

**Agreement for the Purchase of  
Live Online Homework Help Services  
Between  
the City of San José  
and  
Tutor.com, Inc.**

This Agreement is entered into as of the City's execution date ("Effective Date") between the City of San José, a municipal corporation (hereinafter "City" or "Client"), and Tutor.com Incorporated, a Delaware corporation, registered to do business in the State of California (hereinafter "Contractor" or "Tutor.com"). Each of City and Contractor are sometimes hereinafter referred to as a "Party" and collectively as the "Parties".

**RECITALS**

**WHEREAS**, City has issued a Request for Proposal (RFP) for the purchase of Live Online Homework Help Services; and

**WHEREAS**, Contractor has the necessary expertise and skill to perform such services and Contractor's Proposal can meet City's needs: and

**WHEREAS**, Contractor has a good understanding of City's requirements; and

**WHEREAS**, Based on this in-depth understanding and combining it with Contractor's knowledge and experience Contractor warrants that their proposal will meet the City's specifications and requirements as described in the Scope of Services;

**NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:**

**1. AGREEMENT DOCUMENTS**

The documents forming the entire Agreement between City and Contractor shall consist of this Agreement including:

**EXHIBIT A - Scope of Services**

- Appendix A1 – Features and Capabilities
- Appendix A2 – Technical Requirements
- Appendix A3 – Tutor.com Learning Suite
- Appendix A4 – Program Maintenance Tasks
- Appendix A5 – Price List

**EXHIBIT B - Compensation/Payment Schedule**

**EXHIBIT C - Insurance Requirements**

**EXHIBIT D - Privacy and Disclosure Policy**

**EXHIBIT E - Change Order Form**

**EXHIBIT F - Notice of Option to Extend Agreement**

In the event any discrepancies or inconsistencies between the provisions of this Agreement and the Exhibits, the provisions of this Agreement will prevail. The provisions in the Exhibits shall prevail over conflicting terms in the Agreement or Attachments to the Exhibits.

Contractor and City hereby acknowledge that they have drafted and negotiated the Agreement jointly, and the Agreement will be construed neither against nor in favor of either, but rather in accordance with its fair meaning.

This Agreement and the Exhibits set forth above, contain all of the agreements, representations and understandings of the Parties hereto, and supersede and replace any previous understandings, commitments, or agreements, whether oral or written. Any other terms or conditions included in any shrink-wrap or boot-screen license agreements, quotes, invoices, acknowledgments, bills of lading, or other forms utilized or exchanged by the Parties shall not be incorporated in this Agreement or be binding upon the Parties unless the Parties expressly agree in writing or unless otherwise provided for in this Agreement.

## **2. TERM OF AGREEMENT**

### **2.1. Term**

The term of this Agreement is from December 1, 2017 to November 30, 2022 ("Initial Term"), inclusive, subject to the provisions of Section 11 TERMINATION.

### **2.2. Options to Extend**

After the Initial Term, the City reserves the right, at its sole discretion, to extend the term of this Agreement for up to three additional two-year options through November 30, 2028 ("Option Periods"), based upon the same conditions of the Initial Term, subject to adjustments for compensation as set forth in Exhibit B. City shall notify Contractor in writing in the form of Exhibit F (Notice of Exercise of Option to Extend Agreement) of its exercise of its option for an Additional Term no less than thirty (30) days prior to the end of the then current Term.

### **2.3. No Waiver**

City's agreement to extend the term of this Agreement is not a waiver of the "time is of the essence" provision in Section 6.

### **2.4. Annual Appropriation of Funds**

City's funding of this Agreement shall be on a fiscal year basis (July 1 to June 30) and is subject to annual appropriations. Contractor acknowledges that the City, a municipal corporation, is precluded by the California State Constitution and other laws from entering into obligations that financially bind future governing bodies, and that, therefore, nothing in this Agreement shall constitute an obligation of future legislative bodies of the City to appropriate funds for purposes of this Agreement. Accordingly, the parties agree that the Initial Term and any Option Periods is contingent upon the appropriation of funds by the City. This Agreement will terminate immediately if funds necessary to continue the Agreement are not appropriated. Despite the foregoing, the City shall pay Contractor for any Services performed in accordance with this Agreement up to the date of termination.

### **3. SCOPE OF SERVICES**

#### **3.1. Scope of Work**

Contractor agrees to provide the System (as defined in Exhibit A), , and perform the Services as set forth in the Scope of Services which consists of EXHIBIT A Scope of Work including Appendices and are attached hereto and are incorporated as though fully set forth herein (the "Scope of Services").

#### **3.2. Equipment**

Any additional equipment, parts, or services required for final acceptance as detailed in Scope of Services (Exhibit A) but not reflected in the Contractor's pricing shall be the sole responsibility of the Contractor and at no cost to the City. Contractor, however, is not responsible for the equipment, parts, or services specified in scope of Services (Exhibit A) as the City's responsibility.

#### **3.3. Notification**

Contractor agrees to notify City promptly of any factor, occurrence, or event coming to its attention that may affect Contractor's ability to meet the requirements of the Agreement, or that is likely to occasion any material delay in completion of the projects contemplated by this Agreement. City agrees to notify Contractor if City is delayed in providing Contractor the information, access or support City has agreed to provide under the Agreement if such delay will cause a material delay in Contractor's ability to meet the requirements of this Agreement.

#### **3.4. Maintenance Service**

The terms of maintenance of the System shall be as set forth in the Program Maintenance Tasks (Exhibit A, Appendix A4).

### **4. DATA AND FACILITIES**

Contractor acknowledges that it has in its possession all applicable specifications and drawings, and all other documents to which reference is made herein and/or which are matched hereto, and all such data are adequate to enable Contractor fairly to determine its ability to perform the work called for herein at the price and in accordance with the schedule set forth herein.

Contractor represents that it now has or can readily procure without assistance of City all facilities, machinery and equipment necessary for the performance of this Agreement.

### **5. STANDARD OF SERVICE**

In connection with the performance of any services pursuant to this Agreement:

#### **5.1. Number of Employees**

Contractor warrants it will provide sufficient employees to complete the Services ordered within the applicable time frames established pursuant to this Agreement. Furthermore, Contractor shall, at its expense, supply all tools, equipment and other materials necessary to perform the Services contemplated in this Agreement.

## **5.2. Skill of Employees**

Contractor warrants that employees shall have sufficient skill, knowledge, and training to perform Services and that the Services shall be performed in a professional and workmanlike manner.

## **5.3. Duty of Confidentiality**

All data, documents, discussions or other information developed or received by or for one party in performance of this Agreement are confidential and must not be disclosed to any person except as authorized by the other party, or as required by law. The receiving party warrants that all employees utilized by it in performing Services are under a written obligation to the receiving party requiring the employee to maintain the confidentiality of information of the other party to the extent permitted by law.

## **5.4. Security and Safety**

Contractor shall require employees providing Services at a City location to comply with applicable City security and safety regulations and policies. City may require each employee providing Services to undergo a background investigation, including, but not limited to a criminal records and fingerprint check. Contractor shall promptly replace any employee found to be unacceptable to City, in its sole discretion, on the basis of a significant infraction found in the background investigation.

## **5.5. Contractor's obligations to employees**

Contractor shall provide for and pay the compensation of its employees and shall pay all taxes, contributions, and benefits (such as, but not limited to, workers' compensation benefits) which an employer is required to pay relating to the employment of employees. City shall not be liable to Contractor or to any employee for Contractor's failure to perform its compensation, benefit, or tax obligations. Contractor shall indemnify, defend and hold City harmless from and against all such taxes, contributions and benefits and will comply with all associated governmental regulations, including the filing of all necessary reports and returns.

## **5.6. Replacement of Employees**

During the course of performance of Services, City may request replacement of an employee or a proposed employee, provided that there is reasonable cause. In such event, Contractor shall, within ten (10) working days of receipt of such request from City, provide a substitute employee of sufficient skill, knowledge, and training to perform the applicable Services. If, within the first thirty (30) days after an employee's commencement of Services, City notifies Contractor (1) such employee's level of performance is unacceptable, (2) such employee has failed to perform as required, or (3) such employee, in City's sole opinion, lacks the skill, knowledge or training to perform at the required level, then Contractor will be required to review the work performed by such employee, confirm that quality of work, and correct any items the Contractor deemed incorrect. If City requests replacement of an employee for the above-referenced reasons after such thirty (30) day time period, or at any time for a reason other than the reasons indicated above. City shall not be required to pay for, and shall be entitled to a refund of, any sums paid to Contractor for such employee's Services after the date of City's requested replacement of such employee.

## **6. SCHEDULE OF PERFORMANCE**

Contractor shall perform the Services according to the terms and provisions of EXHIBIT A. Time is expressly made of the essence with respect to each and every term and provision of this Agreement.

## **7. CHANGE ORDER PROCEDURE AND AUTHORIZATION**

### **7.1. Changes**

Any changes to this Agreement that relate to (i) the deletion of Products or Services, (ii) adding additional Products, or Services (iii) changing or modifying Products or Services, except for technical updates to System as may be needed or (iv) making other changes that materially alter the scope of this Agreement or the Deliverables required under this Agreement, including approval of all performance and/or payment schedules shall be made by the Director of Finance in accordance with the procedures set forth below.

### **7.2. Contract Change Requests**

Either party hereto may, from time to time, and at any time during the term hereof request a change, as defined in the above section. (The party requesting the change is hereinafter referred to as the "Requesting Party.") Requests for changes shall be in writing and shall be addressed and delivered to the other party. Such writing shall be identified as a "Contract Change Request," shall carry a sequential number for ease of tracking, shall set forth in detail the nature of the change requested and the costs associated therewith, and shall identify the Products, Services, Deliverables or Schedules to be changed.

### **7.3. Procedures**

As soon as practical after receipt by the notified party of copies of the Request, the parties shall meet as necessary to discuss the change and to ascertain its cost and schedule impacts, if any.

### **7.4. Change Orders**

If the parties decide to implement a change request, a standard form Change Order ("CO") shall be prepared in a form substantially similar to the form attached hereto as Exhibit E, which CO shall describe the change, delineate the cost, schedule, and other impacts of the change and the payment terms for any price increase. Only City's Director of Finance and Contractor's Authorized Representative shall have authority to execute COs to this Agreement. Execution of a CO by City's Director of Finance and Contractor's Authorized Representative shall constitute a modification hereof and shall be binding on both parties hereto.

## **8. COMPENSATION**

City shall pay Contractor an amount not to exceed three hundred forty-four thousand, twelve U.S. Dollars (\$344,012.00) during the Initial Term ("Maximum Compensation"). The terms, rate and schedule of payment are set forth in the attached Exhibit B, "Compensation & Payment Schedule." Contractor shall submit to City invoices at the completion of each milestone that include a breakdown of Services as provided in attached Exhibit B, entitled "Compensation & Payment Schedule."

City will make payments to Contractor within thirty (30) days after the date of delivery of each undisputed invoice. City will make payments when due in the form of a check, or wire transfer drawn on a U.S. financial institution.

## **9. TAXES AND CHARGES**

Contractor shall be responsible for payment of all taxes, fees, contributions or charges applicable to the conduct of Contractor's business.

## **10. WARRANTIES**

### **10.1. Prime Contractor Responsibility**

Contractor understands and accepts full responsibility for all Contractor's requirements and deliverables defined in this Agreement. Contractor warrants that it:

- 10.1.1. Has read and agrees with the specifications contained in the Scope of Services (Exhibit A);
- 10.1.2. Fully understands the facilities, difficulties, and restrictions attending performance of the services; and
- 10.1.3. Contractor agrees to inform City of any unforeseen conditions which will materially affect performance of the work within 45 calendar days of the execution of this Agreement and shall not proceed until written instructions are received from City.
- 10.1.4. The responsibility for requirements and deliverables defined in Exhibit A.

### **10.2. Authority to Make Agreement**

Contractor represents and warrants that Contractor has full right and authority to perform its obligations under this Agreement. City shall be entitled to use the System without disturbance.

### **10.3. Contractor Agreements with City Employees**

Neither Contractor nor any director, employee or agent of Contractor or its subcontractors or vendors shall knowingly, without prior written notification thereof to City, enter into any business relationship with any employee or agent of City unless such person is acting for and on behalf of City.



## **11. TERMINATION**

### **11.1. Termination for Convenience**

City shall have the right to terminate this Agreement, without cause, by giving not less than thirty (30) days' written notice of termination.

### **11.2. Termination for Default**

Either Party may terminate this Agreement upon written notice to the other Party in the event that other Party breaches its obligations under this Agreement and fails to cure such breach within forty-five (45) days after receiving written notice of such breach.

### **11.3. Termination Authority**

The Director of Finance ("Director") is empowered to terminate this Agreement on behalf of City.

### **11.4. Consequences of Termination**

In the event of termination, Contractor shall deliver to City copies of all reports, documents, and other work performed by Contractor under this Agreement, City shall pay Contractor for services satisfactorily performed and reimbursable expenses properly incurred to the date of termination.

## **12. INDEMNIFICATION**

Contractor shall defend, indemnify and hold harmless City, its officers, employees and agents against any claim, loss or liability arising out of or resulting in any way from work performed under this Agreement due to the willful or negligent acts (active or passive) or omissions by Contractor's officers, employees or agents. The acceptance of said services and duties by City shall not operate as a waiver of such right of indemnification.

## **13. CONFIDENTIAL AND PROPRIETARY INFORMATION**

### **13.1. Confidentiality**

All data and information generated, collected, developed, discovered or otherwise saved in the System exclusively for the City, including derivative data (collectively the "Data") or received by or for Contractor in performance of this Agreement are confidential and must not be disclosed to any person except as authorized by City, or as required by law. Data does not include software programs, data models, scripts or interfaces based on Contractor's intellectual property.

### **13.2. Ownership of Materials**

All reports, documents or other materials developed or discovered by Contractor exclusively for the City, or any other person engaged directly or indirectly by Contractor to perform the Services under this Agreement, shall remain the property of the City. During the Term of this Agreement, the Contractor is granted authority to solely use City reports, documents, or materials to provide the Services under the Agreement with the City.

### **13.3. Ownership of Data**

The City shall maintain ownership and control of the Data throughout the Agreement period and in perpetuity. Contractor shall have the right to use the Data solely to perform Services under the Agreement with the City and for internal quality control purposes. Contractor may not use the Data, a subset of the Data, and/or a summary of the Data, or, cause or permit the Data, a subset and/or a summary thereof, to be used by any third party, outside the scope of the Agreement without the express written consent of the City other than for internal quality control purposes. Contractor shall provide City with a copy of the Data in a mutually-agreed-upon format upon Agreement expiration or termination. Since the Data is originated by the City and provided to Contractor, Contractor cannot and does not warrant that throughout all operational and maintenance activities the accuracy of the Data will be preserved. For clarity, while the Parties may agree that the Data is derived from a reliable source, the Parties acknowledge and agree that the accuracy and completeness of the Data cannot be guaranteed and that the Data may contain nonconformities, errors, omissions or other defects.

### **13.4. Enforcement**

The City and Contractor agree that damages are not adequate, and no adequate remedy at law exists for any threatened or actual disclosure or use of information by Contractor in violation of the provisions of this Agreement.

## **14. INSURANCE REQUIREMENTS**

Contractor agrees to have and maintain the policies set forth in Exhibit C, entitled "Insurance Requirements," which is attached hereto and incorporated herein. All policies, endorsements, certificates and/or binders shall be subject to approval by the Risk Manager of the City of San Jose as to form and content. These requirements are subject to amendment or waiver if so approved in writing by the Risk Manager. Contractor agrees to provide City with a copy of said policies, certificates and/or endorsements before work commences under this Agreement.

## **15. PRIVACY AND DISCLOSURE**

Contractor agrees to comply with the City's Privacy and Disclosure Policy set forth in EXHIBIT D entitled "Privacy and Disclosure Policy," which is attached hereto and incorporated herein, in the performance of the Services. Contractor shall ensure that all webpages that it creates are consistent with the Policy. Contractor further agrees that it shall treat all information received through the performance of this Agreement in strict accordance with the Policy.

## **16. WAIVER**

Contractor agrees that City's waiver of any breach or violation of any provision of this Agreement shall not be deemed to be a waiver of any other provision or a waiver of any subsequent breach or violation of the same or any other provision. City's acceptance of the performance of any of Contractor's services will not be a waiver of any provision of this Agreement.

## **17. INDEPENDENT CONTRACTOR**



Contractor, in the performance of this Agreement, is an independent contractor. Contractor shall maintain complete control over all of Contractor's employees, any subcontracting subcontractors, and Contractor's operations. Neither Contractor nor any person retained by Contractor may represent, act, or purport to act as the agent, representative or employee of City. Neither Contractor nor City is granted any right or authority to assume or create any obligation on behalf of the other.

## **18. COMPLIANCE WITH LAWS**

Contractor shall comply with all applicable laws, ordinances, codes and regulations (collectively, "laws") of the federal, state and local governments, including without limitation, any and all laws specified elsewhere in this Agreement.

## **19. CONFLICT OF INTEREST**

Contractor shall avoid all conflict of interest or the appearance of conflict of interest in performance of this Agreement.

## **20. NONDISCRIMINATION**

Contractor agrees that there shall be no discrimination against, or segregation of, any person, on account of race, sex, color, age, religion, sexual orientation, actual or perceived gender identity, disability, ethnicity, national origin, marital status, or family status, in connection with or related to the performance of this Agreement.

## **21. GIFTS**

### **21.1. Prohibition on Gifts**

Contractor acknowledges that Chapter 12.08 of the San Jose Municipal Code prohibits City's officers and designated employees from accepting gifts as defined in Chapter 12.08.

### **21.2. No Offer**

Contractor agrees not to offer any City officer or designated employee any gift prohibited by Chapter 12.08.

### **21.3. Breach of Agreement**

Contractor's offer or giving of any gift prohibited by Chapter 12.08 will constitute a material breach of this Agreement. In addition to any other remedies City may have in law or equity, City may terminate this Agreement for such breach as provided in Section 11 TERMINATION of this Agreement.

## **22. DISQUALIFICATION OF FORMER EMPLOYEES**

Contractor is familiar with Chapter 12.10 of the San Jose Municipal Code ("Revolving Door Ordinance") relating to the disqualification of City's former officers and employees in matters which are connected with their former duties or official responsibilities. Contractor shall not utilize either directly or indirectly any officer, employee, or agent of Contractor to perform

services under this Agreement, if in the performance of such services, the officer, employee, or agent would be in violation of the Revolving Door Ordinance.

## **23. CONTRACTOR'S BOOKS AND RECORDS**

### **23.1. Maintenance during Term**

Contractor shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other documents evidencing or relating to charges for services, or expenditures and disbursements charged to City for a minimum period of three (3) years, or for any longer period required by law, from the date of final payment to Contractor pursuant to this Agreement.

### **23.2. Maintenance after Term**

Contractor shall maintain all documents which demonstrate performance under this Agreement for a minimum period of three (3) years, or for any longer period required by law, from the date of termination or completion of this Agreement.

### **23.3. Inspection**

Any documents required to be maintained pursuant to this Agreement must be made available for inspection or audit, at no cost to City, at any time during regular business hours, upon written request by the City Attorney, City Auditor, City Manager, or a designated representative of any of these officers. Contractor shall provide copies of such documents to City for inspection at City Hall when it is practical to do so. Otherwise, unless an alternative is mutually agreed upon, the records shall be available at Contractor's address indicated for receipt of notices in this Agreement.

### **23.4. Custody of Records**

Where City has reason to believe that any of Contractor's documents relating to this Agreement may be lost or discarded due to dissolution, disbandment or termination of Contractor's business, City may, by written request by any of the above-named officers, require that custody of the Contractor's documents be given to City and that these documents be maintained in City Hall. City agrees to grant access to Contractor's documents to any party authorized by Contractor, Contractor's representatives, or Contractor's successor-in-interest.

## **24. ASSIGNABILITY**

The parties agree that the expertise and experience of Contractor are material considerations for this Agreement. Unless specifically authorized by this Agreement, Contractor may not assign the performance of any obligation or interest under this Agreement without the prior written consent of City. Any attempt by Contractor to assign this Agreement, in violation of this Section, will be voidable at City's sole option. Notwithstanding the foregoing, a party may assign this Agreement without the other party's consent (i) as part of a corporate reorganization, consolidation, merger, or sale of substantially all of its assets or capital stock.

## **25. SUBCONTRACTORS**

## **25.1. Authorized Subcontractors**

Notwithstanding Section 24 ASSIGNABILITY above, Contractor may use designated subcontractors. Contractor must obtain City's prior written consent in order to change or add subcontractors that may be working at City premises. Contractor shall be responsible for directing the work of the approved subcontractors and for any compensation due to subcontractors. City assumes no responsibility whatsoever concerning such compensation.

## **25.2. Compliance with Agreement**

Contractor shall ensure that Contractor's subcontractors comply with this Agreement. At City's request, Contractor shall require any or all of Contractor's subcontractors to sign an agreement with Contractor requiring compliance with this Agreement.

## **26. GOVERNING LAW**

This Agreement must be construed -- and its performance enforced--under California law.

## **27. JURISDICTION & VENUE**

In the event that suit is brought by either party to this Agreement, the parties agree that venue must be exclusively vested in the state courts of the County of Santa Clara, or where otherwise appropriate, exclusively in the United States District Court, Northern District of California, San Jose, California.

Contractor further agrees that in the event of a lawsuit involving this Agreement is filed by City, Contractor will unconditionally accept the jurisdiction of a federal or state court located in Santa Clara County, California.

## **28. NOTICES**

All notices and other communications required or permitted to be given under this Agreement must be in writing and must be personally served, or mailed, postage prepaid via U. S. mail, or sent via courier service, addressed to the respective parties as follows:

### **To City:**

City of San Jose  
Attention: Director of Finance  
200 E. Santa Clara Street, 13th Floor  
San Jose, CA 95113

### **To Contractor:**

Tutor.com, Inc.  
Attention: Sandi White, General Manager  
110 E.42<sup>nd</sup> Street, Suite 700,  
New York, NY 10017

### **and copy to:**

Tutor.com, Inc.  
Attn: Legal Department  
110 E.42<sup>nd</sup> Street, Suite 700  
New York, NY 10017

Notice will be effective on the date personally delivered or if sent by courier service, on the date of receipt. If mailed, notice will be effective three (3) days after deposit in the mail. The parties may change their respective addresses in accordance with the provisions of this Section.

## 29. MISCELLANEOUS

### 29.1. Survival of Provisions

If any part of this Agreement is for any reason found to be unenforceable, all other parts nevertheless remain enforceable.

### 29.2. Assignment

Subject to the provisions of 24 ASSIGNABILITY of this Agreement binds and inures to the benefit of the parties and their respective successors and assigns.

### 29.3. Headings

The headings of the sections and exhibits of this Agreement are inserted for convenience only. They do not constitute part of this Agreement and are not to be used in its construction.

### 29.4. Authority of Director of Finance

Where this Agreement requires or permits City to act and no officer of the City is specified, City's Director of Finance or the designated representative of City's Director of Finance has the authority to act on City's behalf.

APPROVED AS TO FORM:

\_\_\_\_\_  
Rosa Tsongtaatarii  
Senior Deputy City Attorney

**City of San José**  
a municipal corporation

By \_\_\_\_\_  
Name: Mark Giovannetti  
Title: Deputy Director, Finance  
Date: \_\_\_\_\_

**Tutor.com, Inc. "Contractor"**  
a New York corporation

1. By \_\_\_\_\_  
*First Authorized Signature*  
Name: Anthony Pane  
Title: Chief Financial Officer  
Date: \_\_\_\_\_

2. By \_\_\_\_\_  
*Second Authorized Signature*  
Name: Kate Walker  
Title: Chief Executive Officer  
Date: \_\_\_\_\_

## Exhibit A – Scope of Services

The following Scope of Services defines the principal activities and responsibilities of Contractor and the City of San Jose (hereinafter “City”) for the implementation of the Live Online Homework Help Services System (“System”).

### 1. SYSTEM DESCRIPTION

1.1. The System is a hosted solution that can be accessed via the internet with any internet ready device and support both in-library and remote access as follows:

- In-Library users – through IP address
- Remote access users - with a valid library card number and authentication process

1.2. The System shall be compatible with the most common operating system environments and accessible using a variety of web browsers and detailed in Appendix A2 – Technical Requirements, summarized below:

<b><u>Operating System Environment/Platform*</u></b>	<b><u>Browsers</u></b>
<ul style="list-style-type: none"><li>• Windows</li><li>• iOS</li><li>• Android</li><li>• Macintosh</li></ul>	<ul style="list-style-type: none"><li>• Google Chrome</li><li>• Internet Explorer</li><li>• Safari</li><li>• Firefox</li><li>• Android</li></ul>

\*The System shall include the Tutor.com to GoTM mobile app available on both iOS and Android platforms.

1.3. The System provides an interactive learning environment for student, including chat window, multiple white boards, file sharing and website sharing.

1.4. The System shall be available to students seven (7) days a week, excluding major holidays, from 2:00 PM to Midnight daily (Pacific Standard Time), in multiple languages: English, Spanish and Vietnamese.

1.5. The System shall enable students to connect long enough to get the help needed or until their questions are answered.

1.6. The system shall be secure and protect customer transcripts, names, etc.

1.6.1. Contractor shall not collect or retain any library patron information. No personal accounts shall be created, no email addresses shall be collected, no usernames shall be created. The System shall be one hundred percent (100%) anonymous service for live, on-demand, online tutoring. Contractor shall validate the library card entered by students and then discarded, never stored by system.

1.6.2. All library patron information is City property and shall not be accessible, made available or sold to any third party without prior written consent from the City. The Contractor shall comply with Exhibit D entitled Privacy and Disclosure Policy.

- 1.7. The System shall provide City's branding such that the various web pages can display the City's look and feel including City's logo for co-branding etc.
- 1.8. The System shall have an uptime of ninety-nine percent (99.99%) during service hours.
- 1.9. Contractor shall perform data and system backups daily to enable seamless data recovery.

## **2. SYSTEM SECURITY**

The System shall operate at a high level of security using appropriate encryptions, data integrity checks and strong authentication in accordance utilizing the following measures:

- 2.1. Contractor's primary data center is a CyrusOne facility located in Wappingers Falls, New York, which was built using Tier III standards as a baseline and is both SSAE 16 and PCI compliant. Physical access to the data center, as well as electronic access to key infrastructure components, is limited to a small group of critical technical personnel with privileged admin accounts. These admin accounts must have passwords that contain at least 12 characters, with a mixture of upper, lower, numeric, and special characters. Privileged account passwords must be changed every 90 days, and passwords may not be reused for at least 24 cycles. All passwords are encrypted while stored.
- 2.2. All system data, including patron account information and tutoring session records, shall be encrypted with industry-standard triple-DES cryptography and backed up to tape every four hours using HP MSL8096 Ultrium 3280 LTO 8GB Fiber. Tape backups are retained on-site at Contractor's CyrusOne facility in Wappingers Falls for 30 days. After 30 days, system data are transferred to Amazon Web Services' Glacier for long-term storage.
- 2.3. To ensure availability and integrity, Contractor shall monitor their environment internally and externally using systems such as ipMonitor by Solarwinds, performance monitoring by Keynote, and other internal tools. A dedicated information security team monitors the servers and network, daily security audits are conducted using McAfee's Hacker Safe products, and CyrusOne also provides external monitoring from 10 disparate geographic locations. Contractor shall use additional tools on as as-needed basis, including Rapid7 for vulnerability scanning and Whitehat for penetration testing.

## **3. MANAGEMENT PLAN**

Contractor shall provide program management including weekly monitoring of program usage, coordination and delivery of reports and marketing materials customized for San José Public Library, development and delivery of library staff training, implementation of program enhancements, additional features and completion of changes requested by the Library.

## **4. PROGRAM MAINTENANCE TASKS**

Since the Contractor's System is currently installed, there are no implementation requirements. Instead, Contractor shall perform the Program Maintenance Tasks as detailed in Appendix A4.



## **5. IMPLEMENTATION**

Not applicable. The System has previously been implemented and this Agreement is for continuation of services.

## **6. CITY RESPONSIBILITIES**

This Agreement is for continuation of services. The City will be responsible for the following activities as may be required.

- 6.1.** City shall review Welcome/Implementation Kit and reviews the Getting Started Guide.
- 6.2.** City shall determine placement of Live Homework Help information, graphics and links on the library website and in-library computers.
- 6.3.** City shall place information about the Live Homework Help service with a link to the co-brand page on the Library's homepage and include information explaining the program to patrons.
- 6.4.** City shall test the links from inside the library as well as remotely through the website from outside the library.
- 6.5.** City shall coordinate staff training.
- 6.6.** City shall receive and distribute promotional materials within library, schools and community.
- 6.7.** City shall review monthly usage reports and quarterly newsletters.

## **7. CONTRACTOR SERVICES**

### **7.1. Hours of Operation**

- 7.1.1.** Contractor shall provide on-demand tutoring 2:00 p.m. – 11:59 p.m., seven days per week and fully staffed 24/7, excluding holidays (New Year's Day, Fourth of July, Thanksgiving Day, Christmas Day).
- 7.1.2.** The City may add morning and early afternoon hours for the Career Center, opening at 10:00 a.m. at no additional cost to the City.

### **7.2. Connection**

- 7.2.1.** Contractor shall ensure an average wait time of under two minutes for student to connect and begin working with a tutor. Once a student enters the virtual classroom, they are immediately connected with their tutor who then stays with that student the entire session.
- 7.2.2.** While the average tutoring session lasts 20-25 minutes, tutors shall work with a student longer should they need more time to meet the session goals: 1) higher level of understanding, 2) answer their questions, and 3) develop critical thinking

skills. Once a student has demonstrated understanding and self-sufficiency in the area being addressed, the tutor encourages the student to try remaining questions on their own, as they would have to do on a test or in real life situations, and log back in for additional help if needed.

### **7.3. Live Homework Help (K-12, College and Adult Learners)**

- 7.3.1.** Contractor shall provide live homework help in various subjects and grade levels (K-12) that support the education standards and California school curriculum, and also offers live help that supports college-level and adult learning, as described in detail in Appendix A1, Section 6:
- 7.3.2.** Contractor shall provide homework help in multiple languages: English, Spanish and Vietnamese.
- 7.3.2.1.** Contractor shall provide bilingual Spanish and Vietnamese speaking tutors in math, science and social studies – including U.S. Citizenship Test preparation.
- Spanish speaking tutors are available 10:00 a.m. – 12:00 a.m. (midnight) PST., seven days per week.
  - Vietnamese speaking tutors are available 2:00 p.m. – 10:00 p.m. PST.
- 7.3.2.2.** In addition to providing tutors in these languages, Contractor takes extra step to translate the pre-session questionnaire into Spanish and Vietnamese using a language toggle, making it easier for non- English speakers to connect with the help they need.
- 7.3.3.** Contractor shall provide tutoring services to students in a timely manner, with approximate wait times of 2.5 minutes on average, to enter a session with a tutor. Contractor shall monitor the waiting queue for all grades and subjects, and alert additional tutors to login to alleviate the queue.
- 7.3.4.** Contractor shall provide one-to-one service for all students at all times.
- 7.3.5.** Contractor shall provide additional services in addition to homework assistance such as essay or research paper review, Science Fair Projects, Final Project or Term Paper Support, Test and Quiz Preparation, Writing Skills etc.

### **7.4. Additional Services**

The Contractor shall provide additional services as part of their Learning Suite as detailed in Appendix A1 – Features and Capabilities and Appendix A3 – Tutor.com Learning Suite. Below is high level summary of the additional services:

- 7.4.1.** WriteTutor coaching through live, online interactive sessions or asynchronous review and feedback sessions.
- 7.4.2.** Test Preparation for course exams, Advanced Placement® tests, college entrance exams, the GED and U.S. Citizenship test.
- 7.4.3.** SAT/ACT Essentials step up the college readiness game by providing students access to practice tests and resulting score reports through the self-paced study

portal. Expert advice to help students navigate the college application process is also available through the portal.

- 7.4.4.** Skills building and practice drills through the 24/7 SkillsCenter Resource Library, including flashcards, practice worksheets, instructional videos and vetted educational website.
- 7.4.5.** Job Search Assistance with expert career coaches that assist with identifying job leads, completing applications, writing cover letters and résumés and preparing for interviews.
- 7.4.6.** Career Coaches connect in live online sessions to lead job seekers through the job search process from identifying job leads all the way through the interview process.
- 7.4.7.** Cover Letters & Résumés can be reviewed 24/7 using asynchronous drop-off review service.

## **8. REPORTS**

- 8.1.** Contractor shall provide standard monthly reports delivered via email in both Excel and PDF format and also archived for library staff. All monthly reports will be archived and available online for staff through the Client Portal. The monthly reports can also be run through the Client Portal as a Program Snapshot Report for varying date ranges. The Monthly reports include:
  - Cumulative usage
  - Charts, Graphs and Trend Analysis
  - Grade level
  - Subject
  - By granular scope/topic (optional)
  - Zip code (optional)
  - Location/School/Library
  - Exit survey results
  - Student comments and feedback
  - Ad hoc reporting of sessions by day and hour upon request
  - Ad hoc reporting of sessions by grade level and subject (matrix) by request
- 8.2.** Contractor shall provide an online Administrator's Client Portal for easy access to on-demand reporting. The Client Portal includes a reporting tool that allows data to be pulled for flexible date ranges. In addition, all monthly reports are archived in the Client Portal for easy access. On-demand reports in the Client Portal include: Program Snapshot, Student Usage, Individual Student Session, Topic Drilldown and Admin Access.
- 8.3.** System shall have the ability to export report data directly to the most common PC applications including Excel, Access and Word.
  - 8.3.1.** Reports generated through the Client Portal may be viewed within an administrator's web browser, or exported to common formats like XLSX, CSV, XML, TIFF, PDF, Web Archives and Excel files to facilitate uploading student usage data into third-party visualization tools like Tableau. To integrate usage data with third-party report writers like Crystal, Tutor.com also provides a dedicated

reporting API, which participating clients may call to fetch Tutor.com session data as a JSON or XML-formatted string. Calls to the reporting API are secured with a shared secret and may be automated to fetch data on a recurring basis, e.g., daily, weekly, monthly, etc.

**8.4.** System shall have Ad hoc reporting capability to allow Library to create or view its own reports and customize them.

**8.4.1.** Contractor shall provide Ad hoc reports when requested. Contractor shall also provide quarterly and annual narrative reports, statistics summaries, session transcripts and ad hoc reports with additional statistics upon request. Examples of these ad-hoc reports are matrix report of sessions by day and hour and matrix report of sessions by grade level by subject.

## **9. TRAINING**

### **9.1. Library Staff Training**

Contractor shall provide library staff training to fully understand the administrative features, and help library staff understand when to recommend the service to patrons, how to promote the service within the community, how to demonstrate the service to patrons and how to answer most frequently asked questions.

**9.1.1.** Contractor shall provide both in-person and online product training for library staff as may be required. These training sessions typically run 60-90 minutes and can be scheduled at a time convenient to staff members.

**9.1.2.** Contractor shall also provide pre-recorded webinar training and pre-scheduled monthly live training webinars. Staff training answers questions such as:

- What is Tutor.com?
- With what can Tutor.com service help?
- Who are Tutor.com tutors?
- What teaching methods are used?
- How does the interface work?
- What marketing and promotional support is available?

**9.1.3.** Contractor shall provide an overview of Live Homework Help; a real-time session with an online tutor in the Live Homework Help online classroom; and a review of marketing materials and marketing tips and strategies for a successful Live Homework Help program.

**9.1.4.** Contractor shall provide City list of upcoming public training classes. The trainings will focus on how to use the online classroom, as well as promotion and marketing of the Live Homework Help program.

**9.1.5.** Library Administrative Training: Contractor shall provide training for library program administrators and managers to learn how to use the Client Portal Dashboard and on-demand reports as well as the Client Resource Center. Library Administrative Training typically lasts 45-60 minutes.

**9.1.6.** Professional Development Webinars for Library Staff: Contractor shall provide quarterly professional development webinars presented by a variety of

professionals, covering topics relevant to libraries and librarians today. Professional Development Webinars typically last 60-90 minutes.

## **9.2. End User (Student /Patron) Training**

- 9.2.1.** Contractor shall provide end user training to Library Patrons via an online video demonstration that is linked to directly in the Tutor.com program for patrons wishing to watch an overview of the service and features. The current video is less than 10 minutes long.
- 9.2.2.** Contractor shall also provide a step-by-step “How to Use Tutor.com” handouts the library may provide to patrons and prebuilt, pre-scripted PowerPoint presentations librarians can use, if desired, to present the service to students, parents and teachers. Each demonstration tool is geared towards its specific audience and covers FAQs such as how to access and use the service, what type of help is available, who the tutors are and how they are selected and a description of the Human Center Learning pedagogy.
- 9.2.3.** Transcripts of Sessions. End Users shall be able to receive transcripts via email, print full transcripts and replay the session in video mode. Users that create a free, anonymous Tutor.com account are able to access their previous sessions through the My Account – My Sessions tab in Tutor.com. Tutor.com transcripts shall include the written chat log, active links to shared resources and shared files as well as screenshots of all whiteboards used within the session.

## **10. QUALIFICATIONS OF TUTORS**

Contractor shall thoroughly screen qualifications of tutors including background checks to protect students.

### **10.1. Screening Process**

Contractor’s screening process shall ensure that each tutor meets a rigorous standard of quality and must demonstrate, through a formal academic assessment, knowledge of and the ability to assist in instructing in their subject of expertise. They must:

- demonstrate a high level of subject matter expertise through a subject exam,
- be able to effectively tutor students in the recognized practices that lead to learning success,
- be able to use Tutor.com’s technology and interact successfully with students in the online environment.

### **10.2. Background Checks**

Contractor shall perform background checks on all of its employees and all tutors.

## **11. QUALITY ASSURANCE**

- 11.1.** Contractor shall provide high standard of quality assurance in hiring practices and tutor certification.
- 11.2.** Manage content of online Tutor Resource Center.
- 11.3.** Develops and maintains all quality control procedures.
- 11.4.** Maintain Mentor Program for every tutor. The mentor shall review tutor's sessions on a regular basis and provide support and feedback.
- 11.5.** Build quality assurance features into the software, so as to flag sessions that contain inappropriate language or personally identifying information such as a phone number or email address.
- 11.6.** Provide complete online session transcript review. A complete transcript review shall occur where there is content flagged by software, a student complaint, or post-session survey score is low.
- 11.7.** Review student comments and any low ranking scores from students shall be followed up with a call from the Mentor to the tutor.
- 11.8.** Review Librarian feedback, complaints or issues.
- 11.9.** Review tutor feedback for potential improvements to service.

## **12. SYSTEM MAINTENANCE AND SUPPORT SERVICES**

Contractor shall maintain all software, the availability of tutors, technical and customer support services and all related services and support.

### **12.1. System Maintenance/Support Services:**

Contractor shall provide full managed services, including complete web hosting, monitoring and maintenance, technical and user support as detailed below.

- 12.1.1.** Contractor shall perform preventative maintenance on System during times scheduled downtimes. Contractor shall notify City in advance of all scheduled maintenance, upgrades or down time via email. Planned activities including upgrades, patches will be performed during the hours in which City's service is closed (1:00 AM through 2:00 PM Pacific Standard Time).

- 12.1.2.** Provide timely response to technical support requests (connection and compatibility issues) via email and phone to both library staff and patrons.:

- 12.1.2.1.** Dedicated Client Services Manager shall be the City Staff's first point of contact for anything Tutor.com related. They will be able to provide front-line support on nearly all issues at the institutional level. They can be reached seven days per week via email through Tutor.com's shared



support address and through phone Monday through Friday, 9:00 AM – 8:00 PM. (Pacific Standard Time).

12.1.2.2. Email Support through ticketing system available 24/7:

- For Library: [ClientSupport@tutor.com](mailto:ClientSupport@tutor.com).
- For Patrons: [LibrarySupport@tutor.com](mailto:LibrarySupport@tutor.com).

12.1.2.3. Student Live chat support shall be available seven (7) days a week, from 9:00 AM to 7:59 PM (Pacific Standard Time).

12.1.2.4. Student Phone Support:

- Unlimited toll-free telephone support at 1-888-888-6726 x552 seven (7) days a week, from 7:00 AM to 3:00 PM Pacific time.
- Response Time. Contractor shall provide a response to a telephone support call the same day on which it receives the call when the call is placed during business hours. When an emergency call is placed, where critical operations have ceased, a return call will be made within one (1) hour. When a telephone support call is placed during City's non-business hours, Contractor shall provide a response not later than 11:00 AM, Pacific Time, on the next business day.

**12.1.3.** Contractor shall ensure that only properly trained Contractor technicians or other qualified personnel perform the System Support Services, as defined below.

12.1.3.1. The System Support Services shall be sufficient to enable the System to perform in accordance with this Scope of Services and all representations, warranties and specifications provided to City by Contractor in connection with this Agreement, and any amendments or addenda thereto that may be issued from time to time.

**12.1.4.** Contractor will continually monitor web hosted solution. Should any malfunction appear, Contractor shall immediately notify the City and proceed to resolve the issue.

**12.1.5.** Contractor shall perform remote diagnostics monthly or on such other schedule as Contractor deems appropriate based on reported problems.

**12.1.6.** Contractor shall provide any changes to original configuration or website integration as may be required by City that are consistent with proposed solution.

**12.1.7.** Contractor guarantees the availability of long-term support for a minimum length of the Term of this Agreement and any subsequent terms. Contractor will perform all maintenance, customizations, upgrades and service associated with the System.

12.1.7.1. Contractor shall provide both in-person and online product training for library staff for general product training as well as special training for any upgrades and configuration changes, as needed. These training sessions typically run 60-90 minutes and can be scheduled at a time convenient to staff members. Contractor also provides pre-recorded webinar training and prescheduled monthly live training webinars.

## **12.2. Customer Support Services:**

**12.2.1.** Full Staff Training: available both in-person and online. Tutor.com suggests annual full staff trainings and also provides recorded training webinars throughout the year.

**12.2.2.** Website, Contact and Authentication Audits: Tutor.com will conduct an audit of San José Public Library's website links to Tutor.com annually or as usage trends indicate a sudden change or need for change. Contractor will also review contact information for key library staff and program authentication methods to ensure the most up-to- date and relevant information.

**12.2.3.** Marketing Support and Promotional Materials: Contractor shall provide marketing material to the City on a regular basis at no additional cost.

12.2.3.1. Contractor shall assist and support the Library in creating a marketing plan to build awareness of program availability to patrons and will provide promotional materials necessary to implement the marketing plan.

12.2.3.2. Contractor will also provide monthly tips for promoting the service through a Community Impact newsletter and Building Awareness email lists, and library staff has 24/7 access to the Tutor.com Client Resource Center which houses over 100 promotional and demonstration tools as well as staff training opportunities.

12.2.3.3. All promotional material is customized to the library's approval with the SJPL logo and website.

12.2.3.4. Special requests for materials to use at scheduled programs or events as needed. Library staff may also use the Client Resource Center to view available material and download and print material for smaller or rush orders.

**12.2.4.** Program Usage Reporting and Monitoring: Tutor.com staff monitor program usage on a weekly basis, analyzing trends and progress towards goal. When differentiations in trends are noted, the Tutor.com staff will proactively communicate this information with library staff and make suggestions for any necessary program changes or marketing initiatives. In addition, designated library staff will receive monthly usage reports via email and have access to on-demand reports and usage dashboards through the Client Portal.

**12.2.5.** Provide on website Frequently Asked Questions (FAQs) related to a variety of issues, such as connection, services offered etc.

12.2.5.1. Contractor's System shall have a direct link to FAQs at the bottom of every program page. In addition, Contractor shall provide a link to a demonstration video on the entry page for students needing guidance on how to use each feature within the service.

12.2.5.2. City Staff may use the student FAQ or video

12.2.5.3. Provide additional information on the Client Resource Center. Some examples follow:

- “How to Use Tutor.com”
- “How to Use Essentials”
- “10 Things Teachers Should Know About Tutor.com”
- “10 Things Parents Should Know About Tutor.com”
- “Safe & Secure Assurance by Tutor.com”

**12.2.6.** Contractor shall use several methods of collecting customer and student feedback for possible future service enhancements. Students are encouraged to leave post-session comments after each session. In addition:

- Contractor shall conduct annual surveys to learn more about student’s learning needs and improve customer service.
- Library staff may provide feedback directly to the Contractor’s Client Services Manager and also through an annual Client Survey.

### **13. UPGRADES AND ENHANCEMENTS**

**13.1.** Contractor will provide all upgrades and enhancements, as defined herein, at no additional charge.

**13.2.** For purposes of this Agreement, the terms “upgrades” and “enhancements” shall include without limitation any and all releases that have the following functions and purposes: (i) implementing correction of System (or component application) errors or malfunctions; (ii) adding new System features, functions and performance capabilities, including modifications designed to meet federal, state and legally mandated requirements; and (iii) changing the intellectual property contained in the programs.

**13.3.** Contractor shall provide to City any documentation describing the functions, features and performance capabilities that have been modified by the upgrade or enhancement, and shall give City adequate notice of the availability of each upgrade or enhancement by email within five (5) days of its publication, or as soon as practicable thereafter.

### **14. EXIT STRATEGY**

**14.1.** The City will own the data contained in the System and upon termination, expiration or non-renewal of this Agreement, Contractor agrees to provide all data through database export to the City in a format that is compatible with the City’s enterprise database platform at no additional cost.

**14.2.** At the termination of the Agreement, all data at the Contractor’s facilities shall be purged at no additional cost when City determines that it has satisfactory copies of the data.

## **Appendix A1 – Features and Capabilities**

### **1. INTERACTIVE LEARNING ENVIRONMENT**

#### **1.1. Login**

After authentication through the San José Public Library, students create a free, personalized Tutor.com account. Account holders remain completely anonymous to the tutors and Tutor.com fully complies with the latest COPPA regulations in regards to account creation and management. Currently, San José Public Library requires users to create an account so that the library may limit usage to seven (7) sessions per week per student. However, the library may choose to remove this requirement and make account creation optional.

#### **1.2. Connecting**

The Tutor.com connection process has been streamlined to allow students to get the help they need quickly. Upon login, students immediately see the options for help. They may choose to connect to a tutor right away by answering four simple questions: grade level, topic, subject and question or the student may choose to access their personalized features or utilize one of the many self-study tools.

**1.2.1.** Once in the online classroom, students and tutors communicate through chat, use an interactive whiteboard, share online resources and view files together, all in real time within the recorded classroom environment.

**1.2.2.** Easy-to-use interactive classroom provides all of the tools necessary for a high quality, engaging tutoring session including chat, whiteboard with drawing tools, website and file sharing, session review options and much more. The whiteboards allow both the tutor and patron to demonstrate their work, as well as provide feedback to the other's work directly to the whiteboard.

**1.2.3.** Session transcripts include images of all whiteboards used during that session.

#### **1.3. Chat**

Tutor.com's online classroom has a chat window where students can control the font size, and colors for maximum readability. Students can personalize their session with a wide choice of avatars that are also used by the tutors to increase the fun and friendly aspect of the educational experience.

#### **1.4. Whiteboard with Drawing Tools**

The whiteboard is where student and tutor collaborate on drawings, equations, diagrams, graphs and much more in real-time using a variety of standard and advanced drawing tools. The whiteboard expands as student and tutor fill the screen, like a never-ending sheet of paper. Students and tutors also have the ability to add more whiteboards if they would like a clean workspace without having to erase work already done. The tools are arranged in a manner that does not overwhelm younger or less-skilled computer users while still providing all of the advanced features and functionalities expected by advanced users.

## **1.5. In-Classroom Resource Sharing**

Students may request a tutor open a URL within the classroom to be shared and viewed simultaneously. Tutors also launch websites within the online classroom to share additional resources, improve the student's information literacy and provide practice exercises or tests. All websites are reviewed by the tutor before sharing in the classroom to ensure age appropriate material, minimal advertisements and quality of information. All links are saved for easy access in the recorded session.

## **1.6. In-Classroom File Sharing**

Students and tutors can send files through the online classroom and view them together to collaborate on solutions. Several file types are compatible including pdf, rtf, txt, doc, exe, ppt, jpg and more. These files do not open in a separate window, but within the classroom itself. This unique technology helps students improve writing and editing skills, but it is also used to share homework assignments to save time and make the session more efficient. Educational experts believe the best tutoring occurs on-demand. The tutors coach students in real time – walking them through edits to their papers, confirming a student's understanding of complex concepts and using the student's strengths to guide them toward improvement in weaker areas.

## **1.7. Post-Session Follow-Up**

At the end of every session, students are presented with an optional post-session survey. These survey results are shared with the library in monthly reports. Tutor.com uses the student feedback to enhance services and as part of tutor monitoring program.

## **1.8. Session Review**

Students are also presented with session review options at the end of every session so that they may always have and share a record of the lesson. Students are able to review their sessions by emailing themselves a copy of the full transcript (including chat log, whiteboards and active links to all shared resources and files), printing a full transcript or even replaying a video of the session.

## **1.9. Parallel Mobile Interface**

Students using the Tutor.com service through a mobile device will have a parallel experience to PC/Mac users. Tutor.com's mobile classrooms are built to customize for each device depending on screen size and operating system.

## **1.10. The Princeton Review**

**1.10.1.** In addition to live tutoring and asynchronous tutor feedback/reviews, Tutor.com also includes several self-study options including the Princeton Review SAT/ACT Essentials Test Prep, the 24/7 SkillsCenter Resource Library and Practice Quizzes/Skills Drills.

**1.10.2.** SAT/ACT Essentials takes college-readiness to the next level by providing an amazing self-study test preparation course and expert advice from The Princeton Review for students navigating the college application process. In conjunction with using the Tutor.com Learning Suite to achieve an acceptable GPA for college admittance and constructing well-written application essays, students also use SAT/ACT Essentials to reach their target test scores on the ACT or SAT. In this self-paced study portal, students have access to full length practice tests and resulting score reports. Tutor.com's expertly-built recommendation engine then designs a study plan with suggested Princeton Review video lessons and practice

drills based on the student's practice test results. To complete the process, Tutor.com guides college-bound students through the complex application process using informational articles on important topics such as writing strong application essays, choosing a best-fit school, applying for financial aid and building an impressive college application résumé.

**1.10.3.** Other features include:

- Full Length Practice Tests
- Comprehensive Score Report and Progress Chart
- Personalized, Recommended Videos and Practice Drills for Areas of Focus
- Expert College Admissions Advice from the Princeton Review

## **2. SKILLS CENTER RESOURCE LIBRARY**

As a supplement to the one-to-one personalized instruction, Tutor.com provides access to thousands of online resources through the SkillsCenter Resource Library. The SkillsCenter is a database of fully-vetted educational information both student and tutor can use to complement a lesson. Resources include informational websites, instructional videos, learning games, customizable flash cards, practice tests, expert advice, previously recorded Tutor.com sessions and job search resources.

## **3. PRACTICE QUIZZES**

Academic practice quizzes allow students to identify and target areas of weakness by providing an immediate score report and a direct connection to tutors and resources for missed questions.

## **4. CAREER CENTER**

The Tutor.com Career Center is a comprehensive, yet simple and easy-to-use, career development resource in which career coaches work with job seekers in real-time, providing individualized help the moment patrons need it. The Tutor.com Career Center provides all of the features and services needed to develop their job searching and career skills.

- 4.1. Real-Time Résumé and Cover Letter Writing Strategies:** Using the WriteTutor™ Writing Center, Tutor.com's career coaches work live, one-to-one with job seekers to ensure their résumés reflect their accomplishments and meet the requirements of the sought after jobs. The WriteTutor™ Writing Center is Tutor.com's unique online collaboration tool which allows the tutor and patron to edit documents, such as cover letters and résumés in real-time. Career coaches can also help patrons create résumés and cover letters from scratch. Career coaches will even ensure the résumé has key words associated with the job for which online software will scan before forwarding the résumé to hiring managers. Tutor.com is the only online tutoring company that enables live editing of shared documents by both career specialist and student.
- 4.2. Interview Preparation:** Career coaches conduct mock interviews asking patrons the most frequently asked questions tailored to the industry they are pursuing to ensure they are ready for upcoming interviews. They are also able to help job seekers research the companies with which they are interviewing.
- 4.3. Online Job Applications:** Career coaches show patrons how to submit their applications online which is often required by potential employers. This is easy to do with Tutor.com's web sharing tool.



- 4.4. Job Search - National and Local: Search national and local job openings throughout New Jersey and in metro areas across the United States. This is easy to do with Tutor.com's web sharing tool.
- 4.5. Recorded Career Webinars: Library patrons will have unlimited access to videos of Tutor.com's popular Career Webinars featuring author and résumé expert Barbara Safani.
- 4.6. Career Resources: Thousands of vetted, rated resources are available 24/7 in the Career Resource Center. Resources include archived career webinars with supporting résumé templates and FAQs provided by exclusive partner Career Solvers, résumé templates and samples for all levels of employment positions, career assessment tools, job search guidelines and much more.

## 5. PERSONALIZED FEATURES

To enhance the learning experience, students have the option to create a free, fully-COPPA/CIPA compliant Tutor.com account. When creating an account, students still remain completely anonymous in Tutor.com's online classroom. For those students that create an account, they have the ability to retrieve previously saved information such as:

- Favorite Tutors: Students can tag and reconnect with their favorite tutors.
- Previous Sessions: Tutor.com saves student sessions in their Previous Sessions list.
- Locker: Students and job seekers can save documents such as homework assignments, written essays, lab reports and résumés for easy retrieval and sharing within the classroom in their virtual locker.



## 6. LIVE HOMEWORK HELP SERVICES IN VARIOUS SUBJECTS AND GRADE LEVELS

### 6.1. Current Offerings

Tutor.com provides online homework help, tutoring, test preparation and job search assistance to learners from kindergarten through college as well as adult learners and job seekers. The tutoring staff are experts in over forty (40) different subjects and test preparation areas.

Math*	Science*	Social Studies*	Languages	WriteTutor	Test Prep.	Job & Computer	Drop-Off Reviews
Basic I & II	Basic	U.S. History	English	Book Reports	AP® Tests	MS Word & Excel	Algebra I through Calculus
Algebra I & II	Earth Science	European History	-Grammar	Essay	ACT	MS PowerPoint	Writing
Geometry	Biology	World History	-Literature	Letter	PSAT	Job Search	Cover Letters
Trigonometry	Chemistry	Civics & Government	-Vocabulary	Research Paper	SAT	Job Applications	Résumés
Pre-Calculus & Calculus	Physics	Geography	-Reading Comp.	Short Stories	GED/HiSet	Cover Letters	
Statistics			ESL/ELL	College Application Essays	Citizenship	Résumés	
*Bilingual Spanish tutors available			Spanish			Interview Prep	
College-intro, AP® & IB Levels Included							

## 6.2. California Common Core Alignment

- 6.2.1.** The above offerings are consistent with the state of California Common Core Standards. These standards address what students should be learning at every grade level in math, literacy, science and social studies and drastically change the focus of student learning. The standards focus on the development of critical thinking skills and an understanding of underlying concepts rather than on repetition, drill and kill and rote memorization, which are facets of traditional skills-building programs.
- 6.2.2.** Tutor.com tutors work with students using, among other techniques, the Socratic method to encourage students to propose next steps, draw conclusions, hypothesize results and articulate their thinking. It is through this type of work that students will be prepared to achieve on common-core focused assessments that will require them not simply to select a correct answer on skills building worksheets but to generate solutions to problems and relate those solutions to real world applications.

## 6.3. Human Centered Learning

Learning starts with connecting brain matter. Simply stated, learning happens when you connect new information to old knowledge. The brain creates pathways, which helps students connect to material uniquely and retain information for longer periods of time. This revolutionary concept and science of how the brain works is the foundation for how Tutor.com helps students learn.

### 6.3.1. The Six Principles To Student Learning – Based On How The Brain Works

- The more you know, the more you learn. Activating prior knowledge helps retain and relate to new information. Building on what learners already know strengthens connections in the brain.
- Relevance is key. Connecting concepts to real-world situations helps learners relate and hold on to knowledge for a longer period of time.
- Practice makes perfect. Performing skills with repetition helps learners perfect and connect more quickly.
- The brain loves novelty. Providing unique and fun ways to connect to information helps learners.
- Stress blocks learning Helping learners stay calm, focused and to pay attention enhances the short and long-term memory.
- Mindset matters. Mindset matters. Motivating learners to expand their knowledge and believe they can learn helps success. If they believe it, they can do it.

### 6.3.2. Thinking Rather Than Just Doing

- |                 |   |
|-----------------|---|
| • Knowledge     | Does the student know the prerequisite information for this learning objective? |
| • Comprehension | Can the student organize and recall the facts and ideas for this objective?     |
| • Application   | Are the facts, information and principles being utilized appropriately?         |
| • Analysis      | Can the student draw conclusions and determine next steps for the objective?    |

### 6.3.3. Applying Brain-Based Learning To Tutoring

The simple philosophy of learning based on how the brain works is the core foundation for Tutor.com. Tutor.com's approach to students and learning engagements is customized based on what students know and what they need to learn. The tutors utilize a critical-thinking model to inform their approach and help students understand how to learn – in addition to the content itself. Analyzing content and objectives, rather than providing answers, is the base for Tutor.com's approach. Whether focusing on prerequisites, course topics or preparing for exams, students understand the material, but more importantly, they learn how to learn.

## 6.4. Proven Educational Efficacy

The targeted instructional sessions the tutors deliver are in line with research on effective tutoring best practices. Year after year, empirical data collected through formal research studies conducted by educational experts supports Tutor.com's claims of high-quality and effective instruction.

- 6.4.1.** In a 2007 study by Dale Mann, Ph.D., students with access to Tutor.com scored 12% higher on geometry and other mathematics tests over eligible non-participants.
- 6.4.2.** In a 2011/2012 analysis of AP Student performance by Red Clay School District in Delaware, it was found that students who used Tutor.com throughout their AP Course scored, on average, nearly ½ point higher than the average district score on AP exams.
- 6.4.3.** In an independent study conducted in 2013/2014, Tutor.com's tutoring practices were compared with research-recognized pedagogic practices that are reflected in face-to-face tutoring. Researcher Cherie Mazer, Ed.D, found that Tutor.com's online tutors provided those recognized aspects of successful learning, and this has been equally validated by a just completed U.S. Department of Defense study of over 200,000 Tutor.com sessions.
- 6.4.4.** Tutor.com also commissioned an 18-month independent efficacy study conducted by Noel-Levitz to determine if Tutor.com's tutoring assistance results in real achievement gains. Noel-Levitz, the respected retention consultant, is comparing achievement and persistence gains for those that use Tutor.com's tutoring services versus those that do not. Results after the 2013/14 academic year showed that students who used Tutor.com reaped the benefits in terms of significantly better academic gains over students who did not use the service.

## Appendix A2 – Technical Requirements

Operating System	Supported browsers	Recommended browsers
Windows 7+	Internet Explorer (8.0 or higher) Firefox (15.0 or higher) Chrome (26.0 or higher)	Firefox (latest version) Chrome (latest version)
Mac OS X+	Safari (5.0 or higher) Firefox (15.0 or higher) Chrome (26.0 or higher)	Safari (latest version) Firefox (latest version)
Chromebook	Chrome (latest version)	Chrome (latest version)
Ubuntu (or other Linux)	Chromium (latest version)	Chromium (latest version)
iOS 5+	Safari (latest version) Chrome (latest version)	Safari (latest version)
Android 4.0+ (Ice Cream Sandwich+)	Chrome (latest version)	Chrome (latest version)

## **Appendix A3 – Tutor.com Learning Suite**

### **1. IN-DEMAND TUTORING ONLINE**

Online access to Tutor.com's 3,600+ expert tutors, easy-to-use, plug-in free online classroom. Tutors provide one-to-one, real-time tutoring in over 40 subjects and test preparation areas including English, math, science, social studies, Spanish, writing, Microsoft Office® tools, ACT®, PSAT®, SAT®, GED®, U.S. Citizenship Test and Advanced Placement® Tests.

### **2. JOB SEARCH**

Job Search Assistance: job seekers connect with an expert Career Coach for on- demand help in searching for job opportunities, completing applications, writing résumés and cover letters and preparing for interviews.

### **3. COLLEGE ADMINISIONS TEST PREPARATION**

Students preparing for the SAT or ACT have free access to The Princeton Review SAT/ACT Essentials, an in-depth self-paced study course that helps students meet their target scores on the SAT or ACT through full-length practice tests, personalized study recommendations and supporting video lessons and practice drills. Students also receive access through the SkillsCenter Resource Library to GetAFive Advanced Placement online video courses and practice tests.

### **4. PRACTICE QUIZZES**

60+ academic practice quizzes allow students to identify and target areas of weakness by providing an immediate score report and a direct connection to tutors and resources for missed questions.

### **5. WRITETUTOR™**

Tutor.com's WriteTutors are there each step of the way to help Alabama students improve their written communication skills. Using Tutor.com's unique screen-sharing technology in the online classroom, WriteTutors coach students through each step of the writing process including organization, context, citation and review. Tutor and student simultaneously view written documents in the online classroom to identify and discuss errors. As students move further into the writing process and approach final drafts, they can then submit their documents for an asynchronous review.

### **6. WRITETUTOR REVIEW SERVICES**

Tutor.com offers drop-off review services for those students who may not be ready to connect for a live, interactive session. Tutor.com's Drop-Off Essay & Résumé Review service allows students to upload their document for an asynchronous review. Students upload their document and fill out a short form to let the tutor know what is required for the assignment. The tutor then reviews the work and returns a marked up copy of the original document along with a Summary Feedback Form coaching the student how to improve their writing. Tutor.com guarantees a 24-hour turn-around on the Drop-Off Reviews.

### **7. TUTOR.COM MATH DROP-OFF REVIEW**

Tutor.com offers students the option of uploading math problem to the expert tutors for a comprehensive, step-by-step explanation of the solution. Tutor.com's tutors can explain exactly how to solve the problem and why each step is taken, thus preparing the student for when they see a similar question in the future.

## **8. SKILLSCENTER RESOURCE LIBRARY**

The SkillsCenter is a clearinghouse of fully-vetted educational information both student and tutor can use to complement a lesson. Resources include proprietary content such as pre-recorded Tutor.com sessions and Advanced Placement Test Prep videos from GetAFive (a Tutor.com company) It also includes links to informational websites, instructional videos, learning games, customizable flash cards, practice tests, expert advice, and job search resources from reliable, external sources.

## **9. STUDENT-FOCUSED TOOLS**

The online interface, classroom and extra features have all been designed with the student in mind.

- 9.1. Entry Page: clean, uncluttered page modeled after current web design trends familiar to most users. Page real- estate divided and assigned to present the most frequently used features first.
- 9.2. Advanced tools in a “basic” classroom: unintimidating to the computer-shy adult, yet sophisticated enough for the tech-savvy teens, the Tutor.com classroom combines an easy to use interface with robust tools including an interactive, expandable white board, same-window website sharing, same-window file viewing, customizable chat settings, drag-and-drop 3D drawings, equations and math symbols, built-in graph paper, full-transcript print capabilities and full-session video playback.
- 9.3. Personalized Features allow for continuity in learning. Students have the option, but are not required, to create an anonymous, personalized account that unlocks extra features that provide continuity in learning. With an account, students are able to tag and reconnect with their favorite tutors, access and review online their previous sessions and store homework files and assignments in a virtual locker for quick access both in and out of a session.

## **10. RIGOROUS TUTOR VETTING AND MENTORING**

- 10.1. Rigorous tutor vetting and mentoring ensures highly qualified tutors: Tutor.com has carefully honed its rigorous tutor selection and qualification process and its exclusive tutor mentoring program and ongoing professional support program to provide the highest quality tutors in the industry. Tutor.com’s team of more than 3,600 tutors comes from a diverse array of highly qualified backgrounds, including many tutors that are current or former teachers, professors and professionals in their subject area of expertise. All tutors meet stringent background checks and educational excellence requirements. Every Tutor.com tutor brings proven expertise and relevant experience to the online classroom.
- 10.2. Tutor.com has created an intensive tutor screening process. Tutor.com’s process ensures that each tutor meet a rigorous standard of quality and must demonstrate, through a formal academic assessment, knowledge of and the ability to assist in instructing in their subject of expertise. Fewer than 3% of applicants pass the rigorous application process.
- 10.3. Tutor.com performs background checks on all of its employees and all tutors. Tutor.com’s third-party, seven-year criminal background checks are performed at the county, state level and federal, providing more data and reliability. Subsequent criminal history checks against a national database are then repeated annually on all tutors. Tutor.com background checks include:

## **11. ONE TUTOR TO ONE STUDENT BASIS**

Tutor.com provides services on a one tutor to one student basis. Tutor.com for Libraries service is one-to-one at all times for San José Public Library patrons. Once the tutor signs onto the online tutoring session, the session is one student, one tutor, and one session at a time (“1-1-1”). Tutor.com guarantees that each of your students will get the continuous, undivided attention of an expert tutor every time he or she uses the service. Students of every background and ability can benefit from this type of focused, personalized attention. This kind of one-to-one personalized attention is exactly the educational model that has proven to work as students struggle to understand concepts. While several of Tutor.com’s competitors claim to



offer 1-to-1 tutoring sessions because there is only one student in each session, many of their tutors are participating in multiple sessions.

## **12. STABLE AND SECURE TECHNOLOGY**

Stable and secure technology, safe learning environment: Tutor.com's full learning environment is built to protect student privacy and create a safe, reliable online learning environment. All sessions between student and tutor are recorded and monitored. All student-tutor interactions are anonymous. Tutor.com is fully compliant with the final COPPA ruling and store all student account information using a cryptographic hash, not plain text. In addition, protection of the network is quite extensive including the use of a state-of-the-art data center, protection by redundant firewalls, file-security and anti-virus systems. Tutor.com's server uptime since service inception is 99.9%.

## **13. FULL LENGTH PRACTICE TESTS**

Full length practice tests for the SAT and ACT with supporting study materials from The Princeton Review: As a Princeton Review company, only Tutor.com provides world-leading college admissions test preparation that includes full-length practice tests, comprehensive score reports, and resulting personalized study plans to help students improve and hit their target test scores.

## **14. AUDIO COMPONENT**

Audio component for foreign language learners: Tutor.com provides an optional audio component to foreign language learning sessions to assist students in learning and perfecting proper pronunciation.

## **15. LANGUAGE TOGGLE**

Language toggle for pre-session questionnaire: Tutor.com provides a language toggle that translates the full pre-session questionnaire into Spanish or Vietnamese, making a connection to a bilingual, Spanish or Vietnamese speaking tutor easy for non-English speaking patrons.

## **16. COMPANY/STAFF EXPERIENCE**

Company and staff experience in education and library services: Only Tutor.com has over 15 years of experience partnering with public libraries. Tutor.com's staff that directly supports the San José Public Library Tutor.com program all have extensive experience in providing the highest quality of online tutoring available and staff support to the San José Public Library.

## **17. COMPREHENSIVE REPORTING**

Comprehensive reporting of outputs and outcomes: Tutor.com provides comprehensive monthly statistical reports that clients claim are "the best in the industry." In addition to the raw statistics, Tutor.com is able to provide analyses of data to help drive service, marketing and purchasing decisions.

## **18. SECURE, AUTHENTICATED PROGRAM**

Secure, Authenticated Program: All Tutor.com features and functionality require some form of authentication to access— it's impossible to jump right into the user experience directly from Google without passing through one or more of the authentication layers below:

- 18.1. IP range authentication: users whose public IPs fall within a whitelisted range are allowed access; users with public IPs outside the whitelisted range are presented with the option to login using a library card number.

- 18.2. Library card authentication: users whose library card barcodes fall within a whitelisted range or regular expression are allowed access; users with barcodes outside the whitelisted range are denied;
- 18.3. Referring URL authentication: users who land on the San José Public Library Tutor.com program through a whitelisted referring URL are allowed access;
- 18.4. SIP2 authentication: users who are verified as eligible to use the Tutor.com service by the library's own ILS are allowed access;
- 18.5. Account authentication: users may only access the program through a pre-configured account, i.e., by entering a valid username and password.
- 18.6. Tutor.com program sites are "noindexed," meaning they're not discoverable through Google and other search engines.

## **19. EFFICACY**

Efficacy: Tutor.com is the only company whose educational efficacy has been researched and reported by multiple third- party independent studies. Scientifically based research studies show a correlation between use of Tutor.com and improved test scores and grades.

## Appendix A4 – Program Maintenance Tasks

Task	Frequency	Suggested Schedule	Time on Task	Involved Library Staff	Additional Notes
Librarian Training	Annually	Before Back-to-School	60-90 minutes	All Library Staff	Attend a Tutor.com product training annually. Tutor.com suggests at least one full staff training session (in-person or online) specific to San José Public Library's program.
	On-Going	As Needed	60-90 minutes	New Library Staff	Tutor.com offers recorded webinar trainings and monthly live webinar trainings for all new library staff to attend as desired.
Website, Contact & Authentication Audit	Annually	Before Back-to-School	60 minutes	Library Program Manager	Meet with Tutor.com at least annually to review effectiveness of current link placement on website, update library staff contact information and verify current authentication methods.
	On-Going	As Needed	15 minutes	Library Program Manager	Notify Tutor.com of any required changes in key library contacts and authentication methods, as needed.
Program Promotion and Marketing	Quarterly	Jan., Apr., Aug., Nov.	Varies	Library Marketing, Program Manager and Public-Facing Staff	Tutor.com will assist the library in developing an annual marketing plan, if desired. The marketing plan will include quarterly events or marketing campaigns that build awareness of the service and remind patrons of its availability.
	Monthly	As Desired	15-30 minutes	Library Marketing, Program Manager and Public-Facing Staff	Tutor.com delivers quick and easy promotional ideas on a monthly basis via email and newsletter to be used at the library's discretion.
Usage Reviews	Annually	Before Back-to-School	30-45 minutes	City Librarian and Library Program Manager	Meet with Tutor.com at least annually for a high-level, executive review usage trends, program performance and patron satisfaction survey results.
	Monthly	By 5th of each month	15 minutes	Library Program Manager	Review the monthly usage report delivered via email to measure progress towards goals.

## Appendix A5 – Price List

### 1. LIMITED SESSIONS:

Description	Initial Term					
	Year 1*	Year 2	Year 3	Year 4	Year 5	Total
<b>1. Software Subscription License</b>	\$66,766	\$66,766	\$66,766	\$70,104	\$73,610	\$344,012
<b>2. Professional Services</b>						
<ul style="list-style-type: none"> <li>Initial setup Installation &amp; Configuration</li> <li>Implementation</li> <li>Testing</li> <li>Training &amp; Materials</li> </ul>	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
<b>3. Annual Hosting</b>	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
<b>4. Support and Maintenance</b>	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
<b>5. Miscellaneous</b>						
<ul style="list-style-type: none"> <li>Travel (if applicable)</li> <li>Outreach Material</li> </ul>	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
<b>TOTAL (Initial Term)</b>	<b>\$66,766</b>	<b>\$66,766</b>	<b>\$66,766</b>	<b>\$70,104</b>	<b>\$73,610</b>	<b>\$344,012</b>

### Limited Sessions includes the following:

- On-Demand Tutoring between hours of 2:00pm – 11:59pm, seven days per week, 361 days per year.
- Users are limited to seven (7) sessions per calendar week per user

## 2. OPTIONAL UNLIMITED SESSIONS:

The City reserves the right to switch to the Unlimited Option in the future based on the annual pricing shown below, and authorized in advance, in writing, by the Director of Finance pursuant to Section 7 Change Order Procedure and Authorization in the form of Exhibit E Change Order.

Description	Initial Term					
	Year 1	Year 2	Year 3	Year 4	Year 5	Total
<b>1. Software Subscription License</b>	\$125,132	\$125,132	\$125,132	\$131,389	\$137,958	\$644,743
<b>2. Professional Services</b>						
<ul style="list-style-type: none"> <li>Initial setup Installation &amp; Configuration</li> <li>Implementation</li> <li>Testing</li> <li>Training &amp; Materials</li> </ul>	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
<b>3. Annual Hosting</b>	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
<b>4. Support and Maintenance</b>	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
<b>5. Miscellaneous</b>						
<ul style="list-style-type: none"> <li>Travel (if applicable)</li> <li>Outreach Material</li> </ul>	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
<b>TOTAL (Initial Term)</b>	<b>\$125,132</b>	<b>\$125,132</b>	<b>\$125,132</b>	<b>\$131,389</b>	<b>\$137,958</b>	<b>\$644,743</b>

### Unlimited Sessions option includes the following:

- Service provided 24x7, 361 days per year (excluding major holidays)
- Users are allowed unlimited sessions per week.

## **Exhibit B – Compensation & Payment Schedule**

### **1. Compensation**

- 1.1. The maximum amount payable for all products and services provided under this Agreement shall not exceed Three Hundred Forty-Four Thousand, Twelve U.S. Dollars (\$344,012.00) during the initial term. Any additional services requested by the City that would exceed the preceding maximum amount will be addressed in accordance with the Change Order Procedures. No additional services will be performed unless both parties execute a Change Order outlining the services requested and the compensation agreed for such services.
- 1.2. Progress payments shall be made to Contractor by City based on net thirty (30) days payment terms, following receipt of invoices that may be issued after acceptance of designated milestones as shown below in Table B1-Payment Schedule. All payments are based upon City's acceptance of Contractor's performance as evidenced by successful completion of all of the deliverables as set forth for each milestone. City shall have no obligation to pay unless Contractor has successfully completed and City has approved the Milestone for which payment is due.
- 1.3. Payment for any part or parts of the System provided hereunder, or inspection or testing thereof by City, shall not constitute acceptance or relieve Contractor of its obligations under this Agreement. City may inspect the components of the System when delivered and reject upon notification to Contractor any and all the System, which does not conform to the Specifications or other requirements of this Agreement. Components of the System, which are rejected shall be promptly corrected, repaired or replaced by Contractor. If City receives components of the System with defects or nonconformities not reasonably apparent on inspection, then City reserves the right to require prompt correction, repair or replacement by Contractor in accordance with Contractor's warranty obligations.

### **2. Project Performance & Payment Schedule**

- 2.1. Work shall commence immediately upon execution of this Agreement.
- 2.2. Invoicing procedure: Contractor shall invoice the City at the completion of each milestone and annually according to Table B1 and/or Appendix A5 – Price List. Licensing fees will be invoiced in advance of the annual term.
- 2.3. The City agrees to compensate the Contractor in accordance with the terms and conditions of this Agreement. Contractor shall invoice the City according to the Milestones in Table B1 listed below.

**Table B1: Schedule of Performance and Payment**

#	Compensation for Limited Sessions	Annual Term	Estimated Payment Date (M/D/Y)	Amount
1.	Year 1 – Live Homework & Hosted Services	12/01/17 – 11/30/18	12/01/17	\$66,766.00
2.	Year 2 – Live Homework & Hosted Services	12/01/18 – 11/30/19	12/01/18	\$66,766.00
3.	Year 3 – Live Homework & Hosted Services	12/01/19 – 11/30/20	12/01/19	\$66,766.00
4.	Year 4 – Live Homework & Hosted Services	12/01/20 – 11/30/21	12/01/20	\$70,104.00
5.	Year 5 – Live Homework & Hosted Services	12/01/21 – 11/30/22	12/01/21	\$73,610.00
TOTAL NOT-TO-EXCEED				\$344,012.00

All amounts stated above are in United States Currency.

### 3. Renewal Period Compensation

- 3.1. Pursuant to Section 2.2 of the Agreement, the City reserves the right at its sole option to extend the term of this Agreement for three (3) additional two-year terms (“Option Periods”) for ongoing services.
- 3.2. If such extension is elected by the City, these annual fees are due in advance, on the first day of each service year during the Option Period(s). In no event, shall the renewal quote for ongoing services for the option periods increase by more than three percent (3%) per Option Period over the prior year’s fees. The Director of Finance is authorized to exercise options on behalf of the City.



## Exhibit C – Insurance Requirements

CONTRACTOR, at CONTRACTOR'S sole cost and expense, shall procure and maintain for the duration of this AGREEMENT, insurance against claims for injuries to persons or damages to property which may arise from, or in connection with, the performance of the services hereunder by the CONTRACTOR, its agents, representatives, employees or subcontractors or suppliers. The cost of such insurance shall be included in the CONTRACTOR'S compensation under this Agreement.

### 1. Minimum Scope and Limit of Insurance

There shall be no endorsements reducing the scope of coverage required below unless approved by the City's Risk Manager.

Type of Insurance	Minimum Limit
<b>1. Commercial General Liability</b> The coverage provided by Insurance Services Office "occurrence" form CG 0001, including coverages for contractual liability, personal injury, broadform property damage, independent contractors, products and completed operations.	\$1,000,000 per occurrence for bodily injury, personal injury and property damage or \$2,000,000 annual aggregate.
<b>2. Automobile Liability</b> The coverage provided by Insurance Services Office form number CA 0001. Coverage shall be included for all owned, non-owned and hired automobiles.	\$1,000,000 combined single limit per accident for bodily injury and property damage.
<b>3. Workers' Compensation and Employer Liability</b> As required by the Labor Code of the State of California.	Not less than \$1,000,000 each claim and annual aggregate.
<b>4. Professional Errors and Omissions</b> Including coverages for negligent acts, errors or omissions arising from professional services provided under this contract, with any deductible not to exceed \$50,000 each claim	Not less than \$1,000,000 each claim and annual aggregate

### 2. Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to, and approved by, the City's Risk Manager. At the option of the City, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officials, employees, agents and contractors; or the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses in an amount specified by the City's Risk Manager.

### 3. Other Insurance Provisions

The policies are to contain, or be endorsed to contain, the following provisions:

#### 3.1. General Liability and Automobile Liability Coverages

- a) The City, its officials, employees, and agents are to be covered as additional insureds as respects: liability arising out of activities performed by, or on behalf of, the Contractor; products and completed operations of the Contractor; premises owned, leased or used by the Contractor; or automobiles owned, leased, hired or borrowed by the Contractor. The coverage shall contain no special limitations on the scope of protection afforded to the City, its officials, employees, and agents.

- b) The Contractor's insurance coverage shall be primary insurance as respects the City, its officials, employees, and agents. Any insurance or self-insurance maintained by the City, its officials, employees, and agents shall be excess of the contractor's insurance and shall not contribute with it.
- c) Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the City, its officials, employees, or agents.
- d) Coverage shall state that the Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- e) Coverage shall contain a waiver of subrogation in favor of the City, its officials, employees, and agents.

### **3.2. Workers' Compensation and Employers Liability**

Coverage shall be endorsed to state carrier waives its rights of subrogation against the City, its officials, and agents.

### **3.3. All coverages**

Written notice will be given to City's Risk Manager upon a change in any insurance policy required by this clause.

## **4. Acceptability of Insurance**

Contractor will place its insurance with insurers that meet the AM Best rating as required by the City Risk Manager.

## **5. Verification of Coverage**

- 5.1. Contractor shall furnish the City with certificates of insurance and with original endorsements affecting coverage required by this clause. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.
- 5.2. Copies of all the required ENDORSEMENTS shall be attached to the CERTIFICATE OF INSURANCE which shall be provided by the Contractor's insurance company as evidence of the stipulated coverages.
- 5.3. Proof of insurance shall be either emailed in pdf format to: Riskmgmt@sanjoseca.gov, or mailed to the following postal address (or any subsequent email or postal address as may be directed in writing by the Risk Manager):

City of San Jose – Finance Department  
Risk & Insurance  
200 East Santa Clara St., 14th Floor  
San Jose, CA 95113-1905

## **6. Subcontractors**

Contractors shall include all subcontractors as insureds under its policies or shall obtain separate certificates and endorsements for each subcontractor

## **EXHIBIT D**

### **Privacy and Disclosure Policy**

The purpose of this statement is to define the City of San José's policy with regard to the collection and use of personally identifiable information (PII). PII is any information relating to an identified or identifiable individual who is the subject of the information. Users of the City Web Site should be informed of the following:

The City of San José collects two kinds of customer information: (1) anonymous; (2) personally identifiable information (PII).

#### **1. ANONYMOUS INFORMATION**

**1.1.** This type of information does not identify specific individuals and is automatically transmitted by City browser. This information consists of:

- 1.1.1. The URL (Uniform Resource Locator or address) of the web page user previously visited;
- 1.1.2. The domain names and/or IP addresses which are numbers that are automatically assigned to City computer whenever user are connected to the Internet or World Wide Web.
- 1.1.3. The browser version user are using to access the site.

**1.2.** This information is used to help improve the City's Web Site. None of the information can be linked to an individual.

#### **2. PERSONALLY IDENTIFIABLE INFORMATION (PII)**

**2.1.** This type of information could include name, address, email address, telephone number, credit/debit card information. The City will make every reasonable effort to protect City privacy. It restricts access to City personal identifiable information to those employees who will respond to City request. The City does not intentionally disclose any personal information about Contractor customers to any third parties or outside the City except as required by law or by the consent of the person providing the information.

**2.2.** The City only collects personally identifiable information that is required to provide service. User can decline to provide us with any personal information. However, if user should choose to withhold requested information, the City may not be able to provide user with the online services dependent upon the collection of that information.

#### **3. ACCESS TO PERSONALLY IDENTIFIABLE INFORMATION**

Access to personally identifiable information in public records at local levels of government in San José is controlled primarily by the California Public Records Act (Government Code Section 6250, et. seq.). Information that is generally available under the Public Records Act may be posted for electronic access through the City's Web Site. While the Public Records Act sets the general policies for access to City records, other sections of the California code as well as federal laws also deal with confidentiality issues.

#### **4. EMAIL ADDRESSES**

Email addresses obtained through the City's Web Site will not be sold or given to other private companies for marketing purposes. The information collected is subject to the access and confidentiality provisions of the Public Records Act, other applicable sections of the California code as well as Federal laws. Email or other information requests sent to the City Web Site may be maintained in order to respond to the request, forward that request to the appropriate City within the City, communicate updates to the City page that may be of interest to citizens, or to provide the City web designer with valuable customer feedback to assist in improving the site. Individuals can cancel any communications regarding new service updates at any time.

#### **5. USE OF "COOKIES"**

- 5.1.** Some City applications use "cookies". A cookie is a small data file that certain web sites write to City hard drive when user visit them. A cookie file can contain information such as a user id that the site uses to track the pages user have visited. But the only personal information a cookie can contain is information supplied by user. A cookie is only a text file and cannot read data off user's hard disk or read cookie files created by other sites. Cookies can track user traffic patterns, recognize users computer's browser when user return, and could provide personalized content without requiring sign-in.
- 5.2.** User can refuse cookies by turning them off in user browser. However, they may be required to use some of the web applications on the City's Web Site.

#### **6. SECURITY**

The City of San José is committed to data security and the data quality of personally identifiable information that is either available from or collected by the City's Web Site and has taken reasonable precautions to protect such information from loss, misuse, or alteration.

#### **7. CONTRACTUAL SERVICES FOR THE CITY'S WEB SITE AND ON-LINE SERVICES**

To insure that contractors who have access to or provide contractual services for the City's On-Line (e-government) Services are not allowed to re-sell or in any way share or convey to another party or use it for another purpose any information that they may have access to in the course of doing business for the City; all city contracts regarding such services should contain a requirement that the contractor must comply with the City's Web Site and e-Government policies.

#### **8. ELECTRONIC SIGNATURES AND PAYMENTS**

The City of San José is committed to data security and the data quality of personally identifiable information that is either available from or collected by Contractor web site and has taken reasonable precautions to protect such information from loss, misuse, or alteration. When a City application accepts credit cards or any other particularly sensitive information for any of its services, it encrypts all ordering information, such as the customer's name and credit card number, in order to protect its confidentiality.

## 9. DISCLAIMER

The City Web Site should contain a disclaimer substantially containing the following information:

- 9.1. The City of San José is neither responsible nor liable for any delays, inaccuracies, errors or omissions arising out of user's use of the City's Web Site or with respect to the material contained on the Site, including without limitation, any material posted on the Site nor for any viruses or other contamination of user's system. The City Web Site and all materials contained on it are distributed and transmitted "as is" without warranties of any kind, either express or implied, including without limitations, warranties of title or implied warranties of merchantability or fitness for a particular purpose. The City of San José is not responsible for any special, indirect, incidental or consequential damages that may arise from the use of, or the inability to use, the Web Site and/or the materials contained on the Web Site whether the materials contained on the Web Site are provided by the City of San José or a third party. The City of San José is neither responsible nor liable for any viruses or other contamination of user's system.
- 9.2. **Access to Information:** Unless otherwise prohibited by state or federal law, rule or regulation, user will be granted the ability to access and correct any personally identifiable information. The City will take reasonable steps to verify user's identity before granting such access. Each City service that collects personally identifiable information will allow or review and update of that information.
- 9.3. **Non-City Web Sites:** Non-city web sites may be linked through the City's Web Site. Many non-city sites may or may not be subject to the Public Records Act and may or may not be subject to other sections of the California code or federal law. Visitors to such sites are advised to check the privacy statements of such sites and to be cautious about providing personally identifiable information without a clear understanding of how the information will be used.
- 9.4. The City is not responsible for, and accepts no liability for, the availability of these outside resources. Linked Web sites are not under the control of, nor maintained by, the City and the City is not responsible for the content of these Web sites, which can and do change frequently; nor for any internal links the displayed Web sites may contain. In addition, inclusion of the linked Web sites does not constitute an endorsement or promotion by the City of any persons or organizations sponsoring the displayed Web sites.

## Exhibit E – Change Order Form

Pursuant to Section 7 of the Agreement for _____ between the City of San Jose and <b>Tutor.com Incorporated</b> , the Agreement is hereby amended as follows:  (The following language is hereby provided as an example of how to complete this form.)		
<b>1. Contractor shall provide the following additional services at the costs indicated below:</b>		
TOTAL		
<b>2. The following services, products or deliverables are hereby deleted and the associated costs in amounts set forth below are also deleted.</b>		
TOTAL		
<b>3. EXHIBIT __ is hereby amended to read as set forth in the Revised EXHIBIT __ which is attached hereto.</b>		
<b>4. All of the terms and conditions of the Agreement not modified by Change Order shall remain in full force and effect.</b>		
	Total Cost of Change	
	Total Credit of Change	0
	Previous Amendments and/or Change Orders	
	Original Contract	
<b>ACCEPTANCE</b>  Contractor hereby agrees to accept the amount set forth herein as payment in full of the work described and further agrees that Contractor is entitled to no additional time or compensation for such work other than as set forth herein.  Contractor  _____  Date	<b>APPROVED AS TO FORM</b>  _____ Senior Deputy City Attorney  <b>City of San José</b>  _____  Date	

## Exhibit F – Notice of Option to Extend Agreement

<b>AGREEMENT TITLE:</b>	<b>Live Online Homework Help Services</b>
<b>CONTRACTOR</b>	<b>Tutor.com Inc.</b> Attention: Sandi White, General Manager 110 E.42 <sup>nd</sup> Street, Suite 700 New York, NY 10017
<b>DATE:</b>	

(date the notice is sent must be consistent with the time for exercise set forth in Agreement)

Pursuant to Section 2.2 of the Agreement referenced above, the City of San José hereby exercises its option to extend the term under the following provisions:

<b>OPTION NO.</b>	
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### NEW OPTION TERM

Begin date:	
End date:	

### ☐ CHANGES IN RATE OF COMPENSATION

<b>Percentage change in CPI upon which adjustment is based:</b>	
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Pursuant to Section \_\_\_\_ of the Agreement the Rates of Compensation are hereby adjusted as follows:

(use attachment if necessary)

<b>MAXIMUM COMPENSATION for New Option Term:</b>	
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For the option term exercised by this Notice, City shall pay Contractor an amount not to exceed the amount set forth above for Contractor's services and reimbursable expenses, if any. The undersigned signing on behalf of the City of San José hereby certifies that an unexpended appropriation is available for the term exercised by this Notice, and that funds are available as of the date of this signature.

**CITY OF SAN JOSÉ**  
a municipal corporation

By \_\_\_\_\_  
Name:  
Title:  
Date: