

# Memorandum of Understanding

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This Memorandum of Understanding sets forth the understanding between the *Newport Mesa Unified School District (District)* and *Waymakers*. This partnership with *Waymakers* will provide youth substance use prevention services at no cost to the *District* or its schools.

Each year (July 1, 2019 – June 30, 2020 and July 1, 2020 – June 30, 2021), *Waymakers* will be responsible for:

1. Providing evidence-based substance use prevention education to at least 900 middle/high school students within the district.
2. Ensuring health educators and/or school staff implementing the prevention education are trained to implement the identified evidence-based curriculum.
3. Providing all materials needed for implementing the evidence-based curriculum including teacher guides, lesson plans, student workbooks, and all supplemental materials.

Each year (July 1, 2019 – June 30, 2020 and July 1, 2020 – June 30, 2021), *Newport Mesa Unified School District* will be responsible for:

1. Collaborating with Contractor to identify how best to implement the services above to meet the needs of the district.
2. Providing approval and support for Contractor to reach students.
3. Assisting Contractor in establishing contacts at selected school sites that can facilitate scheduling times to implement the services above.
4. Providing ongoing feedback to ensure that the services provided are effective and useful for the students within the district.
5. Participating in developing a plan to sustain youth prevention practices within the district.

\*Contractor is funded by the Orange County Health Care Agency – Alcohol and Drug Education and Prevention Team (ADEPT). The contract is guaranteed for two years with a high likelihood of an extension for an additional three years.

Additional Provisions:

1. Hold Harmless – CONTRACTOR agrees to and does hereby indemnify, hold harmless and defend the DISTRICT and its officers, agents and employees (“INDEMNITEES”) from every claim or demand made and every liability, loss, damage or expense, negligence (including the active or passive negligence of INDEMNITEES as allowed by law), causes of action, costs, expenses, or injuries, fines, penalties in law or equity, regardless of whether the allegations are false, fraudulent, or groundless of any nature whatsoever, which may be incurred in connection with the services called for in this agreement by reason of:
  - a. Liability for damages for:
    - i. Death or bodily injury to person;
    - ii. Injury to, loss or theft of property; or
    - iii. Any other loss, damage or expense arising out of i or ii above, sustained by the CONTRACTOR or any person, firm or corporation employed by the CONTRACTOR, either directly or by independent contract, upon or in connection with the services called for in this AGREEMENT, however caused, to the extent resulting from CONTRACTOR’s negligence or other wrongful negligence, except for liability for damages referred to above which result

from the sole negligence or willful misconduct of the DISTRICT or its officers, employees or agents.

- b. Any injury to or death of any persons, including the DISTRICT or its officers, agents and employees, or damage to or loss of any property to the extent caused by any wrongful act, neglect, default, or omission of the CONTRACTOR, or any person, firm or corporation employed by the CONTRACTOR, either directly or by independent contract, arising out of, or in any way connected with, the services covered by this AGREEMENT, whether said injury or damage occurs either on or off DISTRICT's property, except for liability for damages which result from the sole negligence or willful misconduct of the DISTRICT or its officers, employees or agents.
  - c. Any liability for damages which may arise from the furnishing or use of any copyrighted or uncopyrighted matter or patented or unpatented invention under this AGREEMENT.
  - d. CONTRACTOR's Indemnification includes any loss sustained by INDEMNITEES, and each of them, whether resulting from claims brought by third parties or sustained directly by any of the INDEMNITEES, as a result of 1) CONTRACTOR or any subcontractor's failure to implement and maintain appropriate data security or cybersecurity measures; 2) any data breach in which the DISTRICT's confidential information or privileged and confidential information is released, exposed, lost, or stolen as a result of CONTRACTOR's performance of services or otherwise arising from this AGREEMENT; 3) computer viruses, denial of service attacks, and other technologically harmful materials that harm or infect any of the INDEMNITEES's electronic equipment, software, data, or other proprietary material as a result of CONTRACTOR's performance of Services or otherwise arising from this AGREEMENT, and 4) infringement of copyright, trademark, trade dress, invasion of privacy violations as a result of CONTRACTOR's performance of Services or otherwise arising from this AGREEMENT, and 5) any breach by CONTRACTOR or any subcontractor of the California Student Data Privacy Agreement, if executed.
  - e. The CONTRACTOR, at the CONTRACTOR'S own expense, cost and risk shall defend any and all actions, suits, or other proceedings in connection with the services called for in this agreement that may be brought or instituted against the DISTRICT and its officers, employees, agents, on any such claim or liability, and shall pay or satisfy any judgment that may be rendered against the DISTRICT and its officers, agents, or employees in any action, suit or other proceedings as a result thereof.
2. Insurance – CONTRACTOR shall, at the CONTRACTOR'S sole cost and expense, take out prior to commencing the work, and maintain in force and effect, from the commencement of services until expiration of this AGREEMENT, and shall require all subcontractors, if any, whether primary or secondary, to take out and maintain a policy or policies of insurance covering CONTRACTOR'S and subcontractor's services and furnish to the DISTRICT a certificate of insurance evidencing all coverages and endorsements required hereunder. Said certificate of insurance shall be due upon execution of this AGREEMENT, or such subsequent date as agreed to by the DISTRICT. Such insurance shall be with an insurance company admitted by the Insurance Commissioner of the State of California to transact such insurance in the State of California. Minimum coverages shall be as follows:
- a. General Liability Insurance for injuries including accidental death, to any one person in an amount not less than \$1,000,000 per occurrence and \$2,000,000 general aggregate.
  - b. Subject to the same limit for each person on account of one accident, in an amount not less than \$1,000,000 per occurrence.
  - c. Property Damage Insurance in an amount not less than \$1,000,000 per occurrence.
  - d. Comprehensive Automobile Liability Insurance covering the use of all owned, non-owned and hired vehicles with combined bodily injury and property damage in an amount not less than \$1,000,000 per occurrence.

- e. Statutory Workers' Compensation Insurance in accordance with Sections 3700 and 3800 of the Labor Code of the State of California.
- f. Sexual Abuse or Molestation Insurance in an amount not less than \$1,000,000 per wrongful act and \$2,000,000 aggregate.
- g. An endorsement to said policy(s) naming DISTRICT and its officers, agents and employees as additional insured while rendering services under this AGREEMENT.
- h. A thirty (30) day written notice to DISTRICT of cancellation or reduction in coverage, ten (10) days' notice if cancellation is due to nonpayment of premium.
- i. CONTRACTOR hereby grants to the 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.
- j. CONTRACTOR shall furnish the District with certificates and endorsements affecting coverage required by the AGREEMENT. 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.

To the fullest extent permitted by law, The DISTRICT, its officers, officials, employees, and volunteers are to be covered as insureds as respects to any and all liability arising out of, or pertaining to, products of the CONTRACTOR; and with respect to liability arising out of automobiles owned, leased, hired, or borrowed by CONTRACTOR.

The CONTRACTOR's insurance coverage shall be primary insurance as respects to the District, it's officers, officials, employees, and volunteers. Any insurance or self-maintained by the DISTRICT, it's officers, officials, employees, or volunteers shall be excess of the CONTRACTOR's insurance and shall not contribute with it.

Either party may, for any reason at any time without liability, terminate this Memorandum of Understanding by written notice.

Ronnetta Johnson

**Waymakers** Representative's Name

Ronnetta J. Johnson

**Waymakers** Representative's Signature

Executive Director 1/8/2020

Title

Date

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**Newport Mesa Unified School District** Representative's Name

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**Newport Mesa Unified School District** Representative's Signature

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Title

Date