

NO. PS19-0677-08

Board Meeting: _____

Agenda Item No.: _____

**AGREEMENT BETWEEN THE
SAN DIEGO UNIFIED SCHOOL DISTRICT**

AND

CONFUCIUS INSTITUTE AT SAN DIEGO STATE UNIVERSITY

This agreement (“Agreement”) is entered into by and between the San Diego Unified School District, 4100 Normal Street, San Diego, California 92103, hereinafter referred to as “District,” and Confucius Institute at San Diego State University, 5500 Campanile Drive, San Diego, California, 92182, hereinafter referred to as “Consultant.”

RECITALS

WHEREAS, Consultant has personnel qualified and available to recruit and train teachers from China to serve as Mandarin Language teachers or interns (collectively, “Mandarin Language Teaching Assistants”) in elementary and secondary classrooms at San Diego Unified School District; and

WHEREAS, the District does not currently have native Mandarin speaking teachers to provide such required services; and

WHEREAS, California Government Code section 53060 grants the District the authority to contract with and employ persons for the furnishing to the District of special services, if such persons are specially trained, experienced, and competent to perform the special services requested; and

WHEREAS, Consultant is specially trained and possesses the necessary skills, experience, education and competency to perform the services required under this Agreement; and

WHEREAS, Mandarin Language Teaching Assistants are fully funded, throughout their term in San Diego, by Confucius Institute Headquarters/Hanban, which is affiliated under the Ministry of Education in China, whose mission is to promote Chinese language and culture; and

NOW, THEREFORE, the District and Consultant agree as follows:

**I
TERM**

The term of this Agreement be for the period of July 01, 2018 through June 30, 2021.

II COMPENSATION

District hereby agrees to pay Consultant a sum not-to-exceed Seventy-Five Thousand Dollars. (\$75,000.00), for the term of this Agreement, notwithstanding any contrary indications that may be contained in Consultant's proposal, for services to be performed and any permitted reimbursable costs incurred under this Agreement. In the event of a conflict between this Agreement and Consultant's proposal regarding the amount of compensation, the Agreement shall prevail. District shall pay Consultant for teacher recruitment and placement services rendered pursuant to this Agreement at the time and in the manner set forth in herein. The payments specified herein shall be the only payments from District to Consultant for services rendered pursuant to this Agreement. Consultant shall submit all invoices to District in the manner specified herein. Except as specifically authorized by District, Consultant shall not bill District for duplicate services performed by more than one person.

District will reimburse Consultant a not-to-exceed amount of Fifteen Hundred Dollars (\$1,500.00) per teacher placement to cover the cost of the visa fee. For each Mandarin Language Teacher who is approved by the Human Resources Division as being eligible to serve as a volunteer Mandarin Language Teaching Assistant and placed at a District school site.

III RESPONSIBILITIES OF CONSULTANT

Consultant shall perform the following services to the District in accordance with the Milestone Schedule attached as Exhibit "A, hereto and incorporated herein:

(1) Recruitment. Recruitment services shall include the following:

(a) Consultant will review and screen the resumes and other personal data of prospective Mandarin Language Teacher candidates. Consultant will conduct interviews with candidates to verify each teacher's knowledge, experience and language proficiency. All candidates must have completed a teacher credential program in China and have a minimum of three years teaching experience to be considered.

(b) Consultant will provide information about District rules, regulations and school sites to Mandarin Language Teaching Assistants.

(c) Consultant will assist and ensure that Mandarin Language Teaching Assistants successfully complete the application process for a United States J-1 visa and shall be solely responsible to ensure each Mandarin Language Teacher's compliance with the terms of his or her visa. It is noted that whether any teacher may receive his/her visa is strictly under the discretion of the interview officer at each United States Embassy in China.

(d) Consultant will provide the District's Human Resources Division and Office of Language Acquisition with a complete profile on the prospective

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candidates prior to each teacher's arrival in the United States and prior to their assignment to a school site.

(e) Consultant will work with the District's Human Resources Division and Office of Language Acquisition to arrange placement of Mandarin Language Teaching Assistants at District school sites which have requested Mandarin Language Teaching Assistants be placed at their site(s).

(f) Consultant will refer all communication from participating schools to the District's Human Resources Division and Office of Language Acquisition.

(2) Professional development. Training program will include, but not limited to:

(a) Orientation Workshop:

Consultant will provide an orientation workshop to Mandarin Language Teaching Assistants, upon their arrival in San Diego, for an overview of U.S. culture and customs, and Confucius Institute's rules and regulations. Staff from the District's Office of Language Acquisition, and other relevant District offices, shall provide an overview of the U.S. Education system and school structure, which shall be included in the initial orientation workshop.

(b) Curriculum Development:

Consultant will provide regular professional development trainings to assist Mandarin Language Teaching Assistants in lesson planning, curriculum development and other training associated with regular professional development needs. Such training will at Consultant's sole expense and conducted at such times as do not interfere with the Mandarin Language Teaching Assistants' performance of assigned duties.

(c) Cultural Exploration Experience:

Consultant will provide training and orientation workshops for District Mandarin teachers to inform their students of any and all Chinese cultural exploration opportunities which include, but are not limited to, Chinese language summer camps, multi-cultural celebration, Asian Heritage Month celebrations, language proficiency competitions, and teacher/student exchange programs in China.

(d) Training workshops:

Consultant will provide regular training workshops, which include, but are not limited to, professional development trainings locally and in China.

(3) Placement of Teachers.

The District's Human Resources Division and Office of Language Acquisition will work with the Consultant to arrange placement of Mandarin Language Teaching Assistants at District school sites which have requested Mandarin Language Teaching Assistants be placed at their site(s). Any teacher being assigned is employed by Hanban and will receive his/her annual salary directly from Hanban.

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Consultant will ensure that all Mandarin Language Teaching Assistants submit proof of a tuberculosis test and obtain fingerprint background clearance through the Human Resources Services Division. These clearances must be maintained per District and state requirements. Mandarin teachers are responsible for the costs of the TB testing and fingerprint clearance.

(4) Confucius Classroom Designation.

Consultant shall support any school site which may be interested in pursuing the designation of the Confucius Classroom in completing its application process. This process will be assisted by the Human Resources Department and the Office of Language Acquisition.

(5) Privileges of a Confucius Classroom School.

Based on the current policy set forth by Confucius Institutes Headquarters/Hanban, each Confucius Classroom school may receive the following support after its designation:

Students from Confucius Classroom schools receive priority notices and admission to educational programs, including, but not limited to, Chinese language proficiency testing, Chinese language summer camp in China and a Chinese language proficiency contest in China.

Teachers from Confucius Classroom schools receive priority notices and admission to educational programs, including, but not limited to, Chinese cultural delegation tours, teachers training workshops, Chinese cultural immersion programs, and other exchange programs.

Confucius Classroom schools receive priority consideration for Chinese cultural performances and arts exploration exhibits and shows; Mandarin teacher and school site must follow District procedures related to securing funding, permission and approval for any events outside of the school site and/ or bringing cultural experiences to District facilities.

(6) Additional Programs

In addition to providing Mandarin Language Teaching Assistants to school sites, the request of a District school site, Consultant shall provide a cost proposal for available specialized programs (“Specialized Programs”), as described in said proposal to school sites upon request and shall provide such program(s) upon the mutual agreement of Consultant and the site, and subject to available funding.

**IV
RESPONSIBILITIES OF DISTRICT & HOST SCHOOLS**

The District and host schools shall be responsible for the following, in accordance with the Milestone Schedule attached hereto as Exhibit “A”:

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- (1) The District shall make known and available to Consultant all District policies and procedures applicable to this agreement, including health and safety standards.
- (2) The District's Human Resources Division, with consultation with the Office of Language Acquisition and the Consultant is solely responsible for the placement

Mandarin Language Teaching Assistants at District school sites which have requested Mandarin Language Teaching Assistants.
- (3) Sites hosting Mandarin Language Teaching Assistants must have prior approval from the Human Resource Services Division and the Office of Language Acquisition before requesting and receiving Mandarin Language Teaching Assistants; sites who wish to host Mandarin Language Teaching Assistants must request Consultant services through these District divisions.
- (4) Sites hosting Mandarin Language Teaching Assistants must provide the following: providing mentor(s) on site, core instructional materials, basic instructional supplies, and a designated classroom.
- (5) District will include Mandarin Language Teaching Assistants in staff meetings at sites and at the District.
- (6) District will provide access to student information necessary to conduct required services as a Mandarin Language Teacher. As part of accessing this student information, Mandarin Language Teacher shall be required to follow all Board policies and state and federal law concerning release of student information and maintenance of confidentiality.
- (7) District, including, but not limited to, the Office of Language Acquisition and Human Resources Department, will facilitate and recognize the designation of Confucius Classrooms at site schools. Any applications of Confucius Classroom designation must be approved by the District before submission to Confucius Institute Headquarters/Hanban.

**V
AMENDMENT**

This Agreement may be amended only with the mutual consent of the parties. All amendments must be in writing and must be approved by the District's governing board.

**VI
TERMINATION**

This Agreement may be terminated upon thirty (30) days written notice by either party to this Agreement. Such termination shall not be deemed to be a breach of this Agreement, nor shall it be deemed to be tortious conduct.

VII ASSIGNMENT

Neither Consultant nor District may assign or transfer any interest in this Agreement without the prior written consent of the other party.

VIII INDEMNIFICATION

To the fullest extent allowable by law, Consultant agrees to defend, indemnify and hold harmless the District, its Board of Education members, officers, agents, employees and directors (hereinafter "Indemnified Parties") from and against any claim, demand, loss or liability (hereinafter "Claim") or any nature or cause whatsoever, and whether actual or alleged, arising from or in any way connected with the performance of this Agreement, including, but not limited to, any Claim for personal injury, death, property damage, loss of profits, infringement upon intellectual property rights, or disclosure of confidential information, which might be obtained by District during performance of this Agreement, except where caused by the sole negligence or willful misconduct of the Indemnified Parties.

To the fullest extent allowable by law, District agrees to defend, indemnify and hold harmless Confucius Institute Headquarters/Hanban, Confucius Institute at San Diego State University, and San Diego State University, its officers, agents, employees and directors (hereinafter "Indemnified Parties") from and against any claim, demand, loss or liability (hereinafter "Claim") or any nature or cause whatsoever, and whether actual or alleged, arising from or in any way connected with the performance of this Agreement, including, but not limited to, any Claim for personal injury, death, property damage, loss of profits, infringement upon intellectual property rights, or disclosure of confidential information, which might be obtained by Consultant during performance of this Agreement, except where caused by the sole negligence or willful misconduct of the Indemnified Parties.

Consultant's obligations hereunder shall include the obligation to defend, indemnify and hold harmless the Indemnified Parties from and against any and all claims asserted, or liability established, for damages or injuries to any person or property which may arise from, or are connected with, or are caused, or claimed to be caused, by the contractor's failure to comply with all of the requirements contained in Education Code, section 45125.1, including, but not limited to, the requirement prohibiting the Consultant from using employees who may have contact with pupils who have been convicted of, or have charges pending for, a felony as defined in Education Code 45125.1.

If any action or proceeding, whether judicial, administrative, arbitration or otherwise, shall be commenced on account of any claim, demand or liability covered by this, and such action or proceeding names any of the Indemnified Parties as a party thereto, the Consultant shall, at its sole cost and expense, defend the Indemnified Parties in such action or proceeding with counsel reasonably satisfactory to the Indemnified Parties named in such action or proceeding. In the event that there shall be any judgment, award, ruling, settlement, or other relief arising out of any such action or proceeding by which any of the Indemnified Parties are bound, Consultant shall pay, satisfy or otherwise discharge any such judgment, award, ruling, settlement or relief. Consultant

shall indemnify and hold harmless the Indemnified Parties from any and all liability or responsibility arising out of any such judgment, award, ruling, settlement or relief.

**IX
NOTICES**

Any notice permitted or required under this Agreement shall be in writing and signed by the party giving or serving same, and shall be served either by personal delivery or certified mail to the following persons and at the following addresses:

Consultant:
Dr. Lilly Cheng
Managing Director
Confucius Institute at SDSU
5500 Campanile Dr.
San Diego, CA 92182

District:
Andrea O'Hara
Strategic Sourcing & Contracts Officer
San Diego Unified School District
Strategic Sourcing & Contracts Office
2351 Cardinal Lane, Bldg M
San Diego, CA 92123

**X
CONTRACT DOCUMENTS**

This Agreement includes the terms and conditions set forth in this document and set forth in the following additional documents: None.

**XI
DIVERSITY PROGRAMS**

Consultant agrees to comply with any applicable District employment or contracting diversity programs, policies or procedures.

**XII
FINGERPRINT CLEARANCE**

Under Education Code Section 45125.1, Consultant shall ensure that all Mandarin teachers working with the San Diego Unified School District obtain fingerprint background clearance through the California Department of Justice screening process. Consultant will ensure that it will not place any person at a school whom has a conviction of a serious or violent felony, as defined in Education Code Section 44830.1 (c)(1), or a sex offense, as defined in Education

Code Section 44010, or a controlled substance offense, as defined by Education Code Section 44011.

**XIII
TUBERCULOSIS EXAMINATION**

Consultant shall ensure that all Mandarin teachers working with the San Diego Unified School District will provide a tuberculosis ("TB") certificate of clearance prior to commencing initial employment. Consultant will ensure that no Mandarin teacher is placed at a school without a valid TB certificate on file showing the employee was examined and found to be free from active tuberculosis, as defined in Education Code Section 49406.1 (a).

This Agreement has been duly executed by the District and the Contractor as of the date set forth above.

SAN DIEGO UNIFIED SCHOOL DISTRICT

CONTRACTOR

Dated: _____, 20_____

Dated: December 18, 2018, 20_____

**San Diego Unified School District
Strategic Sourcing & Contracts Office
2351 Cardinal Lane, Bldg. M
San Diego, CA 92123**


**Confucius Institute at
San Diego State University
5500 Campanile Drive
San Diego, CA 92182**

By: _____
Print Name: _____
Print Title: _____

By:  _____
Print Name: Dr. Lilly Cheng
Print Title: Managing Director

APPROVED AS TO FORM AND LEGALITY


Approved in a public meeting of the Board of
Education of the San Diego Unified School
District on
Date _____



Andra Greene, Esq., General Counsel
San Diego Unified School District

Marty Stultz, Director of Board Service
Board of Education

APPROVED AS TO CONTENT



Acacia Thede, Chief Human Resources Officer
San Diego Unified School District

Exhibit "A" - Milestone Schedule

As part of the Agreement the Consultant and District will be responsible for performing tasks throughout various stages of this project. The following is a list of these tasks which will result in the successful completion of this project, along with the annual timeline of when such tasks must be completed

When	Task	District Responsibility	Consultant Responsibility
September, annually	Request number of teacher assistants	The Office of Language Acquisition will gather the number of teacher assistants from each District school.	Consultant will use this data to recruit candidates.
November, annually	Finalize number of teacher assistants.	The Office of Language Acquisition will confirm the number of teacher assistants from each District school.	Consultant will use this data to recruit candidates and provide recommendations to the District.
End of January/ beginning of February, annually	Candidate materials reviewed	OLA will coordinate the review of the candidates' materials to make selections. OLA will then inform CI of the school selections.	Consultant will provide candidate materials to OLA.
May and June, annually	Candidate visa processing and District clearance requirements are finalized.	N/A	Consultant will conduct the final steps of the recruitment process required by their headquarters and Cordell Hall (J-1 visa sponsor).
June- August, annually	Candidate placement process	OLA and HR will place candidates at school sites. School sites will provide payment of fees related to this agreement.	Consultant will provide required District clearance documents prior to placement at school sites.
August to June, annually	Teacher assistants volunteer in the assigned classrooms.	Host school sites will provide teacher assistants the necessary materials and time needed to perform their duties.	Consultant will provide teacher assistants with professional development and other materials and training necessary to conduct their duties.

For this agreement, the acceptance of all deliverables will reside with SDUSD. The OLA and HR Divisions will monitor the implementation of each phase of the recruitment, selection, clearance and placement of teacher assistants. The OLA and HR divisions will work with Consultant to ensure data is accurate and the appropriate paperwork and forms have been completed. Any discrepancies involving completion of project tasks or disagreement between SDUSD and Vendor will be referred to both organizations' contracting offices for review and discussion.

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