only and shall not modify, define, limit or expand the express provisions of this Agreement.
- K. Construction. This is a negotiated agreement. Therefore, this Agreement shall not be construed against any party due to the fact that such party may be responsible for drafting this Agreement or any provision thereof.
- L. Attorney's Fees. If any legal action or other proceeding is instituted by any party to this Agreement, in addition to any other relief to which the successful or prevailing party or parties (the "Prevailing Party") is entitled, the Prevailing Party is entitled to recover, and the non-prevailing party shall pay, all reasonable attorney's fees of the Prevailing Party, court costs and expenses, even if not recoverable by law as court costs (including, without limitation, all fees, taxes, costs and expenses incident to appellate, bankruptcy, and post-judgment proceedings) incurred in that action or proceeding and all appellate proceedings. For purposes of this Section X., the term "attorney's fees" includes, without limitation, paralegal fees, investigator fees, expert witness fees, administrative costs, disbursements, and all other charges billed by the attorney to the Prevailing Party.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement and the effective date shall be the date on which it is signed by Provider. The parties agree that signatures transmitted electronically shall be considered originals, however Client shall be provided hard copies of this Agreement if a written request is delivered to Provider within five (5) working days of the execution of this Agreement.

Provider: Therapia Staffing, LLC.

Client: Lake Havasu Unified School District #1

Signature

Signature

Print Name and Title

Print Name and Title

Date: _____

Date: _____

Exhibit A

A. SCHEDULE OF RATES – Contract Healthcare Professionals:

The following schedule of rates is for healthcare professionals. Contract fees are all inclusive and include recruitment, housing and compensation for each Healthcare Professional placed with Client. Permanent fees are a one-time fee per placement.

Professions	Regular Hourly Rate:
Speech Language Pathologist	\$65 per hr.
Physical Therapist	\$65 per hr.
Occupational Therapist	\$65 per hr.
Physical Therapist Assistant	\$55 per hr.
Occupational Therapist Assistant	\$55 per hr.
School Psychologist	\$75.00-85.00 per hr.
<i>Perm Rate</i>	<i>25% of first year's annual salary</i>

B. OVERTIME. Client agrees to pay one and one-half times (1.5) the regular rate set forth above for Healthcare Professionals for all hours worked more than forty (40) hours per week at Client facility and in accordance with