



LEMOORE UNION HIGH SCHOOL DISTRICT

5 Powell Ave., Lemoore CA, 93245

To: Lemoore Union High School District Board of Trustees
From: Mark Howard
Date: September 12, 2019
Subject: Contract Approval – PRO PT

Background:

Seeking the Governing Board's approval of the enclosed agreement from PRO-PT to continue to provide Athletic Trainer services to the District in support of our athletic programs. The agreement is for a period of two school years (expires June 30, 2021) and includes a fulltime certified Athletic Trainer for a minimum of 35 hours per week. Detailed schedules and times will be mutually agreed upon by the Athletic Trainer and our Athletics Director to meet our needs for our athletic programs.

Financial Impact:

Cost of services is \$47,500 per year (increased by \$500). This cost was included in the adopted budget for the current school year.

Recommendation:

Approve the Agreement.

AGREEMENT

THIS AGREEMENT (“Agreement”) is executed the 29 day of July, 2019, by and between PRECISION REHABILITATION & ORTHOPEDIC PHYSICAL THERAPY, INC., a California professional corporation (“PRO PT”), and LEMOORE UNION HIGH SCHOOL DISTRICT (“LUHSD”).

RECITALS

- A. PRO-PT is the owner of a physical therapy business based in Tulare County, California.
- B. LUHSD is a 9-12 public high school district with one high school, Lemoore High School (“LHS”).
- C. LUHSD operates an athletics program which would benefit from having a Certified Athletic Trainer (“ATC”) involved in its program, which is a service that PRO PT is able to provide.
- D. PRO-PT desires to enter into this Agreement with respect to providing ATC services to LUHSD, upon the terms and conditions hereinafter set forth.

NOW, THEREFORE, the parties agree as follows:

TERMS AND CONDITIONS

1. **Term.** This Agreement will become effective on the date stated above, and will continue for two years (approximately July, 2019 – June, 2021).
2. **Services.** PRO-PT agrees to provide ATC services at LHS to benefit LHS’ athletics program. These ATC services will be provided by PRO-PT’s employee, Samatha Boleky ATC unless her employment with PRO-PT ceases (which shall be completely within PRO-PT’s discretion), in which case another PRO-PT employee will provide said services for the remainder of the term of this Agreement.
3. **Status.** PRO-PT is retained by LUHSD only for the purposes and to the extent set forth in this Agreement, and PR- PT enters into this Agreement, and will remain throughout the term of this Agreement, as an independent contractor. PRO-PT agrees that neither it nor its employee is or will become an employee, partner, agent, or principal of LUHSD while this Agreement is in effect. PRO-PT agrees that it and its employees shall not be considered as having employee status, and shall not be entitled to the rights or benefits afforded to LUHSD’s employees, including disability or

unemployment insurance, worker's compensation, medical insurance, sick leave, or any other employment benefits.

4. **Compensation.** In consideration for the services to be performed by PRO PT, as described above, LUHSD agrees to pay to PRO PT the total amount of \$47,500.00, which shall be payable in ten (10) equal monthly installments of \$4,750.00 commencing on September, 2019 and payable on the 15th day of each month thereafter. LUHSD shall also reimburse PRO PT any and all expenses PRO PT incurs with regard to PRO PT's performance of the services required by this Agreement.

5. **Obligations of PRO PT.** PRO-PT shall provide one employee to perform fulltime ATC services at LHS during the 2019-2020 and 2020-2021 school years.

6. **Obligations of LUHSD.** LUHSD shall provide PRO-PT and its employees all equipment necessary to enable PRO-PT to perform the services required under this Agreement, and shall also comply with all reasonable requests of PRO-PT or its employees with regard to PRO-PT performing the services required under this Agreement. All equipment related costs incurred during the care of LHS athletes will be covered by the district and all purchases are subject to review and prior approval by the Superintendent or designee. To the extent necessary, LUHSD also agrees to furnish space on LHS' premises for use by PRO-PT and its employees while performing the above-described services.

7. **Hold Harmless and Indemnity.** The parties agree to indemnify, defend, and hold each other free and harmless from all claims, demands, losses, costs, expenses, obligations, liabilities, damages, recoveries, and deficiencies, including interest, penalties, attorneys' fees, and costs, that either may incur as a result of the other's negligent act or omission, willful misconduct, misrepresentation, or breach of any representation or obligation contained in this Agreement.

8. **Termination for Default.** If either party defaults in the performance of this Agreement or materially breaches any of its provisions, the non-breaching party may terminate this Agreement by giving written notification to the breaching party. Termination will take effect immediately on receipt of notice by the breaching party or five (5) days after mailing of notice, whichever occurs first. For purposes of this paragraph, material breach of this Agreement includes, but is not limited to, the following:

- a. LUHSD's failure to pay PRO-PT any compensation within ten (10) days of the due date;

- b. PRO-PT's failure to complete the services described in Paragraph 2 above; or
- c. Either party's material breach of any other part of this Agreement.

9. **Notices.** Any notices required to be given under this Agreement by either party to the other may be effected either by personal delivery in writing or by mail, registered or certified, postage prepaid with return receipt requested. Mailed notices shall be addressed to the parties at the addresses appearing below, but each party may change its address by written notice in accordance with this section. Notices delivered personally shall be deemed communicated as of the date of actual receipt; mailed notices shall be deemed communicated as of two (2) days after the date on which they are mailed.

PRO PT
DISTRICT
Attn: Ronnie Eynaud
701 W. Center Ave.
Visalia, CA 93291

LEMOORE UNION HIGH SCHOOL
DISTRICT
Attn: Debbie Muro
5 Powell Ave.
Lemoore, CA 93245

10. **Entire Agreement.** This Agreement supersedes any and all other agreements, either oral or in writing, between the parties with respect to the rendering of ATC services by PRO-PT for LUHSD, and contains all the representations, covenants, and agreements between the parties with respect to the rendering of those services. Each party to this Agreement acknowledges that no representations, inducements, promises, or agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any party, which are not contained in this Agreement, and that no other agreement, statement, or promises not contained in this Agreement will be valid or binding. Any modification of this Agreement will be effective only if it is in a writing and signed by the party to be charged.

11. **Severability.** If, for any reason, any provision of this Agreement is held invalid, void, or unenforceable, all other provisions of this Agreement shall remain in full force and effect without being impaired or invalidated in any way.

12. **Waiver.** Should PRO-PT waive breach of any provision of this Agreement by the LUHSD, that waiver will not operate or be construed as a waiver of further breach by LUHSD.

13. **Attorney's Fees and Costs.** If any legal action or arbitration is necessary to enforce or interpret the terms of this Agreement, the prevailing party shall be entitled to recover from the non-prevailing party reasonable attorneys' fees, costs, and necessary disbursements in addition to any other relief to which it may be entitled.

14. **Law Governing Agreement; Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of California, and venue shall lie solely in Visalia, Tulare County, California.

PRECISION REHABILITATION
& ORTHOPEDIC PHYSICAL
THERAPY, INC., a California
Professional Corporation

LEMOORE UNIFIED HIGH
SCHOOL DISTRICT

By: _____
RONALD EYNAUD
Chief Operating Officer

By: _____
DEBBIE MURO
Superintendent