Memorandum of Understanding
Between Prescott-Joseph Center for Community Enhancement
and
San Leandro Unified School District

IT IS HEREBY AGREED AS FOLLOWS:

This agreement ("Agreement") is entered into by and among Prescott-Joseph Center for Community Enhancement, Inc. hereinafter referred to as "PJCCE", and San Leandro Unified School District, hereinafter referred to as "District".

WITNESSETH

WHEREAS, PJCCE, through operates a school-based mobile asthma treatment program, hereinafter referred to as "Mobile Clinic";

WHEREAS, the District desires that PJCCE operate the Mobile Clinic on District property as set forth herein below;

NOW, THEREFORE, the parties hereto enter into this Agreement as a full statement of their respective responsibilities during the term of this Agreement, and in consideration of the representations made above and the covenants and conditions set forth herein, the parties agree as follows:

General Information:

1. The delivery of services by PJCCE will be on the premises of selected school sites, on days and at times as mutually agreed upon by both parties.

II. Obligations of PJCCE:

1. Be solely responsible for staffing and providing services under this Agreement. PJCCE certifies that staff and/or trainees providing the services are adequately trained and prepared according to prevailing professional standards for providing such services.

2. Provide adequate supervision of the professional staff and/or trainees.

3. Certify that PJCCE staff will follow legal guidelines on reporting child abuse.

4. Certify that all personnel in contact with children shall provide evidence of freedom from tuberculosis upon request of the District and that personnel meet District criminal conviction standards.

5. Be responsible for the cost, care, and maintenance of the Mobile Clinic.

6. Be responsible for the services described herein with parent/guardian written approval. Services shall include:

   a. History and physical examination

   b. Limited skin testing

   c. Spirometry

   d. Pharmacologic therapy

   e. Annual flu vaccines and other vaccines as indicated

   f. Patient/parent education regarding environmental control measures, asthma management and treatment plans.

   g. Referrals for additional care where indicated. If the services required cannot be performed at the designated location or by staff present, PJCCE will make its best efforts for referrals as may be appropriate to the patient's needs.

   h. Provide asthma treatment plans, asthma action plans and medication forms to District Asthma Nurse and student's primary care provider.

7. Should services by PJCCE include any form of medical services, including diagnostic services, treatment or counseling, PJCCE shall obtain written parent consent prior to providing service(s) to a minor.

III. Obligations of the District:

1. Provide the Mobile Clinic medical team with any necessary utilities, including phone lines and electrical hookups, as required for the Mobile Clinic.

2. District Nursing staff shall:

   a. Facilitate the education of District faculty, staff and parents about the asthma mobile clinic and how to make referrals to the mobile asthma clinic.

   b. Serve as a liaison between the District and the mobile asthma clinic.

c. Assist in developing a plan to identify students with asthma who would benefit from the asthma mobile clinic services

d. Assist in the scheduling of clinic dates with school site principals and assist in scheduling students and parents for clinic visits.

e. Assist the school sites to understand the asthma status of students seen in the asthma mobile clinic utilizing individual treatment plans or asthma action plans.

f. Communicate with asthma mobile clinic team regarding the asthma status of students seen in the asthma mobile clinic as allowed by HIPAA and FERPA

IV. Billing:

Services will be provided at no cost to the District or to the students served. PJCCE may bill Medi-Cal and other third-party payers for eligible services.

V. Insurance:

PJCCE and District are authorized self-insured public entities for purposes of Professional Liability, General Liability, Automobile Liability and Workers' Compensation and warrant that through their respective programs of self-insurance, they have adequate coverage or resources to protect against liabilities arising out of the performance of the terms, conditions or obligations of this agreement.

VI. Indemnification:

PJCCE agrees to indemnify, defend (with counsel approved by DISTRICT) and hold harmless the DISTRICT its School Board, State Trustee, officers, agents and volunteers from any and all claims, actions, losses, damages, and/or liability resulting from the PJCCE'S negligent acts or omissions which arise from the PJCCE'S performance of its obligations under this Agreement.

DISTRICT agrees to indemnify, defend (with counsel approved by PJCCE) and hold harmless PJCCE and its officers, employees, agents and volunteers from any and all claims, actions, losses, damages and/or liability which arise from DISTRICT's negligent acts or omissions arising out of if its obligations under this Agreement.

In the event PJCCE and/or the DISTRICT is found to be comparatively at fault for any claim, action, loss or damage which results from their respective obligations under the Agreement, the PJCCE and/or DISTRICT shall indemnify the other to the extent of its comparative fault.

VII. Status of Parties:

1. The parties hereby expressly understand and agree that this Agreement is not intended and shall not be construed to create a relationship of agent, servant, employee, partnership, joint venture, or association between District and PJCCE but is rather an Agreement by and between independent contractors.

2. The parties hereby expressly understand and agree that their employees, agents, and independent contractors are not the employees or agents of the other party for any purpose, including, but not limited to, compensation for services, employee welfare and pension benefits, other fringe benefits of employment, or workers' compensation insurance.

VIII. Assignment:

Neither party hereto shall assign its rights or obligations pursuant to this Agreement without the express written consent of the other party.

IX. Modification:

No modification, amendment, supplement to or waiver of any provision of this Agreement shall be binding upon the parties unless made in writing and duly signed by all parties.

X. Rules of Construction:

The language in all parts of this Agreement shall in all cases be construed as a whole, according to its fair meaning, and not strictly for or against either the PJCCE or the District. Section headings in this Agreement are for convenience only and are not to be construed as a part of this Agreement or in any way limiting or amplifying the provisions hereof. All pronouns and any variations thereof shall be deemed to refer to the masculine, feminine, neuter, singular or plural, as the identifications of the person or persons, firm or firms, corporation or corporations may require.

XI. Governing Law:

This Agreement is made and entered into in the State of California, and shall in all respects be interpreted, enforced and governed by and under the laws of the State of California.

XII. Counterparts:

This Agreement may be executed in counterparts, and all such counterparts together shall constitute the entire Agreement of the parties hereto.

XIII. Severability:

The provisions of this Agreement are specifically made severable. If any clause, provision, right and/or remedy provided herein is unenforceable or inoperative, the remainder of this Agreement shall be enforced as if such clause, provision, right and/or remedy were not contained herein.

XIV. Alternative Dispute Resolution:

In the event the DISTRICT determines that service is unsatisfactory, or in the event of any other dispute, claim, question 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 and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to both parties.

Notwithstanding the above, nothing herein shall preclude either party from pursing its legal remedies at law in the event a mutually satisfactory solution is not reached.

XV. Term and Termination:

1. This agreement shall be effective for a one (5) year term, commencing on the execution of this agreement by both parties and terminating one year later at which time the agreement shall automatically renew for successive one year terms thereafter. However, this agreement may be terminated, with or without cause, by either party after giving the other party sixty (60) days advance written notice of its intention to terminate. The Director of the Medical Center is authorized to initiate termination on behalf of PJCCE.

2. Any written notice given under this Section XV shall be sent, postage prepaid, by certified mail, return receipt requested, to the following person(s), as the case may be:

Prescott-Joseph Center for Community Enhancement, INC
920 Peralta Street
Oakland, CA 94607
Attention: Washington Burns, MD
San Leandro Unified School District
Joanne Clark, Director of Prevention & Intervention
2251 Bancroft Avenue, San Leandro, CA 94577

XVI. Health Insurance Portability and Accountability Act (HIPAA)

Pursuant to the Health Insurance Portability and Accountability Act of 1996 (HIPAA), regulations have been promulgated governing the privacy and security of individually identifiable health information (IIHI) otherwise defined as Protected Health Information (PHI) or electronic Protected Health Information (ePHI). The HIPAA Privacy and Security Regulations specify requirements with respect to contracts between an entity covered under the HIPAA Privacy and Security Regulations and its Business Associates. A Business Associate is defined as a party that performs certain services on behalf of, or provides certain services for, a Covered Entity and, in conjunction therewith, gains access to IIHI, or PHI or ePHI. Therefore, in accordance with the HIPAA Privacy and Security Regulations, District shall comply with the terms and conditions as set forth in the attached Business Associate Agreement, hereby incorporated by this reference as Appendix I.

XVII. Entire Agreement:

This Agreement contains the final, complete and exclusive Agreement between the parties hereto. Any prior Agreement promises, negotiations or representations relating to the subject matter of this Agreement not expressly set forth herein are of no force or effect. This Agreement is executed without reliance upon any promise, warranty or representation by any party or any representative of any party other than those expressly contained herein. Each party has carefully read this Agreement and signs the same of its own free will.

XVIII. Authorization:

The undersigned individuals represent that they are fully authorized to execute this Agreement on behalf of the named parties.

IN WITNESS whereof, this Agreement has been executed by the parties hereto as of the day and year first written above.

Prescott-Joseph Center for Community Enhancement, Inc.

► _____
Director

Dated: _____

San Leandro
Unified School District

By: ► _____
(Authorized signature - sign in blue ink)

Name: Joanne Clark
(Print or type name of person signing contract)

Title: Director of Prevention and Intervention
(Print or Type)

Dated: 2/25/19

Address: 2251 Bancroft Ave, San Leandro CA

Approved as to Legal Form	Reviewed by Contract Compliance	Presented to BOS for Signature
►	►	►
County Counsel		Department Head
Date _____	Date _____	Date _____

Auditor/Controller-Recorder Use Only

☐ Contract Database	☐ FAS
Input Date	Keyed By

BUSINESS ASSOCIATE AGREEMENT

Except as otherwise provided in this Agreement, DISTRICT, hereinafter referred to as BUSINESS ASSOCIATE, may use or disclose Protected Health Information to perform functions, activities or services for or on behalf PJCCE, hereinafter referred to as the COVERED ENTITY, as specified in this Agreement and in the attached Contract, provided such use or disclosure does not violate the Health Insurance Portability and Accountability Act (HIPAA), 42 U.S.C. 1320d et seq., and its implementing regulations, including but not limited to, 45 Code of Regulations Parts 160, 162, and 164, hereinafter referred to as the Privacy and Security Rules.

I. **Obligations and Activities of Business Associate.**

a. Business Associate shall not use or further disclose Protected Health Information other than as permitted or required by this Agreement or as Required By Law. Business Associate shall disclose to its employees, subcontractors, agents, or other third parties, and request from Covered Entity, only the minimum Protected Health Information necessary to perform or fulfill a specific function required or permitted hereunder.

b. Business Associate shall implement administrative, physical, and technical safeguards to:
   1. Prevent use or disclosure of the Protected Health Information other than as provided for by this Agreement.
   2. Reasonably and appropriately protect the confidentiality, integrity, and availability of the electronic Protected Health Information that it creates, receives, maintains, or transmits on behalf of the Covered Entity.

c. Business Associate shall mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of Protected Health Information by Business Associate in violation of the requirements of this Agreement.

d. Business Associate shall report to Covered Entity any use or disclosure of the Protected Health Information not provided for by this Agreement and/or any security incident with respect to electronic Protected Health Information of which it becomes aware.

e. Business Associate shall ensure that any agent, including a subcontractor, to whom it provides Protected Health Information received from, or created or received by Business Associate on behalf of Covered Entity, shall comply with the same restrictions and conditions that apply through this Agreement to Business Associate with respect to such information.

f. Business Associate shall provide access to Protected Health Information in a Designated Record Set to Covered Entity or to an Individual, at the request or direction of Covered Entity and in the time and manner designated by the Covered Entity, in order to meet the requirements of 45 CFR 164.524.

g. Business Associate shall make any amendment(s) to Protected Health Information in a Designated Record Set that the Covered Entity directs or agrees to pursuant to 45 CFR 164.526, in the time and manner designated by the Covered Entity.

h. Business Associate shall make internal practices, books, and records, including policies and procedures and Protected Health Information, relating to the use and disclosure of Protected Health Information received from, or created or received by Business Associate on behalf of, Covered Entity available to the Covered Entity, and/or to the Secretary for the U.S. Department of Health and Human Services, in a time and manner designated by the Covered Entity or the Secretary, for purposes of the Secretary determining Covered Entity's compliance with the Privacy and Security Rules.

i. Business Associate shall document such disclosures of Protected Health Information and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR 164.528.

j. Business Associate shall provide to Covered Entity or an Individual, in the time and manner designated by the Covered Entity, information collected in accordance with provision (i), above, to permit Covered Entity to respond to a request by the Individual for an accounting of disclosures of Protected Health Information in accordance with 45 CFR 164.528.

k. Upon termination of this Agreement, Business Associate shall return all Protected Health Information required to be retained and return or destroy all other Protected Health Information received from the Covered Entity, or created or received by the Business Associate or its subcontractors, employees or agents on behalf of the Covered Entity. In the event the Business Associate determines that returning the Protected Health Information is not feasible, the Business Associate shall provide the Covered Entity with written notification of the conditions that make return not feasible. Business Associate further agrees to extend any and all protections, limitations, and restrictions contained in this Agreement, to any Protected Health Information retained by Business Associate or its subcontractors, employees or agents after the termination of this Agreement, and to limit any further uses and/or disclosures to the purposes that make the return or destruction of the Protected Health Information infeasible.

II. **Specific Use and Disclosure Provisions.**

a. Except as otherwise limited in this Agreement, Business Associate may use Protected Health Information for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate.

b. Except as otherwise limited in this Agreement, Business Associate may disclose Protected Health Information for the proper management and administration of the Business Associate, provided that disclosures are Required By Law, or Business Associate obtains reasonable assurances from the person to whom the information is disclosed that it will remain confidential and used or further disclosed only as Required By Law or for the purpose for which it was disclosed to the person, and the person notifies the Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.

c. Except as otherwise limited in this Agreement, Business Associate may use Protected Health Information to provide Data Aggregation service to Covered Entity as permitted by 42 CFR 164.504(e)(2)(i)(B).

d. Business Associate may use Protected Health Information to report violations of law to appropriate Federal and State authorities, consistent with 42 CFR 164.502(j)(1).

III. **Obligations of Covered Entity.**

a. Covered Entity shall notify Business Associate of any limitation(s) in its notice of privacy practices of Covered Entity in accordance with 45 CFR 164.520, to the extent that such limitation may affect Business Associate's use or disclosure of Protected Health Information.

b. Covered Entity shall notify Business Associate of any changes in, or revocation of, permission by Individual to use or disclose Protected Health Information, to the extent that such changes may affect Business Associate's use or disclosure of Protected Health Information.

c. Covered Entity shall notify Business Associate of any restriction to the use or disclosure of Protected Health Information that Covered Entity has agreed to in accordance with 45 CFR 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of Protected Health Information.

IV. **General Provisions.**

a. Remedies. Business Associate agrees that Covered Entity shall be entitled to seek immediate injunctive relief as well as to exercise all other rights and remedies which Covered Entity may have at law or in equity in the event of an unauthorized use or disclosure of Protected Health Information by Business Associate or any agent or subcontractor of Business Associate that received Protected Health Information from Business Associate.

b. Ownership. The Protected Health Information shall be and remain the property of the Covered Entity. Business Associate agrees that it acquires no title or rights to the Protected Health Information.

c. Regulatory References. A reference in this Agreement to a section in the Privacy or Security Rule means the section as in effect or as amended.

d. Amendment. The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for Covered Entity to comply with the requirements of the Privacy and Security Rules and the Health Insurance Portability and Accountability Act of 1996, Pub. L. No. 104-191.

e. Interpretation. Any ambiguity in this Agreement shall be resolved to permit Covered Entity to comply with the Privacy and Security Rules.