



**CONTRACT SERVICES AGREEMENT**  
**Educational Services – CELDT Testing Consultant**

THIS CONTRACT SERVICES AGREEMENT ("Agreement") is made and entered into on 7/28/2015 (hereinafter, the "Effective Date"), by and between the MARYSVILLE JOINT UNIFIED SCHOOL DISTRICT ("DISTRICT") and Roseann VanDerAa (hereinafter, "CONTRACTOR"). For the purposes of this Agreement DISTRICT and CONTRACTOR may be referred to collectively by the capitalized term "Parties." The capitalized term "Party" may refer to DISTRICT or CONTRACTOR interchangeably.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions herein contained, DISTRICT and CONTRACTOR agree as follows:

**I. ENGAGEMENT TERMS**

1.1 **SCOPE OF WORK**: Subject to the terms and conditions set forth in this Agreement and all exhibits attached and incorporated hereto, CONTRACTOR agrees to perform the services and tasks set forth in **Exhibit "A"** (hereinafter referred to as the "**Scope of Work**"). CONTRACTOR further agrees to furnish to DISTRICT all labor, materials, tools, supplies, equipment, services, tasks and incidental and customary work necessary to competently perform and timely complete the services and tasks set forth in the Scope of Work. For the purposes of this Agreement the aforementioned services and tasks set forth in the Scope of Work shall hereinafter be referred to generally by the capitalized term "**Work**." CONTRACTOR shall not commence with the performance of the Work until such time as DISTRICT issues a written Notice to Proceed.

1.2 **TERM**: This Agreement shall have a term of **2015-2016** commencing from **July 2015 – June 2016**

1.3 **COMPENSATION**:

A. CONTRACTOR shall perform the various services and tasks set forth in the Scope of Services in accordance with the compensation schedule which is **see Exhibit A**.(hereinafter, the "Approved Rate Schedule").

B. Section 1.3(A) notwithstanding, CONTRACTOR's total compensation during the Term of this Agreement or any extension term shall not exceed the budgeted aggregate sum **TWELVE THOUSAND SEVENTY-TWO AND NO CENTS (\$12,072.00)** (hereinafter, the "Not-to-Exceed Sum"), unless such added expenditure is first approved by the DISTRICT acting in consultation with the Superintendent and the Director of Fiscal Services. In the event CONTRACTOR's charges are projected to exceed the Not-to-Exceed Sum prior to the expiration of the Term or any single extension term, DISTRICT may suspend CONTRACTOR's performance pending DISTRICT approval of any anticipated expenditures in excess of the Not-to-Exceed Sum or any other DISTRICT-approved amendment to the compensation terms of this Agreement.

1.4 **PAYMENT OF COMPENSATION**: The Not-to-Exceed Sum shall be paid to CONTRACTOR monthly increments of **ONE THOUSAND SIX AND NO CENTS (\$1,006.00)** as the Work is completed. Following the conclusion of each calendar month, CONTRACTOR shall submit to DISTRICT an itemized invoice indicating the services performed and tasks completed during the recently concluded calendar month, including services and tasks performed and the reimbursable out-of-pocket expenses incurred. If the amount of CONTRACTOR's monthly compensation is a function of hours works by CONTRACTOR's personnel, the invoice shall indicate the number of hours worked in the recently concluded calendar month, the persons responsible for performing the Work, the rate of compensation at which such services and tasks were performed, the subtotal for each tasks and service performed and a grand total for all services performed. Within **THIRTY (30)** calendar days of receipt of each invoice, DISTRICT shall notify CONTRACTOR in writing of any disputed amounts included in the invoice. Within **FORTY-FIVE (45)**

calendar day of receipt of each invoice, DISTRICT shall pay all undisputed amounts included on the invoice. DISTRICT shall not withhold applicable taxes or other authorized deductions from payments made to CONTRACTOR.

- 1.5 ACCOUNTING RECORDS: CONTRACTOR shall maintain complete and accurate records with respect to all matters covered under this Agreement for a period of three (3) years after the expiration or termination of this Agreement. DISTRICT shall have the right to access and examine such records, without charge, during normal business hours. DISTRICT shall further have the right to audit such records, to make transcripts therefrom and to inspect all program data, documents, proceedings, and activities.
- 1.6 ABANDONMENT BY CONTRACTOR: In the event CONTRACTOR ceases to perform the Work agreed to under this Agreement or otherwise abandons the undertaking contemplated herein prior to the expiration of this Agreement or prior to completion of any or all tasks set forth in the Scope of Work, CONTRACTOR shall deliver to DISTRICT immediately and without delay, all materials, records and other work product prepared or obtained by CONTRACTOR in the performance of this Agreement. Furthermore, CONTRACTOR shall only be compensated for the reasonable value of the services, tasks and other work performed up to the time of cessation or abandonment, less a deduction for any damages, costs or additional expenses which DISTRICT may incur as a result of CONTRACTOR's cessation or abandonment.

## II. PERFORMANCE OF AGREEMENT

- 2.1 DISTRICT'S REPRESENTATIVES: The DISTRICT hereby designates Representative, Lennie Tate (hereinafter, the "DISTRICT Representatives") to act as its representatives for the performance of this Agreement. The Superintendent shall be the chief DISTRICT Representative. The DISTRICT Representatives or their designee shall act on behalf of the DISTRICT for all purposes under this Agreement. CONTRACTOR shall not accept directions or orders from any person other than the DISTRICT Representatives or their designee.
- 2.2 CONTRACTOR REPRESENTATIVE: CONTRACTOR hereby, Roseann VanDerAa to act as its representative for the performance of this Agreement (hereinafter, "CONTRACTOR Representative"). CONTRACTOR Representative shall have full authority to represent and act on behalf of the CONTRACTOR for all purposes under this Agreement. CONTRACTOR Representative or his designee shall supervise and direct the performance of the Work, using his best skill and attention, and shall be responsible for all means, methods, techniques, sequences and procedures and for the satisfactory coordination of all portions of the Work under this Agreement. Notice to the CONTRACTOR Representative shall constitute notice to CONTRACTOR.
- 2.3 COORDINATION OF SERVICE; CONFORMANCE WITH REQUIREMENTS: CONTRACTOR agrees to work closely with DISTRICT staff in the performance of the Work and this Agreement and shall be available to DISTRICT staff and the DISTRICT Representatives at all reasonable times. All work prepared by CONTRACTOR shall be subject to inspection and approval by DISTRICT Representatives or their designees.
- 2.4 STANDARD OF CARE; PERFORMANCE OF EMPLOYEES: CONTRACTOR represents, acknowledges and agrees to the following:
- A. CONTRACTOR shall perform all Work skillfully, competently and to the highest standards of CONTRACTOR's profession;
  - B. CONTRACTOR shall perform all Work in a manner reasonably satisfactory to the DISTRICT;
  - C. CONTRACTOR shall comply with all applicable federal, state and local laws and regulations, including the conflict of interest provisions of Government code Section 1090 and the Political Reform Act (Government Code Section 81000 *et seq.*);
  - D. CONTRACTOR understands the nature and scope of the Work to be performed under this Agreement as well as any and all schedules of performance;
  - E. All of CONTRACTOR's employees and agents possess sufficient skill, knowledge, training and experience to perform those services and tasks assigned to them by CONTRACTOR; and

- F. All of CONTRACTOR's employees and agents (including but not limited to subcontractors and subconsultants) possess all licenses, permits, certificates, qualifications and approvals of whatever nature that are legally required to perform the tasks and services contemplated under this Agreement and all such licenses, permits, certificates, qualifications and approvals shall be maintained throughout the term of this Agreement and made available to DISTRICT for copying and inspection.
- 2.5 ASSIGNMENT: The skills, training, knowledge and experience of CONTRACTOR are material to DISTRICT's willingness to enter into this Agreement. Accordingly, DISTRICT has an interest in the qualifications and capabilities of the person(s) who will perform the services and tasks to be undertaken by CONTRACTOR or on behalf of CONTRACTOR in the performance of this Agreement. In recognition of this interest, CONTRACTOR agrees that it shall not assign or transfer, either directly or indirectly or by operation of law, this Agreement or the performance of any of CONTRACTOR's duties or obligations under this Agreement without the prior written consent of the DISTRICT. In the absence of DISTRICT's prior written consent, any attempted assignment or transfer shall be ineffective, null and void and shall constitute a material breach of this Agreement.
- 2.6 CONTROL AND PAYMENT OF SUBORDINATES; INDEPENDENT CONTRACTOR: The Work shall be performed by CONTRACTOR or under CONTRACTOR's strict supervision. CONTRACTOR will determine the means, methods and details of performing the Work subject to the requirements of this Agreement. DISTRICT retains CONTRACTOR on an independent contractor basis and not as an employee. CONTRACTOR reserves the right to perform similar or different services for other principals during the term of this Agreement, provided such work does not unduly interfere with CONTRACTOR's competent and timely performance of the Work contemplated under this Agreement and provided the performance of such services does not result in the unauthorized disclosure of DISTRICT's confidential or proprietary information. Any additional personnel performing the Work under this Agreement on behalf of CONTRACTOR are not employees of DISTRICT and shall at all times be under CONTRACTOR's exclusive direction and control. CONTRACTOR shall pay all wages, salaries and other amounts due such personnel and shall assume responsibility for all benefits, payroll taxes, social security and Medicare payments and the like. CONTRACTOR shall be responsible for all reports and obligations respecting such additional personnel, including, but not limited to: social security taxes, income tax withholding, unemployment insurance, disability insurance, workers' compensation insurance and the like.
- 2.7 REMOVAL OF EMPLOYEES OR AGENTS: If any of CONTRACTOR's officers, employees, agents, contractors, subcontractors or subconsultants is determined by the DISTRICT Representatives to be uncooperative, incompetent, a threat to the adequate or timely performance of the tasks assigned to CONTRACTOR, a threat to persons or property, or if any of CONTRACTOR's officers, employees, agents, contractors, subcontractors or subconsultants fail or refuse to perform the Work in a manner acceptable to the DISTRICT, such officer, employee, agent, contractor, subcontractor or subconsultant shall be promptly removed by CONTRACTOR and shall not be re-assigned to perform any of the Work.
- 2.8 COMPLIANCE WITH LAWS: CONTRACTOR shall keep itself informed of and in compliance with all applicable federal, State or local laws to the extent such laws control or otherwise govern the performance of the Work. CONTRACTOR's compliance with applicable laws shall include without limitation compliance with all applicable Cal/OSHA requirements.
- 2.9 NON-DISCRIMINATION: In the performance of this Agreement, CONTRACTOR shall not discriminate against any employee, subcontractor, subconsultant, or applicant for employment because of race, color, creed, religion, sex, marital status, sexual orientation, national origin, ancestry, age, physical or mental disability or medical condition.

- 2.10. INDEPENDENT CONTRACTOR STATUS: The Parties acknowledge, understand and agree that CONTRACTOR and all persons retained or employed by CONTRACTOR are, and shall at all times remain, wholly independent contractors and are not officials, officers, employees, departments or subdivisions of DISTRICT. CONTRACTOR shall be solely responsible for the negligent acts and/or omissions of its employees, agents, contractors, subcontractors and subconsultants. CONTRACTOR and all persons retained or employed by CONTRACTOR shall have no authority, express or implied, to bind DISTRICT in any manner, nor to incur any obligation, debt or liability of any kind on behalf of, or against, DISTRICT, whether by contract or otherwise, unless such authority is expressly conferred to CONTRACTOR under this Agreement or is otherwise expressly conferred by DISTRICT in writing.

### III. INSURANCE

- 3.1 DUTY TO PROCURE AND MAINTAIN INSURANCE: Prior to the beginning of and throughout the duration of the Work, CONTRACTOR will procure and maintain policies of insurance that meet the requirements and specifications set forth under this Article. CONTRACTOR shall procure and maintain the following insurance coverage, at its own expense:
- A. Commercial General Liability Insurance: CONTRACTOR shall procure and maintain Commercial General Liability Insurance ("CGL Coverage") as broad as Insurance Services Office Commercial General Liability coverage (occurrence Form CG 0001) or its equivalent. Such CGL Coverage shall have minimum limits of no less than One Million Dollars (\$1,000,000.00) per occurrence and Two Million Dollars (\$2,000,000.00) in the general aggregate for bodily injury, personal injury, property damage, operations, products and completed operations, and contractual liability.
  - B. Automobile Liability Insurance: CONTRACTOR shall procure and maintain Automobile Liability Insurance as broad as Insurance Services Office Form Number CA 0001 covering Automobile Liability, Code 1 (any auto). Such Automobile Liability Insurance shall have minimum limits of no less than One Million Dollars (\$1,000,000.00) per accident for bodily injury and property damage.
  - C. Workers' Compensation Insurance/ Employer's Liability Insurance: A policy of workers' compensation insurance in such amount as will fully comply with the laws of the State of California and which shall indemnify, insure and provide legal defense for both CONTRACTOR and DISTRICT against any loss, claim or damage arising from any injuries or occupational diseases occurring to any worker employed by or any persons retained by CONTRACTOR in the course of carrying out the Work contemplated in this Agreement. Policy shall contain a waiver of subrogation against the all parties named as additional insureds under this subsection arising from work performed by the CONTRACTOR.
- 3.2 ADDITIONAL INSURED REQUIREMENTS: The CGL Coverage and the Automobile Liability Insurance shall contain an endorsement naming the DISTRICT and DISTRICT's elected and appointed officials, officers, employees, agents and volunteers as additional insureds.
- 3.3 REQUIRED CARRIER RATING: All varieties of insurance required under this Agreement shall be procured from insurers admitted in the State of California and authorized to issue policies directly to California insureds. Except as otherwise provided elsewhere under this Article, all required insurance shall be procured from insurers, who according to the latest edition of the Best's Insurance Guide have an A.M. Best's rating of no less than A:VII. DISTRICT may also accept policies procured by insurance carriers with a Standard & Poor's rating of no less than BBB according to the latest published edition the Standard & Poor's rating guide. As to Workers' Compensation Insurance/ Employer's Liability Insurance, the DISTRICT Representatives are authorized to authorize lower ratings than those set forth in this Section.
- 3.4 PRIMACY OF CONSULTANT'S INSURANCE: All policies of insurance provided by CONTRACTOR shall be primary to any coverage available to DISTRICT or DISTRICT's elected or appointed officials, officers, employees, agents or volunteers. Any insurance or self-insurance maintained by DISTRICT or DISTRICT's elected or appointed officials, officers, employees, agents or volunteers shall be in excess of CONTRACTOR's insurance and shall not contribute with it.

- 3.5 **WAIVER OF SUBROGATION:** All insurance coverage provided pursuant to this Agreement shall not prohibit CONTRACTOR or CONTRACTOR's officers, employees, agents, subcontractors or subconsultants from waiving the right of subrogation prior to a loss. CONTRACTOR hereby waives all rights of subrogation against DISTRICT.
- 3.6 **VERIFICATION OF COVERAGE:** CONTRACTOR acknowledges, understands and agrees, that DISTRICT's ability to verify the procurement and maintenance of the insurance required under this Article is critical to safeguarding DISTRICT's financial well-being and, indirectly, the collective well-being of the residents of the DISTRICT. Accordingly, CONTRACTOR warrants, represents and agrees that it shall furnish DISTRICT with original certificates of insurance and endorsements evidencing the coverage required under this Article on forms satisfactory to DISTRICT in its sole and absolute discretion. **The certificates of insurance and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf, and shall be on forms provided by the DISTRICT if requested.** All certificates of insurance and endorsements shall be received and approved by DISTRICT as a condition precedent to CONTRACTOR's commencement of any work or any of the Work. Upon DISTRICT's written request, CONTRACTOR shall also provide DISTRICT with certified copies of all required insurance policies and endorsements.

#### IV. INDEMNIFICATION

- 4.1 The Parties agree that DISTRICT and DISTRICT's elected and appointed officials, officers, employees, agents and volunteers (hereinafter, the "DISTRICT Indemnitees") should, to the fullest extent permitted by law, be protected from any and all loss, injury, damage, claim, lawsuit, cost, expense, attorneys' fees, litigation costs, or any other cost arising out of or in any way related to the performance of this Agreement. Accordingly, the provisions of this indemnity provision are intended by the Parties to be interpreted and construed to provide the DISTRICT Indemnitees with the fullest protection possible under the law. CONTRACTOR acknowledges that DISTRICT would not enter into this Agreement in the absence of CONTRACTOR's commitment to indemnify, defend and protect DISTRICT as set forth herein.
- 4.2 To the fullest extent permitted by law, CONTRACTOR shall indemnify, hold harmless and defend the DISTRICT Indemnitees from and against all liability, loss, damage, expense, cost (including without limitation reasonable attorney's fees, expert fees and all other costs and fees of litigation) of every nature arising out of or in connection with CONTRACTOR's performance of work hereunder or its failure to comply with any of its obligations contained in this Agreement, except such loss or damage which is caused by the sole negligence or willful misconduct of the CITY.
- 4.3 DISTRICT shall have the right to offset against the amount of any compensation due CONTRACTOR under this Agreement any amount due DISTRICT from CONTRACTOR as a result of CONTRACTOR's failure to pay DISTRICT promptly any indemnification arising under this Article and related to CONTRACTOR's failure to either (i) pay taxes on amounts received pursuant to this Agreement or (ii) comply with applicable workers' compensation laws.
- 4.4 The obligations of CONTRACTOR under this Article will not be limited by the provisions of any workers' compensation act or similar act. CONTRACTOR expressly waives its statutory immunity under such statutes or laws as to DISTRICT and DISTRICT's elected and appointed officials, officers, employees, agents and volunteers.
- 4.5 CONTRACTOR agrees to obtain executed indemnity agreements with provisions identical to those set forth here in this Article from each and every subcontractor or any other person or entity involved by, for, with or on behalf of CONTRACTOR in the performance of this Agreement. In the event CONTRACTOR fails to obtain such indemnity obligations from others as required herein, CONTRACTOR agrees to be fully responsible and indemnify, hold harmless and defend DISTRICT and DISTRICT's elected and appointed officials, officers, employees, agents and volunteers from and against any and all claims and losses, costs or expenses for any damage due to death or injury to any person and injury to any property resulting from any alleged intentional, reckless, negligent, or otherwise wrongful acts, errors or omissions of CONTRACTOR's subcontractors or any other person or entity involved by, for, with or on behalf of CONTRACTOR in the performance of this Agreement. Such costs and expenses shall include reasonable attorneys' fees incurred by counsel of DISTRICT's choice.

- 4.6 DISTRICT does not, and shall not, waive any rights that it may possess against CONTRACTOR because of the acceptance by DISTRICT, or the deposit with DISTRICT, of any insurance policy or certificate required pursuant to this Agreement. This hold harmless and indemnification provision shall apply regardless of whether or not any insurance policies are determined to be applicable to the claim, demand, damage, liability, loss, cost or expense.
- 4.7 This Article and all provisions contained herein (including but not limited to the duty to indemnify, defend and hold free and harmless) shall survive the termination or normal expiration of this Agreement and is in addition to any other rights or remedies which the DISTRICT may have at law or in equity.

## V. TERMINATION

- 5.1 TERMINATION WITHOUT CAUSE: DISTRICT may terminate this Agreement at any time for convenience and without cause by giving CONTRACTOR a minimum of five (5) calendar days prior written notice of DISTRICT's intent to terminate this Agreement. Upon such termination for convenience, CONTRACTOR shall be compensated only for those services and tasks which have been performed by CONTRACTOR up to the effective date of the termination. CONTRACTOR may not terminate this Agreement except for cause as provided under Section 5.2, below. If this Agreement is terminated as provided herein, DISTRICT may require CONTRACTOR to provide all finished or unfinished Documents and Data, as defined in Section 7.1 below, and other information of any kind prepared by CONTRACTOR in connection with the performance of the Work. CONTRACTOR shall be required to provide such Documents and Data within fifteen (15) calendar days of DISTRICT's written request. No actual or asserted breach of this Agreement on the part of DISTRICT pursuant to Section 5.2, below, shall operate to prohibit or otherwise restrict DISTRICT's ability to terminate this Agreement for convenience as provided under this Section.
- 5.2 EVENTS OF DEFAULT; BREACH OF AGREEMENT:

- A. In the event either Party fails to perform any duty, obligation, service or task set forth under this Agreement (or fails to timely perform or properly perform any such duty, obligation, service or task set forth under this Agreement), an event of default (hereinafter, "Event of Default") shall occur. For all Events of Default, the Party alleging an Event of Default shall give written notice to the defaulting Party (hereinafter referred to as a "Default Notice") which shall specify: (i) the nature of the Event of Default; (ii) the action required to cure the Event of Default; (iii) a date by which the Event of Default shall be cured, which shall not be less than the applicable cure period set forth under Sections 5.2.B and 5.2.C below or if a cure is not reasonably possible within the applicable cure period, to begin such cure and diligently prosecute the such cure to completion. The Event of Default shall constitute a breach of this Agreement if the defaulting Party fails to cure the Event of Default within the applicable cure period or any extended cure period allowed under this Agreement.
- B. CONTRACTOR shall cure the following Events of Defaults within the following time periods:
- i. Within three (3) business days of DISTRICT's issuance of a Default Notice for any failure of CONTRACTOR to timely provide DISTRICT or DISTRICT's employees or agents with any information and/or written reports, documentation or work product which CONTRACTOR is obligated to provide to DISTRICT or DISTRICT's employees or agents under this Agreement. Prior to the expiration of the 3-day cure period, CONTRACTOR may submit a written request for additional time to cure the Event of Default upon a showing that CONTRACTOR has commenced efforts to cure the Event of Default and that the Event of Default cannot be reasonably cured within the 3-day cure period. The foregoing notwithstanding, DISTRICT shall be under no obligation to grant additional time for the cure of an Event of Default under this Section 5.2 B.i. that exceeds seven (7) calendar days from the end of the initial 3-day cure period; or
  - ii. Within fourteen (14) calendar days of DISTRICT's issuance of a Default Notice for any other Event of Default under this Agreement. Prior to the expiration of the 14-day cure period, CONTRACTOR may submit a written request for additional time to cure the Event of Default upon a showing that CONTRACTOR has commenced efforts to cure the Event of Default and that the Event of Default cannot be reasonably cured within the 14-day cure period. The foregoing notwithstanding, DISTRICT shall be under no obligation to grant additional time for the cure of an Event of Default under this Section 5.2B.ii that exceeds thirty (30) calendar days from the end of the initial 14-day cure period. .

In addition to any other failure on the part of CONTRACTOR to perform any duty, obligation, service or task set forth under this Agreement (or the failure to timely perform or properly perform any such duty, obligation, service or task), an Event of Default on the part of CONTRACTOR shall include, but shall not be limited to the following: (i) CONTRACTOR's refusal or failure to perform any of the services or tasks called for under the Scope of Work; (ii) CONTRACTOR's failure to fulfill or perform its obligations under this Agreement within the specified time or if no time is specified, within a reasonable time; (iii) CONTRACTOR's and/or its employees' disregard or violation of any federal, state, local law, rule, procedure or regulation; (iv) the initiation of proceedings under any bankruptcy, insolvency, receivership, reorganization, or similar legislation as relates to CONTRACTOR, whether voluntary or involuntary; (v) CONTRACTOR's refusal or failure to perform or observe any covenant, condition, obligation or provision of this Agreement; and/or (vi) DISTRICT's discovery that a statement representation or warranty by CONTRACTOR relating to this Agreement is false, misleading or erroneous in any material respect.

- C. DISTRICT shall cure any Event of Default asserted by CONTRACTOR within FORTY-FIVE (45) calendar days of CONTRACTOR's issuance of a Default Notice, unless the Event of Default cannot reasonably be cured within the 45-day cure period. Prior to the expiration of the 45-day cure period, DISTRICT may submit a written request for additional time to cure the Event of Default upon a showing that DISTRICT has commenced its efforts to cure the Event of Default and that the Event of Default cannot be reasonably cured within the 45-day cure period. The foregoing notwithstanding, an Event of Default dealing with DISTRICT's failure to timely pay any undisputed sums to CONTRACTOR as provided under Section 1.4, above, shall be cured by DISTRICT within five (5) calendar days from the date of CONTRACTOR's Default Notice to DISTRICT.
- D. DISTRICT, in its sole and absolute discretion, may also immediately suspend CONTRACTOR's performance under this Agreement pending CONTRACTOR's cure of any Event of Default by giving CONTRACTOR written notice of DISTRICT's intent to suspend CONTRACTOR's performance (hereinafter, a "Suspension Notice"). DISTRICT may issue the Suspension Notice at any time upon the occurrence of an Event of Default. Upon such suspension, CONTRACTOR shall be compensated only for those services and tasks which have been rendered by CONTRACTOR to the reasonable satisfaction of DISTRICT up to the effective date of the suspension. No actual or asserted breach of this Agreement on the part of DISTRICT shall operate to prohibit or otherwise restrict DISTRICT's ability to suspend this Agreement as provided herein.
- E. No waiver of any Event of Default or breach under this Agreement shall constitute a waiver of any other or subsequent Event of Default or breach. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel, or otherwise.
- F. The duties and obligations imposed under this Agreement and the rights and remedies available hereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. In addition to any other remedies available to DISTRICT at law or under this Agreement in the event of any breach of this Agreement, DISTRICT, in its sole and absolute discretion, may also pursue any one or more of the following remedies:
- i. Upon written notice to CONTRACTOR, the DISTRICT may immediately terminate this Agreement in whole or in part;
  - ii. Upon written notice to CONTRACTOR, the DISTRICT may extend the time of performance;
  - iii. The DISTRICT may proceed by appropriate court action to enforce the terms of the Agreement to recover damages for CONTRACTOR's breach of the Agreement or to terminate the Agreement; or
  - iv. The DISTRICT may exercise any other available and lawful right or remedy.

CONTRACTOR shall be liable for all legal fees plus other costs and expenses that DISTRICT incurs upon a breach of this Agreement or in the DISTRICT's exercise of its remedies under this Agreement.

- G. In the event DISTRICT is in breach of this Agreement, CONTRACTOR's sole remedy shall be the suspension or termination of this Agreement and/or the recovery of any unpaid sums lawfully owed to CONTRACTOR under this Agreement for completed services and tasks.
- 5.3 SCOPE OF WAIVER: No waiver of any default or breach under this Agreement shall constitute a waiver of any other default or breach, whether of the same or other covenant, warranty, agreement, term, condition, duty or requirement contained in this Agreement. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel, or otherwise.
- 5.4 SURVIVING ARTICLES, SECTIONS AND PROVISIONS: The termination of this Agreement pursuant to any provision of this Article or by normal expiration of its term or any extension thereto shall not operate to terminate any Article, Section or provision contained herein which provides that it shall survive the termination or normal expiration of this Agreement.

## VI. MISCELLANEOUS PROVISIONS

- 6.1 DOCUMENTS & DATA; LICENSING OF INTELLECTUAL PROPERTY: All Documents and Data shall be and remain the property of DISTRICT without restriction or limitation upon their use or dissemination by DISTRICT. For purposes of this Agreement, the term "Documents and Data" means and includes all reports, analyses, correspondence, plans, drawings, designs, renderings, specifications, notes, summaries, strategies, charts, schedules, spreadsheets, calculations, lists, data compilations, documents or other materials developed and/or assembled by or on behalf of CONTRACTOR in the performance of this Agreement and fixed in any tangible medium of expression, including but not limited to Documents and Data stored digitally, magnetically and/or electronically. This Agreement creates, at no cost to DISTRICT, a perpetual license for DISTRICT to copy, use, reuse, disseminate and/or retain any and all copyrights, designs, and other intellectual property embodied in all Documents and Data. CONTRACTOR shall require all subcontractors and subconsultants working on behalf of CONTRACTOR in the performance of this Agreement to agree in writing that DISTRICT shall be granted the same right to copy, use, reuse, disseminate and retain Documents and Data prepared or assembled by any subcontractor or subconsultant as applies to Documents and Data prepared by CONTRACTOR in the performance of this Agreement.
- 6.2 CONFIDENTIALITY: All data, documents, discussion, or other information developed or received by CONTRACTOR or provided for performance of this Agreement are deemed confidential and shall not be disclosed by CONTRACTOR without prior written consent by DISTRICT. DISTRICT shall grant such consent if disclosure is legally required. Upon request, all DISTRICT data shall be returned to DISTRICT upon the termination or expiration of this Agreement. CONTRACTOR shall not use DISTRICT's name or insignia, photographs, or any publicity pertaining to the Work in any magazine, trade paper, newspaper, television or radio production or other similar medium without the prior written consent of DISTRICT.
- 6.3 FINGERPRINTING. CONTRACTOR shall comply with all applicable provisions of Education Code Section 45125.1. CONTRACTOR will conduct criminal background checks of all employees, agents and/or representatives assigned performing any services and tasks on DISTRICT property on CONTRACTOR's behalf. CONTRACTOR will certify in writing that no such employees, agents and representatives who have been convicted of a violent or serious felony as described in the Notice Re: Criminal Records will have contact with DISTRICT's pupils. CONTRACTOR will provide DISTRICT with a list of all employees providing services pursuant to this Agreement. To the extent permitted under Education Code Section 45125.1, the DISTRICT Representatives may waive any fingerprinting requirements where it is determined that the CONTRACTOR, its employees and agents will have limited or no contact with pupils in the performance of any services and tasks called for under this Agreement. The waiver of the requirements of Education Code Section 45125.1 must be made in writing signed by one or both of the DISTRICT Representatives.
- 6.4 DRUG FREE WORKPLACE CERTIFICATION. CONTRACTOR shall apprise its officials and employees of the Drug-Free Workplace Act of 1990 (Govt. Code Section 8350 et seq.) (hereinafter, the "Act") which requires that every person or organization awarded a contract or grant for the procurement of property or services from any State agency must certify that it will provide a drug-free workplace by doing certain specified acts. In addition, the Act provides that each contract or grant awarded by a State agency may be subject to suspension of payments or termination of the contract or grant, and the contractor or grantee may be subject to debarment from future contracting, if the contracting agency determines that specified acts have



occurred. CONTRACTOR shall comply with the requirements publication and notification requirements of Government Code Section 8355 as to all employees performing services and tasks under this Agreement on DISTRICT property or from DISTRICT facilities.

- 6.5 FALSE CLAIMS ACT. CONTRACTOR warrants and represents that neither CONTRACTOR nor any person who is an officer of, in a managing position with, or has an ownership interest in CONTRACTOR has been determined by a court or tribunal of competent jurisdiction to have violated the False Claims Act, 31 U.S.C., Section 3789 *et seq.* and the California False Claims Act, Government Code Section 12650 *et seq.*
- 6.6 NOTICES: All notices permitted or required under this Agreement shall be given to the respective Parties at the following addresses, or at such other address as the respective Parties may provide in writing for this purpose:

**CONTRACTOR:**  
Roseann VanDerAa  
1428 Avocet Drive  
Plumas Lake, CA 95961

Phone: 530-742-8952  
Fax:  
Email: rvanderaa@mjuds.com

**DISTRICT:**

Marysville Joint Unified School District  
1919 B Street  
Marysville, CA 95901  
Phone: 749-6114  
Fax: 742-0573

Such notices shall be deemed effective when personally delivered or successfully transmitted by facsimile as evidenced by a fax confirmation slip or when mailed, forty-eight (48) hours after deposit with the United States Postal Service, first class postage prepared and addressed to the Party at its applicable address.

- 6.7 COOPERATION; FURTHER ACTS: The Parties shall fully cooperate with one another, and shall take any additional acts or sign any additional documents as is reasonably necessary, appropriate or convenient to achieve the purposes of this Agreement.
- 6.8 SUBCONTRACTING: CONTRACTOR shall not subcontract any portion of the Work required by this Agreement, except as expressly stated herein, without the prior written approval of DISTRICT. Subcontracts (including without limitation subcontracts with subconsultants), if any, shall contain a provision making them subject to all provisions stipulated in this Agreement, including provisions relating to insurance requirements and indemnification.
- 6.9 DISTRICT'S RIGHT TO EMPLOY OTHER CONTRACTORS: DISTRICT reserves the right to employ other contractors in connection with the various projects worked upon by CONTRACTOR.
- 6.10 PROHIBITED INTERESTS: CONTRACTOR warrants, represents and maintains that it has not employed nor retained any company or person, other than a *bona fide* employee working solely for CONTRACTOR, to solicit or secure this Agreement. Further, CONTRACTOR warrants and represents that it has not paid nor has it agreed to pay any company or person, other than a *bona fide* employee working solely for CONTRACTOR, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, DISTRICT shall have the right to rescind this Agreement without liability. For the term of this Agreement, no member, officer or employee of DISTRICT, during the term of his or her service with DISTRICT, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.
- 6.11 TIME IS OF THE ESSENCE: Time is of the essence for each and every provision of this Agreement.
- 6.12 GOVERNING LAW AND VENUE: This Agreement shall be interpreted and governed according to the laws of the State of California. In the event of litigation between the Parties, venue, without exception, shall be in the Yuba County Superior Court of

the State of California. If, and only if, applicable law requires that all or part of any such litigation be tried exclusively in federal court, venue, without exception, shall be in the Northern District of California located in the City of San Francisco, California.

6.13 ATTORNEY'S FEES: If either Party commences an action against the other Party, either legal, administrative or otherwise, arising out of or in connection with this Agreement, the prevailing Party in such litigation shall be entitled to have and recover from the losing Party reasonable attorney's fees and all other costs of such action.

6.14 SUCCESSORS AND ASSIGNS: This Agreement shall be binding on the successors and assigns of the Parties.

6.15 NO THIRD PARTY BENEFIT: There are no intended third party beneficiaries of any right or obligation assumed by the Parties. All rights and benefits under this Agreement inure exclusively to the Parties.

6.16 CONSTRUCTION OF AGREEMENT: This Agreement shall not be construed in favor of, or against, either Party but shall be construed as if the Parties prepared this Agreement together through a process of negotiation and with the advice of their respective attorneys.

6.17 SEVERABILITY: If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

6.18 AMENDMENT; MODIFICATION: No amendment, modification or supplement of this Agreement shall be valid or binding unless executed in writing and signed by both Parties, subject to DISTRICT approval. The requirement for written amendments, modifications or supplements cannot be waived and any attempted waiver shall be void and invalid.

6.19 CAPTIONS: The captions of the various articles, sections and paragraphs are for convenience and ease of reference only, and do not define, limits, augment, or describe the scope, content, or intent of this Agreement.

6.20 INCONSISTENCIES OR CONFLICTS: In the event of any conflict or inconsistency between the provisions of this Agreement and any of the exhibits attached hereto, the provisions of this Agreement shall control.

6.21 ENTIRE AGREEMENT: This Agreement including all attached exhibits is the entire, complete, final and exclusive expression of the Parties with respect to the matters addressed herein and supersedes all other agreements or understandings, whether oral or written, or entered into between DISTRICT and CONTRACTOR prior to the execution of this Agreement. No statements, representations or other agreements, whether oral or written, made by any Party which are not embodied herein shall be valid or binding. No amendment, modification or supplement to this Agreement shall be valid and binding unless in writing and duly executed by the Parties pursuant to Section 6.15, above.

6.22 COUNTERPARTS: This Agreement shall be executed in TWO (2) original counterparts each of which shall be of equal force and effect. No handwritten or typewritten amendment, modification or supplement to any one counterparts shall be valid or binding unless made to all three counterparts in conformity with Section 6.15, above.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed the day and year first appearing in this Agreement, above.

MARYSVILLE JOINT UNIFIED SCHOOL  
DISTRICT:

By: \_\_\_\_\_  
Gay Todd, Superintendent

Contractor

By: Roseann VanDerAa

Name: Roseann VanDerAa

Title: CELDT Testing Consultant

Exhibit A  
Scope of Work

**CELDT Testing Consultant 2015-16 School Year**

**July – October**

Make contacts with all sites on scheduling  
Schedule (2) CELDT trainings for EL facilitators and retired teachers  
Schedule CELDT trainings at school sites (3-5 trainings)  
Work with the Hill's and others on sites needing testing  
Monitor testing schedule with sites  
Spreadsheet on sites completed and numbers tested  
Send extra test materials as needed to sites  
Assist with testing at all hill schools or at other sites as needed  
Proof hand bubbled answer docs as they come in from all sites (SSID#, BD, etc.)  
Fill out header sheets for all grade levels by site  
Fill out Master SGID sheets for all sites  
Package and label all scorable materials boxes  
Call for scoring materials pickup (with box count and box sizes)  
First EL Facilitators Meeting/Training in September  
First Principals Assurances checklists (PALS) are due in testing/EL office by end of October

**November – January**

Email sites that have not turned in their PALS forms due last of October  
Review RFEP procedures (making sure sites understand how district benchmarks are used)  
Test results to sites  
Post test reports  
End of year report  
Start sites on Reclassifications new 2015-16 CELDT scores  
Arrange site visits to assist with RFEP paperwork  
Process RFEP forms send to District Superintendent for her signature  
Add students name, SSID#, BD, and date of RFEP to Reclassification spreadsheet.  
Enter students RFEP information in to Aeries  
Second PALS checklist due to testing/EL office by 3<sup>rd</sup> Friday in November  
Email sites that have not turned in their PALS forms that were due by the 3<sup>rd</sup> Friday in November

**February**

EL Facilitators meeting/training to make sure all on going EL forms are understood  
Spread Sheet on sites  
Collate with CST and grades  
Process RFEP forms and enter data  
New CELDT training Sac  
Arrange for site visits to review ongoing EL forms

**March**

Visit sites to assist with reclassifications  
Process RFEP forms and enter data  
Order EL testing materials  
Check with all sites on Principals Assurances checklist that needs to be completed by March

#### April – June

EL Facilitator Meeting April – follow up on Reclassification progress at sites  
Assist sites with Reclassification paper work  
Process RFEP forms and enter data  
Festival of Reclassifications for 2015-16  
Set up trainings on new EL testing materials  
Collect all remaining CELDT materials from sites for return to EDS for destruction  
Principals Assurance Checklist due to testing/EL office by end of June

#### CELDT Testing Consultant On Going Duties 2015-16 School Year

#### El Facilitators meeting/trainings

Duties of Facilitators  
PALS  
CALPADS  
HLS, Ed. Codes  
Parent Forms  
Monitoring with sites  
Visit with sites to assist with EL Forms and Reclassification  
EL Facilitators Trainings/Meetings prep of materials and handout for September, January and May

#### CALPADS

EL Placement  
Instruction  
Review Reclassification

#### Reclassifications

On-going monthly  
June –Festival of Reclassification  
Review for needed criteria (scores – CELDT, District Benchmarks/CAHSEE, grades teacher and principal signature)

#### Consult

With Special Ed. / EL on Home Language Surveys  
Collect, Monitor of waivers and withdraws in the district  
Work with sites on Green EL Folders, EL stickers for cums  
Reclassification paperwork for Green folder and RFEP stickers for cums  
Work with sites on Primary Language test materials needed  
(Spanish and Hmong)

#### CELDT

Process monthly CELDT test returned to testing office from sites.  
Check hand bubbling, for SSID and other info. Grade level and Master SGID  
Sheets, package and call for pickup.  
Enter scores on monthly out of window CELDT testing into Aeries.  
Enter monthly scores from EDS on testing done monthly for new students  
Assist other districts that request CELDT scores of student that have moved

CELDT Testing Consultant Contractual for 2015-16 School Year

Roseann VanDerAa	\$1,006.00 per mo	\$12,072.00 per yr
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CONTRACT SERVICES AGREEMENT  
**Educational Services –Testing Consultant**

THIS CONTRACT SERVICES AGREEMENT ("Agreement") is made and entered into on 7/28/2015 (hereinafter, the "Effective Date"), by and between the MARYSVILLE JOINT UNIFIED SCHOOL DISTRICT ("DISTRICT") and Roseann VanDerAa (hereinafter, "CONTRACTOR"). For the purposes of this Agreement DISTRICT and CONTRACTOR may be referred to collectively by the capitalized term "Parties." The capitalized term "Party" may refer to DISTRICT or CONTRACTOR interchangeably.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions herein contained, DISTRICT and CONTRACTOR agree as follows:

I. ENGAGEMENT TERMS

1.1 SCOPE OF WORK: Subject to the terms and conditions set forth in this Agreement and all exhibits attached and incorporated hereto, CONTRACTOR agrees to perform the services and tasks set forth in **Exhibit "A"** (hereinafter referred to as the "**Scope of Work**"). CONTRACTOR further agrees to furnish to DISTRICT all labor, materials, tools, supplies, equipment, services, tasks and incidental and customary work necessary to competently perform and timely complete the services and tasks set forth in the Scope of Work. For the purposes of this Agreement the aforementioned services and tasks set forth in the Scope of Work shall hereinafter be referred to generally by the capitalized term "Work." CONTRACTOR shall not commence with the performance of the Work until such time as DISTRICT issues a written Notice to Proceed.

1.2 TERM: This Agreement shall have a term of **2015-2016** commencing from **July 2015 – June 2016**

1.3 COMPENSATION:

- A. CONTRACTOR shall perform the various services and tasks set forth in the Scope of Services in accordance with the compensation schedule which is **see Exhibit A.**(hereinafter, the "Approved Rate Schedule").
- B. Section 1.3(A) notwithstanding, CONTRACTOR's total compensation during the Term of this Agreement or any extension term shall not exceed the budgeted aggregate sum **SIX THOUSAND THIRTY-SIX AND NO CENTS (\$6,036.00)** (hereinafter, the "Not-to-Exceed Sum"), unless such added expenditure is first approved by the DISTRICT acting in consultation with the Superintendent and the Director of Fiscal Services. In the event CONTRACTOR's charges are projected to exceed the Not-to-Exceed Sum prior to the expiration of the Term or any single extension term, DISTRICT may suspend CONTRACTOR's performance pending DISTRICT approval of any anticipated expenditures in excess of the Not-to-Exceed Sum or any other DISTRICT-approved amendment to the compensation terms of this Agreement.

1.4 PAYMENT OF COMPENSATION: The Not-to-Exceed Sum shall be paid to CONTRACTOR monthly increments of **FIVE HUNDRED THREE AND NO CENTS (\$503.00)** as the Work is completed. Following the conclusion of each calendar month, CONTRACTOR shall submit to DISTRICT an itemized invoice indicating the services performed and tasks completed during the recently concluded calendar month, including services and tasks performed and the reimbursable out-of-pocket expenses incurred. If the amount of CONTRACTOR's monthly compensation is a function of hours works by CONTRACTOR's personnel, the invoice shall indicate the number of hours worked in the recently concluded calendar month, the persons responsible for performing the Work, the rate of compensation at which such services and tasks were performed, the subtotal for each tasks and service performed and a grand total for all services performed. Within **THIRTY (30)** calendar days of receipt of each invoice, DISTRICT shall notify CONTRACTOR in writing of any disputed amounts included in the invoice. Within **FORTY-FIVE (45)**

calendar day of receipt of each invoice, DISTRICT shall pay all undisputed amounts included on the invoice. DISTRICT shall not withhold applicable taxes or other authorized deductions from payments made to CONTRACTOR.

- 1.5 ACCOUNTING RECORDS: CONTRACTOR shall maintain complete and accurate records with respect to all matters covered under this Agreement for a period of three (3) years after the expiration or termination of this Agreement. DISTRICT shall have the right to access and examine such records, without charge, during normal business hours. DISTRICT shall further have the right to audit such records, to make transcripts therefrom and to inspect all program data, documents, proceedings, and activities.
- 1.6 ABANDONMENT BY CONTRACTOR: In the event CONTRACTOR ceases to perform the Work agreed to under this Agreement or otherwise abandons the undertaking contemplated herein prior to the expiration of this Agreement or prior to completion of any or all tasks set forth in the Scope of Work, CONTRACTOR shall deliver to DISTRICT immediately and without delay, all materials, records and other work product prepared or obtained by CONTRACTOR in the performance of this Agreement. Furthermore, CONTRACTOR shall only be compensated for the reasonable value of the services, tasks and other work performed up to the time of cessation or abandonment, less a deduction for any damages, costs or additional expenses which DISTRICT may incur as a result of CONTRACTOR's cessation or abandonment.

## II. PERFORMANCE OF AGREEMENT

- 2.1 DISTRICT'S REPRESENTATIVES: The DISTRICT hereby designates Representative, Lennie Tate (hereinafter, the "DISTRICT Representatives") to act as its representatives for the performance of this Agreement. The Superintendent shall be the chief DISTRICT Representative. The DISTRICT Representatives or their designee shall act on behalf of the DISTRICT for all purposes under this Agreement. CONTRACTOR shall not accept directions or orders from any person other than the DISTRICT Representatives or their designee.
- 2.2 CONTRACTOR REPRESENTATIVE: CONTRACTOR hereby, Roseann VanDerAa to act as its representative for the performance of this Agreement (hereinafter, "CONTRACTOR Representative"). CONTRACTOR Representative shall have full authority to represent and act on behalf of the CONTRACTOR for all purposes under this Agreement. CONTRACTOR Representative or his designee shall supervise and direct the performance of the Work, using his best skill and attention, and shall be responsible for all means, methods, techniques, sequences and procedures and for the satisfactory coordination of all portions of the Work under this Agreement. Notice to the CONTRACTOR Representative shall constitute notice to CONTRACTOR.
- 2.3 COORDINATION OF SERVICE; CONFORMANCE WITH REQUIREMENTS: CONTRACTOR agrees to work closely with DISTRICT staff in the performance of the Work and this Agreement and shall be available to DISTRICT staff and the DISTRICT Representatives at all reasonable times. All work prepared by CONTRACTOR shall be subject to inspection and approval by DISTRICT Representatives or their designees.
- 2.4 STANDARD OF CARE; PERFORMANCE OF EMPLOYEES: CONTRACTOR represents, acknowledges and agrees to the following:
- A. CONTRACTOR shall perform all Work skillfully, competently and to the highest standards of CONTRACTOR's profession;
  - B. CONTRACTOR shall perform all Work in a manner reasonably satisfactory to the DISTRICT;
  - C. CONTRACTOR shall comply with all applicable federal, state and local laws and regulations, including the conflict of interest provisions of Government code Section 1090 and the Political Reform Act (Government Code Section 81000 *et seq.*);
  - D. CONTRACTOR understands the nature and scope of the Work to be performed under this Agreement as well as any and all schedules of performance;
  - E. All of CONTRACTOR's employees and agents possess sufficient skill, knowledge, training and experience to perform those services and tasks assigned to them by CONTRACTOR; and

F. All of CONTRACTOR's employees and agents (including but not limited to subcontractors and subconsultants) possess all licenses, permits, certificates, qualifications and approvals of whatever nature that are legally required to perform the tasks and services contemplated under this Agreement and all such licenses, permits, certificates, qualifications and approvals shall be maintained throughout the term of this Agreement and made available to DISTRICT for copying and inspection.

- 2.5 ASSIGNMENT: The skills, training, knowledge and experience of CONTRACTOR are material to DISTRICT's willingness to enter into this Agreement. Accordingly, DISTRICT has an interest in the qualifications and capabilities of the person(s) who will perform the services and tasks to be undertaken by CONTRACTOR or on behalf of CONTRACTOR in the performance of this Agreement. In recognition of this interest, CONTRACTOR agrees that it shall not assign or transfer, either directly or indirectly or by operation of law, this Agreement or the performance of any of CONTRACTOR's duties or obligations under this Agreement without the prior written consent of the DISTRICT. In the absence of DISTRICT's prior written consent, any attempted assignment or transfer shall be ineffective, null and void and shall constitute a material breach of this Agreement.
- 2.6 CONTROL AND PAYMENT OF SUBORDINATES; INDEPENDENT CONTRACTOR: The Work shall be performed by CONTRACTOR or under CONTRACTOR's strict supervision. CONTRACTOR will determine the means, methods and details of performing the Work subject to the requirements of this Agreement. DISTRICT retains CONTRACTOR on an independent contractor basis and not as an employee. CONTRACTOR reserves the right to perform similar or different services for other principals during the term of this Agreement, provided such work does not unduly interfere with CONTRACTOR's competent and timely performance of the Work contemplated under this Agreement and provided the performance of such services does not result in the unauthorized disclosure of DISTRICT's confidential or proprietary information. Any additional personnel performing the Work under this Agreement on behalf of CONTRACTOR are not employees of DISTRICT and shall at all times be under CONTRACTOR's exclusive direction and control. CONTRACTOR shall pay all wages, salaries and other amounts due such personnel and shall assume responsibility for all benefits, payroll taxes, social security and Medicare payments and the like. CONTRACTOR shall be responsible for all reports and obligations respecting such additional personnel, including, but not limited to: social security taxes, income tax withholding, unemployment insurance, disability insurance, workers' compensation insurance and the like.
- 2.7 REMOVAL OF EMPLOYEES OR AGENTS: If any of CONTRACTOR's officers, employees, agents, contractors, subcontractors or subconsultants is determined by the DISTRICT Representatives to be uncooperative, incompetent, a threat to the adequate or timely performance of the tasks assigned to CONTRACTOR, a threat to persons or property, or if any of CONTRACTOR's officers, employees, agents, contractors, subcontractors or subconsultants fail or refuse to perform the Work in a manner acceptable to the DISTRICT, such officer, employee, agent, contractor, subcontractor or subconsultant shall be promptly removed by CONTRACTOR and shall not be re-assigned to perform any of the Work.
- 2.8 COMPLIANCE WITH LAWS: CONTRACTOR shall keep itself informed of and in compliance with all applicable federal, State or local laws to the extent such laws control or otherwise govern the performance of the Work. CONTRACTOR's compliance with applicable laws shall include without limitation compliance with all applicable Cal/OSHA requirements.
- 2.9 NON-DISCRIMINATION: In the performance of this Agreement, CONTRACTOR shall not discriminate against any employee, subcontractor, subconsultant, or applicant for employment because of race, color, creed, religion, sex, marital status, sexual orientation, national origin, ancestry, age, physical or mental disability or medical condition.



- 2.10. INDEPENDENT CONTRACTOR STATUS: The Parties acknowledge, understand and agree that CONTRACTOR and all persons retained or employed by CONTRACTOR are, and shall at all times remain, wholly independent contractors and are not officials, officers, employees, departments or subdivisions of DISTRICT. CONTRACTOR shall be solely responsible for the negligent acts and/or omissions of its employees, agents, contractors, subcontractors and subconsultants. CONTRACTOR and all persons retained or employed by CONTRACTOR shall have no authority, express or implied, to bind DISTRICT in any manner, nor to incur any obligation, debt or liability of any kind on behalf of, or against, DISTRICT, whether by contract or otherwise, unless such authority is expressly conferred to CONTRACTOR under this Agreement or is otherwise expressly conferred by DISTRICT in writing.

### III. INSURANCE

- 3.1 DUTY TO PROCURE AND MAINTAIN INSURANCE: Prior to the beginning of and throughout the duration of the Work, CONTRACTOR will procure and maintain policies of insurance that meet the requirements and specifications set forth under this Article. CONTRACTOR shall procure and maintain the following insurance coverage, at its own expense:
- A. Commercial General Liability Insurance: CONTRACTOR shall procure and maintain Commercial General Liability Insurance ("CGL Coverage") as broad as Insurance Services Office Commercial General Liability coverage (occurrence Form CG 0001) or its equivalent. Such CGL Coverage shall have minimum limits of no less than One Million Dollars (\$1,000,000.00) per occurrence and Two Million Dollars (\$2,000,000.00) in the general aggregate for bodily injury, personal injury, property damage, operations, products and completed operations, and contractual liability.
  - B. Automobile Liability Insurance: CONTRACTOR shall procure and maintain Automobile Liability Insurance as broad as Insurance Services Office Form Number CA 0001 covering Automobile Liability, Code 1 (any auto). Such Automobile Liability Insurance shall have minimum limits of no less than One Million Dollars (\$1,000,000.00) per accident for bodily injury and property damage.
  - C. Workers' Compensation Insurance/ Employer's Liability Insurance: A policy of workers' compensation insurance in such amount as will fully comply with the laws of the State of California and which shall indemnify, insure and provide legal defense for both CONTRACTOR and DISTRICT against any loss, claim or damage arising from any injuries or occupational diseases occurring to any worker employed by or any persons retained by CONTRACTOR in the course of carrying out the Work contemplated in this Agreement. Policy shall contain a waiver of subrogation against the all parties named as additional insureds under this subsection arising from work performed by the CONTRACTOR.
- 3.2 ADDITIONAL INSURED REQUIREMENTS: The CGL Coverage and the Automobile Liability Insurance shall contain an endorsement naming the DISTRICT and DISTRICT's elected and appointed officials, officers, employees, agents and volunteers as additional insureds.
- 3.3 REQUIRED CARRIER RATING: All varieties of insurance required under this Agreement shall be procured from insurers admitted in the State of California and authorized to issue policies directly to California insureds. Except as otherwise provided elsewhere under this Article, all required insurance shall be procured from insurers, who according to the latest edition of the Best's Insurance Guide have an A.M. Best's rating of no less than A:VII. DISTRICT may also accept policies procured by insurance carriers with a Standard & Poor's rating of no less than BBB according to the latest published edition the Standard & Poor's rating guide. As to Workers' Compensation Insurance/ Employer's Liability Insurance, the DISTRICT Representatives are authorized to authorize lower ratings than those set forth in this Section.
- 3.4 PRIMACY OF CONSULTANT'S INSURANCE: All policies of insurance provided by CONTRACTOR shall be primary to any coverage available to DISTRICT or DISTRICT's elected or appointed officials, officers, employees, agents or volunteers. Any insurance or self-insurance maintained by DISTRICT or DISTRICT's elected or appointed officials, officers, employees, agents or volunteers shall be in excess of CONTRACTOR's insurance and shall not contribute with it.

- 3.5 WAIVER OF SUBROGATION: All insurance coverage provided pursuant to this Agreement shall not prohibit CONTRACTOR or CONTRACTOR's officers, employees, agents, subcontractors or subconsultants from waiving the right of subrogation prior to a loss. CONTRACTOR hereby waives all rights of subrogation against DISTRICT.
- 3.6 VERIFICATION OF COVERAGE: CONTRACTOR acknowledges, understands and agrees, that DISTRICT's ability to verify the procurement and maintenance of the insurance required under this Article is critical to safeguarding DISTRICT's financial well-being and, indirectly, the collective well-being of the residents of the DISTRICT. Accordingly, CONTRACTOR warrants, represents and agrees that it shall furnish DISTRICT with original certificates of insurance and endorsements evidencing the coverage required under this Article on forms satisfactory to DISTRICT in its sole and absolute discretion. **The certificates of insurance and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf, and shall be on forms provided by the DISTRICT if requested.** All certificates of insurance and endorsements shall be received and approved by DISTRICT as a condition precedent to CONTRACTOR's commencement of any work or any of the Work. Upon DISTRICT's written request, CONTRACTOR shall also provide DISTRICT with certified copies of all required insurance policies and endorsements.

#### IV. INDEMNIFICATION

- 4.1 The Parties agree that DISTRICT and DISTRICT's elected and appointed officials, officers, employees, agents and volunteers (hereinafter, the "DISTRICT Indemnitees") should, to the fullest extent permitted by law, be protected from any and all loss, injury, damage, claim, lawsuit, cost, expense, attorneys' fees, litigation costs, or any other cost arising out of or in any way related to the performance of this Agreement. Accordingly, the provisions of this indemnity provision are intended by the Parties to be interpreted and construed to provide the DISTRICT Indemnitees with the fullest protection possible under the law. CONTRACTOR acknowledges that DISTRICT would not enter into this Agreement in the absence of CONTRACTOR's commitment to indemnify, defend and protect DISTRICT as set forth herein.
- 4.2 To the fullest extent permitted by law, CONTRACTOR shall indemnify, hold harmless and defend the DISTRICT Indemnitees from and against all liability, loss, damage, expense, cost (including without limitation reasonable attorney's fees, expert fees and all other costs and fees of litigation) of every nature arising out of or in connection with CONTRACTOR's performance of work hereunder or its failure to comply with any of its obligations contained in this Agreement, except such loss or damage which is caused by the sole negligence or willful misconduct of the CITY.
- 4.3 DISTRICT shall have the right to offset against the amount of any compensation due CONTRACTOR under this Agreement any amount due DISTRICT from CONTRACTOR as a result of CONTRACTOR's failure to pay DISTRICT promptly any indemnification arising under this Article and related to CONTRACTOR's failure to either (i) pay taxes on amounts received pursuant to this Agreement or (ii) comply with applicable workers' compensation laws.
- 4.4 The obligations of CONTRACTOR under this Article will not be limited by the provisions of any workers' compensation act or similar act. CONTRACTOR expressly waives its statutory immunity under such statutes or laws as to DISTRICT and DISTRICT's elected and appointed officials, officers, employees, agents and volunteers.
- 4.5 CONTRACTOR agrees to obtain executed indemnity agreements with provisions identical to those set forth here in this Article from each and every subcontractor or any other person or entity involved by, for, with or on behalf of CONTRACTOR in the performance of this Agreement. In the event CONTRACTOR fails to obtain such indemnity obligations from others as required herein, CONTRACTOR agrees to be fully responsible and indemnify, hold harmless and defend DISTRICT and DISTRICT's elected and appointed officials, officers, employees, agents and volunteers from and against any and all claims and losses, costs or expenses for any damage due to death or injury to any person and injury to any property resulting from any alleged intentional, reckless, negligent, or otherwise wrongful acts, errors or omissions of CONTRACTOR's subcontractors or any other person or entity involved by, for, with or on behalf of CONTRACTOR in the performance of this Agreement. Such costs and expenses shall include reasonable attorneys' fees incurred by counsel of DISTRICT's choice.

- 4.6 DISTRICT does not, and shall not, waive any rights that it may possess against CONTRACTOR because of the acceptance by DISTRICT, or the deposit with DISTRICT, of any insurance policy or certificate required pursuant to this Agreement. This hold harmless and indemnification provision shall apply regardless of whether or not any insurance policies are determined to be applicable to the claim, demand, damage, liability, loss, cost or expense.
- 4.7 This Article and all provisions contained herein (including but not limited to the duty to indemnify, defend and hold free and harmless) shall survive the termination or normal expiration of this Agreement and is in addition to any other rights or remedies which the DISTRICT may have at law or in equity.

## V. TERMINATION

- 5.1 TERMINATION WITHOUT CAUSE: DISTRICT may terminate this Agreement at any time for convenience and without cause by giving CONTRACTOR a minimum of five (5) calendar days prior written notice of DISTRICT's intent to terminate this Agreement. Upon such termination for convenience, CONTRACTOR shall be compensated only for those services and tasks which have been performed by CONTRACTOR up to the effective date of the termination. CONTRACTOR may not terminate this Agreement except for cause as provided under Section 5.2, below. If this Agreement is terminated as provided herein, DISTRICT may require CONTRACTOR to provide all finished or unfinished Documents and Data, as defined in Section 7.1 below, and other information of any kind prepared by CONTRACTOR in connection with the performance of the Work. CONTRACTOR shall be required to provide such Documents and Data within fifteen (15) calendar days of DISTRICT's written request. No actual or asserted breach of this Agreement on the part of DISTRICT pursuant to Section 5.2, below, shall operate to prohibit or otherwise restrict DISTRICT's ability to terminate this Agreement for convenience as provided under this Section.
- 5.2 EVENTS OF DEFAULT; BREACH OF AGREEMENT:

- A. In the event either Party fails to perform any duty, obligation, service or task set forth under this Agreement (or fails to timely perform or properly perform any such duty, obligation, service or task set forth under this Agreement), an event of default (hereinafter, "Event of Default") shall occur. For all Events of Default, the Party alleging an Event of Default shall give written notice to the defaulting Party (hereinafter referred to as a "Default Notice") which shall specify: (i) the nature of the Event of Default; (ii) the action required to cure the Event of Default; (iii) a date by which the Event of Default shall be cured, which shall not be less than the applicable cure period set forth under Sections 5.2.B and 5.2C below or if a cure is not reasonably possible within the applicable cure period, to begin such cure and diligently prosecute the such cure to completion. The Event of Default shall constitute a breach of this Agreement if the defaulting Party fails to cure the Event of Default within the applicable cure period or any extended cure period allowed under this Agreement.
- B. CONTRACTOR shall cure the following Events of Defaults within the following time periods:
- i. Within three (3) business days of DISTRICT's issuance of a Default Notice for any failure of CONTRACTOR to timely provide DISTRICT or DISTRICT's employees or agents with any information and/or written reports, documentation or work product which CONTRACTOR is obligated to provide to DISTRICT or DISTRICT's employees or agents under this Agreement. Prior to the expiration of the 3-day cure period, CONTRACTOR may submit a written request for additional time to cure the Event of Default upon a showing that CONTRACTOR has commenced efforts to cure the Event of Default and that the Event of Default cannot be reasonably cured within the 3-day cure period. The foregoing notwithstanding, DISTRICT shall be under no obligation to grant additional time for the cure of an Event of Default under this Section 5.2 B.i. that exceeds seven (7) calendar days from the end of the initial 3-day cure period; or
  - ii. Within fourteen (14) calendar days of DISTRICT's issuance of a Default Notice for any other Event of Default under this Agreement. Prior to the expiration of the 14-day cure period, CONTRACTOR may submit a written request for additional time to cure the Event of Default upon a showing that CONTRACTOR has commenced efforts to cure the Event of Default and that the Event of Default cannot be reasonably cured within the 14-day cure period. The foregoing notwithstanding, DISTRICT shall be under no obligation to grant additional time for the cure of an Event of Default under this Section 5.2B.ii that exceeds thirty (30) calendar days from the end of the initial 14-day cure period. .

In addition to any other failure on the part of CONTRACTOR to perform any duty, obligation, service or task set forth under this Agreement (or the failure to timely perform or properly perform any such duty, obligation, service or task), an Event of Default on the part of CONTRACTOR shall include, but shall not be limited to the following: (i) CONTRACTOR's refusal or failure to perform any of the services or tasks called for under the Scope of Work; (ii) CONTRACTOR's failure to fulfill or perform its obligations under this Agreement within the specified time or if no time is specified, within a reasonable time; (iii) CONTRACTOR's and/or its employees' disregard or violation of any federal, state, local law, rule, procedure or regulation; (iv) the initiation of proceedings under any bankruptcy, insolvency, receivership, reorganization, or similar legislation as relates to CONTRACTOR, whether voluntary or involuntary; (v) CONTRACTOR's refusal or failure to perform or observe any covenant, condition, obligation or provision of this Agreement; and/or (vi) DISTRICT's discovery that a statement representation or warranty by CONTRACTOR relating to this Agreement is false, misleading or erroneous in any material respect.

- C. DISTRICT shall cure any Event of Default asserted by CONTRACTOR within FORTY-FIVE (45) calendar days of CONTRACTOR's issuance of a Default Notice, unless the Event of Default cannot reasonably be cured within the 45-day cure period. Prior to the expiration of the 45-day cure period, DISTRICT may submit a written request for additional time to cure the Event of Default upon a showing that DISTRICT has commenced its efforts to cure the Event of Default and that the Event of Default cannot be reasonably cured within the 45-day cure period. The foregoing notwithstanding, an Event of Default dealing with DISTRICT's failure to timely pay any undisputed sums to CONTRACTOR as provided under Section 1.4, above, shall be cured by DISTRICT within five (5) calendar days from the date of CONTRACTOR's Default Notice to DISTRICT.
- D. DISTRICT, in its sole and absolute discretion, may also immediately suspend CONTRACTOR's performance under this Agreement pending CONTRACTOR's cure of any Event of Default by giving CONTRACTOR written notice of DISTRICT's intent to suspend CONTRACTOR's performance (hereinafter, a "Suspension Notice"). DISTRICT may issue the Suspension Notice at any time upon the occurrence of an Event of Default. Upon such suspension, CONTRACTOR shall be compensated only for those services and tasks which have been rendered by CONTRACTOR to the reasonable satisfaction of DISTRICT up to the effective date of the suspension. No actual or asserted breach of this Agreement on the part of DISTRICT shall operate to prohibit or otherwise restrict DISTRICT's ability to suspend this Agreement as provided herein.
- E. No waiver of any Event of Default or breach under this Agreement shall constitute a waiver of any other or subsequent Event of Default or breach. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel, or otherwise.
- F. The duties and obligations imposed under this Agreement and the rights and remedies available hereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. In addition to any other remedies available to DISTRICT at law or under this Agreement in the event of any breach of this Agreement, DISTRICT, in its sole and absolute discretion, may also pursue any one or more of the following remedies:
  - i. Upon written notice to CONTRACTOR, the DISTRICT may immediately terminate this Agreement in whole or in part;
  - ii. Upon written notice to CONTRACTOR, the DISTRICT may extend the time of performance;
  - iii. The DISTRICT may proceed by appropriate court action to enforce the terms of the Agreement to recover damages for CONTRACTOR's breach of the Agreement or to terminate the Agreement; or
  - iv. The DISTRICT may exercise any other available and lawful right or remedy.

CONTRACTOR shall be liable for all legal fees plus other costs and expenses that DISTRICT incurs upon a breach of this Agreement or in the DISTRICT's exercise of its remedies under this Agreement.

G. In the event DISTRICT is in breach of this Agreement, CONTRACTOR's sole remedy shall be the suspension or termination of this Agreement and/or the recovery of any unpaid sums lawfully owed to CONTRACTOR under this Agreement for completed services and tasks.

- 5.3 SCOPE OF WAIVER: No waiver of any default or breach under this Agreement shall constitute a waiver of any other default or breach, whether of the same or other covenant, warranty, agreement, term, condition, duty or requirement contained in this Agreement. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel, or otherwise.
- 5.4 SURVIVING ARTICLES, SECTIONS AND PROVISIONS: The termination of this Agreement pursuant to any provision of this Article or by normal expiration of its term or any extension thereto shall not operate to terminate any Article, Section or provision contained herein which provides that it shall survive the termination or normal expiration of this Agreement.

## VI. MISCELLANEOUS PROVISIONS

- 6.1 DOCUMENTS & DATA; LICENSING OF INTELLECTUAL PROPERTY: All Documents and Data shall be and remain the property of DISTRICT without restriction or limitation upon their use or dissemination by DISTRICT. For purposes of this Agreement, the term "Documents and Data" means and includes all reports, analyses, correspondence, plans, drawings, designs, renderings, specifications, notes, summaries, strategies, charts, schedules, spreadsheets, calculations, lists, data compilations, documents or other materials developed and/or assembled by or on behalf of CONTRACTOR in the performance of this Agreement and fixed in any tangible medium of expression, including but not limited to Documents and Data stored digitally, magnetically and/or electronically. This Agreement creates, at no cost to DISTRICT, a perpetual license for DISTRICT to copy, use, reuse, disseminate and/or retain any and all copyrights, designs, and other intellectual property embodied in all Documents and Data. CONTRACTOR shall require all subcontractors and subconsultants working on behalf of CONTRACTOR in the performance of this Agreement to agree in writing that DISTRICT shall be granted the same right to copy, use, reuse, disseminate and retain Documents and Data prepared or assembled by any subcontractor or subconsultant as applies to Documents and Data prepared by CONTRACTOR in the performance of this Agreement.
- 6.2 CONFIDENTIALITY: All data, documents, discussion, or other information developed or received by CONTRACTOR or provided for performance of this Agreement are deemed confidential and shall not be disclosed by CONTRACTOR without prior written consent by DISTRICT. DISTRICT shall grant such consent if disclosure is legally required. Upon request, all DISTRICT data shall be returned to DISTRICT upon the termination or expiration of this Agreement. CONTRACTOR shall not use DISTRICT's name or insignia, photographs, or any publicity pertaining to the Work in any magazine, trade paper, newspaper, television or radio production or other similar medium without the prior written consent of DISTRICT.
- 6.3 FINGERPRINTING. CONTRACTOR shall comply with all applicable provisions of Education Code Section 45125.1. CONTRACTOR will conduct criminal background checks of all employees, agents and/or representatives assigned performing any services and tasks on DISTRICT property on CONTRACTOR's behalf. CONTRACTOR will certify in writing that no such employees, agents and representatives who have been convicted of a violent or serious felony as described in the Notice Re: Criminal Records will have contact with DISTRICT's pupils. CONTRACTOR will provide DISTRICT with a list of all employees providing services pursuant to this Agreement. To the extent permitted under Education Code Section 45125.1, the DISTRICT Representatives may waive any fingerprinting requirements where it is determined that the CONTRACTOR, its employees and agents will have limited or no contact with pupils in the performance of any services and tasks called for under this Agreement. The waiver of the requirements of Education Code Section 45125.1 must be made in writing signed by one or both of the DISTRICT Representatives.
- 6.4 DRUG FREE WORKPLACE CERTIFICATION. CONTRACTOR shall apprise its officials and employees of the Drug-Free Workplace Act of 1990 (Govt. Code Section 8350 et seq.) (hereinafter, the "Act") which requires that every person or organization awarded a contract or grant for the procurement of property or services from any State agency must certify that it will provide a drug-free workplace by doing certain specified acts. In addition, the Act provides that each contract or grant awarded by a State agency may be subject to suspension of payments or termination of the contract or grant, and the contractor or grantee may be subject to debarment from future contracting, if the contracting agency determines that specified acts have

occurred. CONTRACTOR shall comply with the requirements publication and notification requirements of Government Code Section 8355 as to all employees performing services and tasks under this Agreement on DISTRICT property or from DISTRICT facilities.

- 6.5 FALSE CLAIMS ACT. CONTRACTOR warrants and represents that neither CONTRACTOR nor any person who is an officer of, in a managing position with, or has an ownership interest in CONTRACTOR has been determined by a court or tribunal of competent jurisdiction to have violated the False Claims Act, 31 U.S.C., Section 3789 *et seq.* and the California Fals Claims Act, Government Code Section 12650 *et seq.*
- 6.6 NOTICES: All notices permitted or required under this Agreement shall be given to the respective Parties at the following addresses, or at such other address as the respective Parties may provide in writing for this purpose:

**CONTRACTOR:**  
**Roseann VanDerAa**  
**1428 Avocet Drive**  
**Plumas Lake, CA 95961**

Phone: 530-742-8952  
Fax:  
Email: rvanderaa@mjusd.com

**DISTRICT:**

Marysville Joint Unified School District  
1919 B Street  
Marysville, CA 95901  
Phone: 749-6114  
Fax: 742-0573

Such notices shall be deemed effective when personally delivered or successfully transmitted by facsimile as evidenced by a fax confirmation slip or when mailed, forty-eight (48) hours after deposit with the United States Postal Service, first class postage prepared and addressed to the Party at its applicable address.

- 6.7 COOPERATION; FURTHER ACTS: The Parties shall fully cooperate with one another, and shall take any additional acts or sign any additional documents as is reasonably necessary, appropriate or convenient to achieve the purposes of this Agreement.
- 6.8 SUBCONTRACTING: CONTRACTOR shall not subcontract any portion of the Work required by this Agreement, except as expressly stated herein, without the prior written approval of DISTRICT. Subcontracts (including without limitation subcontracts with subconsultants), if any, shall contain a provision making them subject to all provisions stipulated in this Agreement, including provisions relating to insurance requirements and indemnification.
- 6.9 DISTRICT'S RIGHT TO EMPLOY OTHER CONTRACTORS: DISTRICT reserves the right to employ other contractors in connection with the various projects worked upon by CONTRACTOR.
- 6.10 PROHIBITED INTERESTS: CONTRACTOR warrants, represents and maintains that it has not employed nor retained any company or person, other than a *bona fide* employee working solely for CONTRACTOR, to solicit or secure this Agreement. Further, CONTRACTOR warrants and represents that it has not paid nor has it agreed to pay any company or person, other than a *bona fide* employee working solely for CONTRACTOR, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, DISTRICT shall have the right to rescind this Agreement without liability. For the term of this Agreement, no member, officer or employee of DISTRICT, during the term of his or her service with DISTRICT, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.
- 6.11 TIME IS OF THE ESSENCE: Time is of the essence for each and every provision of this Agreement.
- 6.12 GOVERNING LAW AND VENUE: This Agreement shall be interpreted and governed according to the laws of the State of California. In the event of litigation between the Parties, venue, without exception, shall be in the Yuba County Superior Court of

the State of California. If, and only if, applicable law requires that all or part of any such litigation be tried exclusively in federal court, venue, without exception, shall be in the Northern District of California located in the City of San Francisco, California.

- 6.13 ATTORNEY'S FEES: If either Party commences an action against the other Party, either legal, administrative or otherwise, arising out of or in connection with this Agreement, the prevailing Party in such litigation shall be entitled to have and recover from the losing Party reasonable attorney's fees and all other costs of such action.
- 6.14 SUCCESSORS AND ASSIGNS: This Agreement shall be binding on the successors and assigns of the Parties.
- 6.15 NO THIRD PARTY BENEFIT: There are no intended third party beneficiaries of any right or obligation assumed by the Parties. All rights and benefits under this Agreement inure exclusively to the Parties.
- 6.16 CONSTRUCTION OF AGREEMENT: This Agreement shall not be construed in favor of, or against, either Party but shall be construed as if the Parties prepared this Agreement together through a process of negotiation and with the advice of their respective attorneys.
- 6.17 SEVERABILITY: If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.
- 6.18 AMENDMENT; MODIFICATION: No amendment, modification or supplement of this Agreement shall be valid or binding unless executed in writing and signed by both Parties, subject to DISTRICT approval. The requirement for written amendments, modifications or supplements cannot be waived and any attempted waiver shall be void and invalid.
- 6.19 CAPTIONS: The captions of the various articles, sections and paragraphs are for convenience and ease of reference only, and do not define, limits, augment, or describe the scope, content, or intent of this Agreement.
- 6.20 INCONSISTENCIES OR CONFLICTS: In the event of any conflict or inconsistency between the provisions of this Agreement and any of the exhibits attached hereto, the provisions of this Agreement shall control.
- 6.21 ENTIRE AGREEMENT: This Agreement including all attached exhibits is the entire, complete, final and exclusive expression of the Parties with respect to the matters addressed herein and supersedes all other agreements or understandings, whether oral or written, or entered into between DISTRICT and CONTRACTOR prior to the execution of this Agreement. No statements, representations or other agreements, whether oral or written, made by any Party which are not embodied herein shall be valid or binding. No amendment, modification or supplement to this Agreement shall be valid and binding unless in writing and duly executed by the Parties pursuant to Section 6.15, above.
- 6.22 COUNTERPARTS: This Agreement shall be executed in TWO (2) original counterparts each of which shall be of equal force and effect. No handwritten or typewritten amendment, modification or supplement to any one counterparts shall be valid or binding unless made to all three counterparts in conformity with Section 6.15, above.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed the day and year first appearing in this Agreement, above.

MARYSVILLE JOINT UNIFIED SCHOOL  
DISTRICT:

By: \_\_\_\_\_  
Gay Todd, Superintendent

Contractor

By: Roseann VanDerAa

Name: Roseann VanDerAa

Title: Testing Consultant

Exhibit A  
Scope of Work

**District Testing Facilitation Consultant 2015-2016 School Year  
(CAHSEE, CST, PFT and AP/BI)**

**July**

**PFT**

Second and final PFT data correction window opens  
Individual student reports arrive  
Individual and district reports uploaded to CDE

**CAHSEE**

May student results available for Web download by district  
May student results loaded to Aeries and sent to all High Schools  
May student individual reports arrive, separated and sent to HS with parent notification letter.  
May district summary reports arrive  
Setup May district CAHSEE binder

**August**

**PFT**

Final PFT data correction window closes  
Package PFT reports for distribution to sites with parent notification letter

**September**

**PFT**

PFT Coordinator Designation Form online,. Fill it out for online submission.  
Notify Superintendent to check her email to approve the form  
Email all sites 2014-15 PFT Facilitator list to update their PFT Facilitator for 2015-16 school year

**CST**

Email all sites 2014-15 CST Facilitator list to update their CST/Science Facilitator for 2015-16

**October**

**All Testing Info**

Final information for CEBEDS day with Richard

**PFT**

Email site coordinators on upcoming dates, webinars, and additional information as it comes in

**CST/Science**

Keep in contact with all site coordinators on important dates, webinars and any new information that is posted

**November**

**PFT**

PFT Coordinator Designation Form due

**Apportionment Forms**

Start arriving for CAHSEE and CELDT



Forms must be filled out and signed by District Superintendent and mailed by Certified/return receipt requested by December for funds to be available to district.

## **December**

### **CST**

CST order of materials online for CST Science paper and pencil test for grades Fifth, Eight and Tenth

### **Apportionment Forms**

Mail District Superintendent signed to CDE for CAHSEE and CELDT (forms must be mailed Certified and return receipt requested)

## **January**

### **PFT**

Webinar on 2016 PFT testing

Ensure data collection forms are distributed to all school sites

### **CST**

Apportionment form will be sent to district

Have District Superintendent sign

Mail form Certified and return receipt requested

Prepare training packets for CST/Science paper and pencil training to be held in February

Email CST site coordinators and site administration of CST training in February

## **February**

### **PFT**

Notify sites PFT window opens. They can begin administering the PFT and collecting data

### **CST**

District training on CST/Science paper and pencil testing.

## **March**

### **PFT**

Run reports for 5<sup>th</sup>, 7<sup>th</sup> and 9<sup>th</sup> grade from all sites

Have Purchase Order (PO) done to cover cost of PFT Pre-ID, Scoring and CD

Send Fax and mail copy of Purchase Order to company so Pre-ID upload can be none

Upload Pre-ID file for PFT

### **CST**

CST/Science paper and pencil materials start arriving

Inventory of all sites CST/Science materials boxes for shortages or overages

Call company on any CST/Science material shortages or overages

## **April**

### **PFT**

Assemble testing instruction to be sent to sites for 5<sup>th</sup>, 7<sup>th</sup> and 9<sup>th</sup> grade testing.

Inventory materials and package for sites with testing instructions.

Email sites on delivery of test materials, testing dates and return to district dates

### **CST**

Prepare delivery forms for Warehouse delivery to sites

Email sites on approximant delivery dates

Remind sites CST/Science materials must be kept in a secure locked area

## May

### PFT

Check with sites on testing progress and remind them of date due at district  
Check materials to see if hand bubbles are correct  
Package materials for scoring pickup  
Take box to Warehouse for pickup with bill of lading

### CST

CST/Science testing window opens  
Assist all sites with questions or problems during testing  
Provide additional test materials as needed  
Return of CST/Science paper and pencil test materials to warehouse  
Inventory, separate and count scorable and nonscorable boxes from all sites  
Label and mark with number count scorable materials for pickup  
Label and mark with number count nonscorable materials for pickup  
Call company for bill of lading for CST pickup

### AP/BI

Email all High Schools that 2014-15 Advanced Placement (AP/BI) AP Exam Invoice: State Copy and 2014-15 School Worksheet are due in the Testing Office by June 5, 2015

## June

### AP/BI

Reminder email to all High Schools that tested to send their signed State Invoice and school worksheet to the testing office by June 5<sup>th</sup>  
Complete district worksheet using school site worksheets  
Submit district online worksheet form  
Printed form must have District Superintendent signature  
Mail District form and all site forms by June 30<sup>th</sup>

### PFT

Make online correction as needed and able to correct  
District results must be uploaded to CDE by June 30<sup>th</sup>

### Testing Facilitation Consultant On Going Duties

Enter all test scores for students in to Aeries as they arrive in our district  
Assist sites in looking up older CAHSEE scores for students as needed  
Provide sites copies of student's original CAHSEE results sheets as needed  
Assist sites with missing reports through CAHSEE or PFT

### Testing Facilitation Consultant Contractual 2015-16 School Year

Roseann VanDerAa	\$503.00 per mo	\$6,036.00 per yr
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CONTRACT SERVICES AGREEMENT  
**Educational Services – CELDT Testing Consultant**

THIS CONTRACT SERVICES AGREEMENT ("Agreement") is made and entered into on 7/28/2015 (hereinafter, the "Effective Date"), by and between the MARYSVILLE JOINT UNIFIED SCHOOL DISTRICT ("DISTRICT") and Aaron Hill (hereinafter, "CONTRACTOR"). For the purposes of this Agreement DISTRICT and CONTRACTOR may be referred to collectively by the capitalized term "Parties." The capitalized term "Party" may refer to DISTRICT or CONTRACTOR interchangeably.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions herein contained, DISTRICT and CONTRACTOR agree as follows:

I. ENGAGEMENT TERMS

1.1 SCOPE OF WORK: Subject to the terms and conditions set forth in this Agreement and all exhibits attached and incorporated hereto, CONTRACTOR agrees to perform the services and tasks set forth in **Exhibit "A"** (hereinafter referred to as the "**Scope of Work**"). CONTRACTOR further agrees to furnish to DISTRICT all labor, materials, tools, supplies, equipment, services, tasks and incidental and customary work necessary to competently perform and timely complete the services and tasks set forth in the Scope of Work. For the purposes of this Agreement the aforementioned services and tasks set forth in the Scope of Work shall hereinafter be referred to generally by the capitalized term "Work." CONTRACTOR shall not commence with the performance of the Work until such time as DISTRICT issues a written Notice to Proceed.

1.2 TERM: This Agreement shall have a term of **2015-2016** commencing from **July 2015 – October 2015**

1.3 COMPENSATION:

- A. CONTRACTOR shall perform the various services and tasks set forth in the Scope of Services in accordance with the compensation schedule which is **see Exhibit A**. (hereinafter, the "Approved Rate Schedule").
- B. Section 1.3(A) notwithstanding, CONTRACTOR's total compensation during the Term of this Agreement or any extension term shall not exceed the budgeted aggregate sum **FIVE THOUSAND AND NO CENTS (\$5,000.00)** (hereinafter, the "Not-to-Exceed Sum"), unless such added expenditure is first approved by the DISTRICT acting in consultation with the Superintendent and the Director of Fiscal Services. In the event CONTRACTOR's charges are projected to exceed the Not-to-Exceed Sum prior to the expiration of the Term or any single extension term, DISTRICT may suspend CONTRACTOR's performance pending DISTRICT approval of any anticipated expenditures in excess of the Not-to-Exceed Sum or any other DISTRICT-approved amendment to the compensation terms of this Agreement.

1.4 PAYMENT OF COMPENSATION: The Not-to-Exceed Sum shall be paid to CONTRACTOR monthly increments of **ONE THOUSAND TWO HUNDRED FIFTY AND NO CENTS (\$1,250.00)** as the Work is completed. Following the conclusion of each calendar month, CONTRACTOR shall submit to DISTRICT an itemized invoice indicating the services performed and tasks completed during the recently concluded calendar month, including services and tasks performed and the reimbursable out-of-pocket expenses incurred. If the amount of CONTRACTOR's monthly compensation is a function of hours works by CONTRACTOR's personnel, the invoice shall indicate the number of hours worked in the recently concluded calendar month, the persons responsible for performing the Work, the rate of compensation at which such services and tasks were performed, the subtotal for each tasks and service performed and a grand total for all services performed. Within **THIRTY (30)** calendar days of receipt of each invoice, DISTRICT shall notify CONTRACTOR in writing of any disputed amounts included in the invoice.

Within FORTY-FIVE (45) calendar day of receipt of each invoice, DISTRICT shall pay all undisputed amounts included on the invoice. DISTRICT shall not withhold applicable taxes or other authorized deductions from payments made to CONTRACTOR.

- 1.5 ACCOUNTING RECORDS: CONTRACTOR shall maintain complete and accurate records with respect to all matters covered under this Agreement for a period of three (3) years after the expiration or termination of this Agreement. DISTRICT shall have the right to access and examine such records, without charge, during normal business hours. DISTRICT shall further have the right to audit such records, to make transcripts therefrom and to inspect all program data, documents, proceedings, and activities.
- 1.6 ABANDONMENT BY CONTRACTOR: In the event CONTRACTOR ceases to perform the Work agreed to under this Agreement or otherwise abandons the undertaking contemplated herein prior to the expiration of this Agreement or prior to completion of any or all tasks set forth in the Scope of Work, CONTRACTOR shall deliver to DISTRICT immediately and without delay, all materials, records and other work product prepared or obtained by CONTRACTOR in the performance of this Agreement. Furthermore, CONTRACTOR shall only be compensated for the reasonable value of the services, tasks and other work performed up to the time of cessation or abandonment, less a deduction for any damages, costs or additional expenses which DISTRICT may incur as a result of CONTRACTOR's cessation or abandonment.

## II. PERFORMANCE OF AGREEMENT

- 2.1 DISTRICT'S REPRESENTATIVES: The DISTRICT hereby designates Representative, Lennie Tate (hereinafter, the "DISTRICT Representatives") to act as its representatives for the performance of this Agreement. The Superintendent shall be the chief DISTRICT Representative. The DISTRICT Representatives or their designee shall act on behalf of the DISTRICT for all purposes under this Agreement. CONTRACTOR shall not accept directions or orders from any person other than the DISTRICT Representatives or their designee.
- 2.2 CONTRACTOR REPRESENTATIVE: CONTRACTOR hereby, Aaron Hill to act as its representative for the performance of this Agreement (hereinafter, "CONTRACTOR Representative"). CONTRACTOR Representative shall have full authority to represent and act on behalf of the CONTRACTOR for all purposes under this Agreement. CONTRACTOR Representative or his designee shall supervise and direct the performance of the Work, using his best skill and attention, and shall be responsible for all means, methods, techniques, sequences and procedures and for the satisfactory coordination of all portions of the Work under this Agreement. Notice to the CONTRACTOR Representative shall constitute notice to CONTRACTOR.
- 2.3 COORDINATION OF SERVICE; CONFORMANCE WITH REQUIREMENTS: CONTRACTOR agrees to work closely with DISTRICT staff in the performance of the Work and this Agreement and shall be available to DISTRICT staff and the DISTRICT Representatives at all reasonable times. All work prepared by CONTRACTOR shall be subject to inspection and approval by DISTRICT Representatives or their designees.
- 2.4 STANDARD OF CARE; PERFORMANCE OF EMPLOYEES: CONTRACTOR represents, acknowledges and agrees to the following:
- A. CONTRACTOR shall perform all Work skillfully, competently and to the highest standards of CONTRACTOR's profession;
  - B. CONTRACTOR shall perform all Work in a manner reasonably satisfactory to the DISTRICT;
  - C. CONTRACTOR shall comply with all applicable federal, state and local laws and regulations, including the conflict of interest provisions of Government code Section 1090 and the Political Reform Act (Government Code Section 81000 *et seq.*);
  - D. CONTRACTOR understands the nature and scope of the Work to be performed under this Agreement as well as any and all schedules of performance;
  - E. All of CONTRACTOR's employees and agents possess sufficient skill, knowledge, training and experience to perform those services and tasks assigned to them by CONTRACTOR; and

- F. All of CONTRACTOR's employees and agents (including but not limited to subcontractors and subconsultants) possess all licenses, permits, certificates, qualifications and approvals of whatever nature that are legally required to perform the tasks and services contemplated under this Agreement and all such licenses, permits, certificates, qualifications and approvals shall be maintained throughout the term of this Agreement and made available to DISTRICT for copying and inspection.
- 2.5 ASSIGNMENT: The skills, training, knowledge and experience of CONTRACTOR are material to DISTRICT's willingness to enter into this Agreement. Accordingly, DISTRICT has an interest in the qualifications and capabilities of the person(s) who will perform the services and tasks to be undertaken by CONTRACTOR or on behalf of CONTRACTOR in the performance of this Agreement. In recognition of this interest, CONTRACTOR agrees that it shall not assign or transfer, either directly or indirectly or by operation of law, this Agreement or the performance of any of CONTRACTOR's duties or obligations under this Agreement without the prior written consent of the DISTRICT. In the absence of DISTRICT's prior written consent, any attempted assignment or transfer shall be ineffective, null and void and shall constitute a material breach of this Agreement.
- 2.6 CONTROL AND PAYMENT OF SUBORDINATES; INDEPENDENT CONTRACTOR: The Work shall be performed by CONTRACTOR or under CONTRACTOR's strict supervision. CONTRACTOR will determine the means, methods and details of performing the Work subject to the requirements of this Agreement. DISTRICT retains CONTRACTOR on an independent contractor basis and not as an employee. CONTRACTOR reserves the right to perform similar or different services for other principals during the term of this Agreement, provided such work does not unduly interfere with CONTRACTOR's competent and timely performance of the Work contemplated under this Agreement and provided the performance of such services does not result in the unauthorized disclosure of DISTRICT's confidential or proprietary information. Any additional personnel performing the Work under this Agreement on behalf of CONTRACTOR are not employees of DISTRICT and shall at all times be under CONTRACTOR's exclusive direction and control. CONTRACTOR shall pay all wages, salaries and other amounts due such personnel and shall assume responsibility for all benefits, payroll taxes, social security and Medicare payments and the like. CONTRACTOR shall be responsible for all reports and obligations respecting such additional personnel, including, but not limited to: social security taxes, income tax withholding, unemployment insurance, disability insurance, workers' compensation insurance and the like.
- 2.7 REMOVAL OF EMPLOYEES OR AGENTS: If any of CONTRACTOR's officers, employees, agents, contractors, subcontractors or subconsultants is determined by the DISTRICT Representatives to be uncooperative, incompetent, a threat to the adequate or timely performance of the tasks assigned to CONTRACTOR, a threat to persons or property, or if any of CONTRACTOR's officers, employees, agents, contractors, subcontractors or subconsultants fail or refuse to perform the Work in a manner acceptable to the DISTRICT, such officer, employee, agent, contractor, subcontractor or subconsultant shall be promptly removed by CONTRACTOR and shall not be re-assigned to perform any of the Work.
- 2.8 COMPLIANCE WITH LAWS: CONTRACTOR shall keep itself informed of and in compliance with all applicable federal, State or local laws to the extent such laws control or otherwise govern the performance of the Work. CONTRACTOR's compliance with applicable laws shall include without limitation compliance with all applicable Cal/OSHA requirements.
- 2.9 NON-DISCRIMINATION: In the performance of this Agreement, CONTRACTOR shall not discriminate against any employee, subcontractor, subconsultant, or applicant for employment because of race, color, creed, religion, sex, marital status, sexual orientation, national origin, ancestry, age, physical or mental disability or medical condition.

- 2.10. INDEPENDENT CONTRACTOR STATUS: The Parties acknowledge, understand and agree that CONTRACTOR and all persons retained or employed by CONTRACTOR are, and shall at all times remain, wholly independent contractors and are not officials, officers, employees, departments or subdivisions of DISTRICT. CONTRACTOR shall be solely responsible for the negligent acts and/or omissions of its employees, agents, contractors, subcontractors and subconsultants. CONTRACTOR and all persons retained or employed by CONTRACTOR shall have no authority, express or implied, to bind DISTRICT in any manner, nor to incur any obligation, debt or liability of any kind on behalf of, or against, DISTRICT, whether by contract or otherwise, unless such authority is expressly conferred to CONTRACTOR under this Agreement or is otherwise expressly conferred by DISTRICT in writing.

### III. INSURANCE

- 3.1 DUTY TO PROCURE AND MAINTAIN INSURANCE: Prior to the beginning of and throughout the duration of the Work, CONTRACTOR will procure and maintain policies of insurance that meet the requirements and specifications set forth under this Article. CONTRACTOR shall procure and maintain the following insurance coverage, at its own expense:
- A. Commercial General Liability Insurance: CONTRACTOR shall procure and maintain Commercial General Liability Insurance ("CGL Coverage") as broad as Insurance Services Office Commercial General Liability coverage (occurrence Form CG 0001) or its equivalent. Such CGL Coverage shall have minimum limits of no less than One Million Dollars (\$1,000,000.00) per occurrence and Two Million Dollars (\$2,000,000.00) in the general aggregate for bodily injury, personal injury, property damage, operations, products and completed operations, and contractual liability.
  - B. Automobile Liability Insurance: CONTRACTOR shall procure and maintain Automobile Liability Insurance as broad as Insurance Services Office Form Number CA 0001 covering Automobile Liability, Code 1 (any auto). Such Automobile Liability Insurance shall have minimum limits of no less than One Million Dollars (\$1,000,000.00) per accident for bodily injury and property damage.
  - C. Workers' Compensation Insurance/ Employer's Liability Insurance: A policy of workers' compensation insurance in such amount as will fully comply with the laws of the State of California and which shall indemnify, insure and provide legal defense for both CONTRACTOR and DISTRICT against any loss, claim or damage arising from any injuries or occupational diseases occurring to any worker employed by or any persons retained by CONTRACTOR in the course of carrying out the Work contemplated in this Agreement. Policy shall contain a waiver of subrogation against the all parties named as additional insureds under this subsection arising from work performed by the CONTRACTOR.
- 3.2 ADDITIONAL INSURED REQUIREMENTS: The CGL Coverage and the Automobile Liability Insurance shall contain an endorsement naming the DISTRICT and DISTRICT's elected and appointed officials, officers, employees, agents and volunteers as additional insureds.
- 3.3 REQUIRED CARRIER RATING: All varieties of insurance required under this Agreement shall be procured from insurers admitted in the State of California and authorized to issue policies directly to California insureds. Except as otherwise provided elsewhere under this Article, all required insurance shall be procured from insurers, who according to the latest edition of the Best's Insurance Guide have an A.M. Best's rating of no less than A:VII. DISTRICT may also accept policies procured by insurance carriers with a Standard & Poor's rating of no less than BBB according to the latest published edition the Standard & Poor's rating guide. As to Workers' Compensation Insurance/ Employer's Liability Insurance, the DISTRICT Representatives are authorized to authorize lower ratings than those set forth in this Section.
- 3.4 PRIMACY OF CONSULTANT'S INSURANCE: All policies of insurance provided by CONTRACTOR shall be primary to any coverage available to DISTRICT or DISTRICT's elected or appointed officials, officers, employees, agents or volunteers. Any insurance or self-insurance maintained by DISTRICT or DISTRICT's elected or appointed officials, officers, employees, agents or volunteers shall be in excess of CONTRACTOR's insurance and shall not contribute with it.

3.5 WAIVER OF SUBROGATION: All insurance coverage provided pursuant to this Agreement shall not prohibit CONTRACTOR or CONTRACTOR's officers, employees, agents, subcontractors or subconsultants from waiving the right of subrogation prior to a loss. CONTRACTOR hereby waives all rights of subrogation against DISTRICT.

3.6 VERIFICATION OF COVERAGE: CONTRACTOR acknowledges, understands and agrees, that DISTRICT's ability to verify the procurement and maintenance of the insurance required under this Article is critical to safeguarding DISTRICT's financial well-being and, indirectly, the collective well-being of the residents of the DISTRICT. Accordingly, CONTRACTOR warrants, represents and agrees that it shall furnish DISTRICT with original certificates of insurance and endorsements evidencing the coverage required under this Article on forms satisfactory to DISTRICT in its sole and absolute discretion. **The certificates of insurance and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf, and shall be on forms provided by the DISTRICT if requested.** All certificates of insurance and endorsements shall be received and approved by DISTRICT as a condition precedent to CONTRACTOR's commencement of any work or any of the Work. Upon DISTRICT's written request, CONTRACTOR shall also provide DISTRICT with certified copies of all required insurance policies and endorsements.

#### IV. INDEMNIFICATION

4.1 The Parties agree that DISTRICT and DISTRICT's elected and appointed officials, officers, employees, agents and volunteers (hereinafter, the "DISTRICT Indemnitees") should, to the fullest extent permitted by law, be protected from any and all loss, injury, damage, claim, lawsuit, cost, expense, attorneys' fees, litigation costs, or any other cost arising out of or in any way related to the performance of this Agreement. Accordingly, the provisions of this indemnity provision are intended by the Parties to be interpreted and construed to provide the DISTRICT Indemnitees with the fullest protection possible under the law. CONTRACTOR acknowledges that DISTRICT would not enter into this Agreement in the absence of CONTRACTOR's commitment to indemnify, defend and protect DISTRICT as set forth herein.

4.2 To the fullest extent permitted by law, CONTRACTOR shall indemnify, hold harmless and defend the DISTRICT Indemnitees from and against all liability, loss, damage, expense, cost (including without limitation reasonable attorney's fees, expert fees and all other costs and fees of litigation) of every nature arising out of or in connection with CONTRACTOR's performance of work hereunder or its failure to comply with any of its obligations contained in this Agreement, except such loss or damage which is caused by the sole negligence or willful misconduct of the CITY.

4.3 DISTRICT shall have the right to offset against the amount of any compensation due CONTRACTOR under this Agreement any amount due DISTRICT from CONTRACTOR as a result of CONTRACTOR's failure to pay DISTRICT promptly any indemnification arising under this Article and related to CONTRACTOR's failure to either (i) pay taxes on amounts received pursuant to this Agreement or (ii) comply with applicable workers' compensation laws.

4.4 The obligations of CONTRACTOR under this Article will not be limited by the provisions of any workers' compensation act or similar act. CONTRACTOR expressly waives its statutory immunity under such statutes or laws as to DISTRICT and DISTRICT's elected and appointed officials, officers, employees, agents and volunteers.

4.5 CONTRACTOR agrees to obtain executed indemnity agreements with provisions identical to those set forth here in this Article from each and every subcontractor or any other person or entity involved by, for, with or on behalf of CONTRACTOR in the performance of this Agreement. In the event CONTRACTOR fails to obtain such indemnity obligations from others as required herein, CONTRACTOR agrees to be fully responsible and indemnify, hold harmless and defend DISTRICT and DISTRICT's elected and appointed officials, officers, employees, agents and volunteers from and against any and all claims and losses, costs or expenses for any damage due to death or injury to any person and injury to any property resulting from any alleged intentional, reckless, negligent, or otherwise wrongful acts, errors or omissions of CONTRACTOR's subcontractors or any other person or entity involved by, for, with or on behalf of CONTRACTOR in the performance of this Agreement. Such costs and expenses shall include reasonable attorneys' fees incurred by counsel of DISTRICT's choice.

- 4.6 DISTRICT does not, and shall not, waive any rights that it may possess against CONTRACTOR because of the acceptance by DISTRICT, or the deposit with DISTRICT, of any insurance policy or certificate required pursuant to this Agreement. This hold harmless and indemnification provision shall apply regardless of whether or not any insurance policies are determined to be applicable to the claim, demand, damage, liability, loss, cost or expense.
- 4.7 This Article and all provisions contained herein (including but not limited to the duty to indemnify, defend and hold free and harmless) shall survive the termination or normal expiration of this Agreement and is in addition to any other rights or remedies which the DISTRICT may have at law or in equity.

## V. TERMINATION

- 5.1 TERMINATION WITHOUT CAUSE: DISTRICT may terminate this Agreement at any time for convenience and without cause by giving CONTRACTOR a minimum of five (5) calendar days prior written notice of DISTRICT's intent to terminate this Agreement. Upon such termination for convenience, CONTRACTOR shall be compensated only for those services and tasks which have been performed by CONTRACTOR up to the effective date of the termination. CONTRACTOR may not terminate this Agreement except for cause as provided under Section 5.2, below. If this Agreement is terminated as provided herein, DISTRICT may require CONTRACTOR to provide all finished or unfinished Documents and Data, as defined in Section 7.1 below, and other information of any kind prepared by CONTRACTOR in connection with the performance of the Work. CONTRACTOR shall be required to provide such Documents and Data within fifteen (15) calendar days of DISTRICT's written request. No actual or asserted breach of this Agreement on the part of DISTRICT pursuant to Section 5.2, below, shall operate to prohibit or otherwise restrict DISTRICT's ability to terminate this Agreement for convenience as provided under this Section.
- 5.2 EVENTS OF DEFAULT; BREACH OF AGREEMENT:

- A. In the event either Party fails to perform any duty, obligation, service or task set forth under this Agreement (or fails to timely perform or properly perform any such duty, obligation, service or task set forth under this Agreement), an event of default (hereinafter, "Event of Default") shall occur. For all Events of Default, the Party alleging an Event of Default shall give written notice to the defaulting Party (hereinafter referred to as a "Default Notice") which shall specify: (i) the nature of the Event of Default; (ii) the action required to cure the Event of Default; (iii) a date by which the Event of Default shall be cured, which shall not be less than the applicable cure period set forth under Sections 5.2.B and 5.2.C below or if a cure is not reasonably possible within the applicable cure period, to begin such cure and diligently prosecute the such cure to completion. The Event of Default shall constitute a breach of this Agreement if the defaulting Party fails to cure the Event of Default within the applicable cure period or any extended cure period allowed under this Agreement.
- B. CONTRACTOR shall cure the following Events of Defaults within the following time periods:
- i. Within three (3) business days of DISTRICT's issuance of a Default Notice for any failure of CONTRACTOR to timely provide DISTRICT or DISTRICT's employees or agents with any information and/or written reports, documentation or work product which CONTRACTOR is obligated to provide to DISTRICT or DISTRICT's employees or agents under this Agreement. Prior to the expiration of the 3-day cure period, CONTRACTOR may submit a written request for additional time to cure the Event of Default upon a showing that CONTRACTOR has commenced efforts to cure the Event of Default and that the Event of Default cannot be reasonably cured within the 3-day cure period. The foregoing notwithstanding, DISTRICT shall be under no obligation to grant additional time for the cure of an Event of Default under this Section 5.2 B.i. that exceeds seven (7) calendar days from the end of the initial 3-day cure period; or
  - ii. Within fourteen (14) calendar days of DISTRICT's issuance of a Default Notice for any other Event of Default under this Agreement. Prior to the expiration of the 14-day cure period, CONTRACTOR may submit a written request for additional time to cure the Event of Default upon a showing that CONTRACTOR has commenced efforts to cure the Event of Default and that the Event of Default cannot be reasonably cured within the 14-day cure period. The foregoing notwithstanding, DISTRICT shall be under no obligation to grant additional time for the cure of an Event of Default under this Section 5.2B.ii that exceeds thirty (30) calendar days from the end of the initial 14-day cure period. .



In addition to any other failure on the part of CONTRACTOR to perform any duty, obligation, service or task set forth under this Agreement (or the failure to timely perform or properly perform any such duty, obligation, service or task), an Event of Default on the part of CONTRACTOR shall include, but shall not be limited to the following: (i) CONTRACTOR's refusal or failure to perform any of the services or tasks called for under the Scope of Work; (ii) CONTRACTOR's failure to fulfill or perform its obligations under this Agreement within the specified time or if no time is specified, within a reasonable time; (iii) CONTRACTOR's and/or its employees' disregard or violation of any federal, state, local law, rule, procedure or regulation; (iv) the initiation of proceedings under any bankruptcy, insolvency, receivership, reorganization, or similar legislation as relates to CONTRACTOR, whether voluntary or involuntary; (v) CONTRACTOR's refusal or failure to perform or observe any covenant, condition, obligation or provision of this Agreement; and/or (vi) DISTRICT's discovery that a statement representation or warranty by CONTRACTOR relating to this Agreement is false, misleading or erroneous in any material respect.

- C. DISTRICT shall cure any Event of Default asserted by CONTRACTOR within FORTY-FIVE (45) calendar days of CONTRACTOR's issuance of a Default Notice, unless the Event of Default cannot reasonably be cured within the 45-day cure period. Prior to the expiration of the 45-day cure period, DISTRICT may submit a written request for additional time to cure the Event of Default upon a showing that DISTRICT has commenced its efforts to cure the Event of Default and that the Event of Default cannot be reasonably cured within the 45-day cure period. The foregoing notwithstanding, an Event of Default dealing with DISTRICT's failure to timely pay any undisputed sums to CONTRACTOR as provided under Section 1.4, above, shall be cured by DISTRICT within five (5) calendar days from the date of CONTRACTOR's Default Notice to DISTRICT.
- D. DISTRICT, in its sole and absolute discretion, may also immediately suspend CONTRACTOR's performance under this Agreement pending CONTRACTOR's cure of any Event of Default by giving CONTRACTOR written notice of DISTRICT's intent to suspend CONTRACTOR's performance (hereinafter, a "Suspension Notice"). DISTRICT may issue the Suspension Notice at any time upon the occurrence of an Event of Default. Upon such suspension, CONTRACTOR shall be compensated only for those services and tasks which have been rendered by CONTRACTOR to the reasonable satisfaction of DISTRICT up to the effective date of the suspension. No actual or asserted breach of this Agreement on the part of DISTRICT shall operate to prohibit or otherwise restrict DISTRICT's ability to suspend this Agreement as provided herein.
- E. No waiver of any Event of Default or breach under this Agreement shall constitute a waiver of any other or subsequent Event of Default or breach. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel, or otherwise.
- F. The duties and obligations imposed under this Agreement and the rights and remedies available hereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. In addition to any other remedies available to DISTRICT at law or under this Agreement in the event of any breach of this Agreement, DISTRICT, in its sole and absolute discretion, may also pursue any one or more of the following remedies:
  - i. Upon written notice to CONTRACTOR, the DISTRICT may immediately terminate this Agreement in whole or in part;
  - ii. Upon written notice to CONTRACTOR, the DISTRICT may extend the time of performance;
  - iii. The DISTRICT may proceed by appropriate court action to enforce the terms of the Agreement to recover damages for CONTRACTOR's breach of the Agreement or to terminate the Agreement; or
  - iv. The DISTRICT may exercise any other available and lawful right or remedy.

CONTRACTOR shall be liable for all legal fees plus other costs and expenses that DISTRICT incurs upon a breach of this Agreement or in the DISTRICT's exercise of its remedies under this Agreement.

G. In the event DISTRICT is in breach of this Agreement, CONTRACTOR's sole remedy shall be the suspension or termination of this Agreement and/or the recovery of any unpaid sums lawfully owed to CONTRACTOR under this Agreement for completed services and tasks.

- 5.3 SCOPE OF WAIVER: No waiver of any default or breach under this Agreement shall constitute a waiver of any other default or breach, whether of the same or other covenant, warranty, agreement, term, condition, duty or requirement contained in this Agreement. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel, or otherwise.
- 5.4 SURVIVING ARTICLES, SECTIONS AND PROVISIONS: The termination of this Agreement pursuant to any provision of this Article or by normal expiration of its term or any extension thereto shall not operate to terminate any Article, Section or provision contained herein which provides that it shall survive the termination or normal expiration of this Agreement.

## VI. MISCELLANEOUS PROVISIONS

- 6.1 DOCUMENTS & DATA; LICENSING OF INTELLECTUAL PROPERTY: All Documents and Data shall be and remain the property of DISTRICT without restriction or limitation upon their use or dissemination by DISTRICT. For purposes of this Agreement, the term "Documents and Data" means and includes all reports, analyses, correspondence, plans, drawings, designs, renderings, specifications, notes, summaries, strategies, charts, schedules, spreadsheets, calculations, lists, data compilations, documents or other materials developed and/or assembled by or on behalf of CONTRACTOR in the performance of this Agreement and fixed in any tangible medium of expression, including but not limited to Documents and Data stored digitally, magnetically and/or electronically. This Agreement creates, at no cost to DISTRICT, a perpetual license for DISTRICT to copy, use, reuse, disseminate and/or retain any and all copyrights, designs, and other intellectual property embodied in all Documents and Data. CONTRACTOR shall require all subcontractors and subconsultants working on behalf of CONTRACTOR in the performance of this Agreement to agree in writing that DISTRICT shall be granted the same right to copy, use, reuse, disseminate and retain Documents and Data prepared or assembled by any subcontractor or subconsultant as applies to Documents and Data prepared by CONTRACTOR in the performance of this Agreement.
- 6.2 CONFIDENTIALITY: All data, documents, discussion, or other information developed or received by CONTRACTOR or provided for performance of this Agreement are deemed confidential and shall not be disclosed by CONTRACTOR without prior written consent by DISTRICT. DISTRICT shall grant such consent if disclosure is legally required. Upon request, all DISTRICT data shall be returned to DISTRICT upon the termination or expiration of this Agreement. CONTRACTOR shall not use DISTRICT's name or insignia, photographs, or any publicity pertaining to the Work in any magazine, trade paper, newspaper, television or radio production or other similar medium without the prior written consent of DISTRICT.
- 6.3 FINGERPRINTING. CONTRACTOR shall comply with all applicable provisions of Education Code Section 45125.1. CONTRACTOR will conduct criminal background checks of all employees, agents and/or representatives assigned performing any services and tasks on DISTRICT property on CONTRACTOR's behalf. CONTRACTOR will certify in writing that no such employees, agents and representatives who have been convicted of a violent or serious felony as described in the Notice Re: Criminal Records will have contact with DISTRICT's pupils. CONTRACTOR will provide DISTRICT with a list of all employees providing services pursuant to this Agreement. To the extent permitted under Education Code Section 45125.1, the DISTRICT Representatives may waive any fingerprinting requirements where it is determined that the CONTRACTOR, its employees and agents will have limited or no contact with pupils in the performance of any services and tasks called for under this Agreement. The waiver of the requirements of Education Code Section 45125.1 must be made in writing signed by one or both of the DISTRICT Representatives.
- 6.4 DRUG FREE WORKPLACE CERTIFICATION. CONTRACTOR shall apprise its officials and employees of the Drug-Free Workplace Act of 1990 (Govt. Code Section 8350 et seq.) (hereinafter, the "Act") which requires that every person or organization awarded a contract or grant for the procurement of property or services from any State agency must certify that it will provide a drug-free workplace by doing certain specified acts. In addition, the Act provides that each contract or grant awarded by a State agency may be subject to suspension of payments or termination of the contract or grant, and the contractor or grantee may be subject to debarment from future contracting, if the contracting agency determines that specified acts have

occurred. CONTRACTOR shall comply with the requirements publication and notification requirements of Government Code Section 8355 as to all employees performing services and tasks under this Agreement on DISTRICT property or from DISTRICT facilities.

- 6.5 FALSE CLAIMS ACT. CONTRACTOR warrants and represents that neither CONTRACTOR nor any person who is an officer of, in a managing position with, or has an ownership interest in CONTRACTOR has been determined by a court or tribunal of competent jurisdiction to have violated the False Claims Act, 31 U.S.C., Section 3789 *et seq.* and the California Fals Claims Act, Government Code Section 12650 *et seq.*
- 6.6 NOTICES: All notices permitted or required under this Agreement shall be given to the respective Parties at the following addresses, or at such other address as the respective Parties may provide in writing for this purpose:

**CONTRACTOR:**

Aaron Hill  
3900 Hildale Ave  
Oroville, CA 95966

Phone: 530-534-0998

Fax:

Email:

**DISTRICT:**

Marysville Joint Unified School District  
1919 B Street  
Marysville, CA 95901  
Phone: 749-6114  
Fax: 742-0573

Such notices shall be deemed effective when personally delivered or successfully transmitted by facsimile as evidenced by a fax confirmation slip or when mailed, forty-eight (48) hours after deposit with the United States Postal Service, first class postage prepared and addressed to the Party at its applicable address.

- 6.7 COOPERATION; FURTHER ACTS: The Parties shall fully cooperate with one another, and shall take any additional acts or sign any additional documents as is reasonably necessary, appropriate or convenient to achieve the purposes of this Agreement.
- 6.8 SUBCONTRACTING: CONTRACTOR shall not subcontract any portion of the Work required by this Agreement, except as expressly stated herein, without the prior written approval of DISTRICT. Subcontracts (including without limitation subcontracts with subconsultants), if any, shall contain a provision making them subject to all provisions stipulated in this Agreement, including provisions relating to insurance requirements and indemnification.
- 6.9 DISTRICT'S RIGHT TO EMPLOY OTHER CONTRACTORS: DISTRICT reserves the right to employ other contractors in connection with the various projects worked upon by CONTRACTOR.
- 6.10 PROHIBITED INTERESTS: CONTRACTOR warrants, represents and maintains that it has not employed nor retained any company or person, other than a *bona fide* employee working solely for CONTRACTOR, to solicit or secure this Agreement. Further, CONTRACTOR warrants and represents that it has not paid nor has it agreed to pay any company or person, other than a *bona fide* employee working solely for CONTRACTOR, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, DISTRICT shall have the right to rescind this Agreement without liability. For the term of this Agreement, no member, officer or employee of DISTRICT, during the term of his or her service with DISTRICT, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.
- 6.11 TIME IS OF THE ESSENCE: Time is of the essence for each and every provision of this Agreement.
- 6.12 GOVERNING LAW AND VENUE: This Agreement shall be interpreted and governed according to the laws of the State of California. In the event of litigation between the Parties, venue, without exception, shall be in the Yuba County Superior Court of

the State of California. If, and only if, applicable law requires that all or part of any such litigation be tried exclusively in federal court, venue, without exception, shall be in the Northern District of California located in the City of San Francisco, California.

- 6.13 ATTORNEY'S FEES: If either Party commences an action against the other Party, either legal, administrative or otherwise, arising out of or in connection with this Agreement, the prevailing Party in such litigation shall be entitled to have and recover from the losing Party reasonable attorney's fees and all other costs of such action.
- 6.14 SUCCESSORS AND ASSIGNS: This Agreement shall be binding on the successors and assigns of the Parties.
- 6.15 NO THIRD PARTY BENEFIT: There are no intended third party beneficiaries of any right or obligation assumed by the Parties. All rights and benefits under this Agreement inure exclusively to the Parties.
- 6.16 CONSTRUCTION OF AGREEMENT: This Agreement shall not be construed in favor of, or against, either Party but shall be construed as if the Parties prepared this Agreement together through a process of negotiation and with the advice of their respective attorneys.
- 6.17 SEVERABILITY: If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.
- 6.18 AMENDMENT; MODIFICATION: No amendment, modification or supplement of this Agreement shall be valid or binding unless executed in writing and signed by both Parties, subject to DISTRICT approval. The requirement for written amendments, modifications or supplements cannot be waived and any attempted waiver shall be void and invalid.
- 6.19 CAPTIONS: The captions of the various articles, sections and paragraphs are for convenience and ease of reference only, and do not define, limits, augment, or describe the scope, content, or intent of this Agreement.
- 6.20 INCONSISTENCIES OR CONFLICTS: In the event of any conflict or inconsistency between the provisions of this Agreement and any of the exhibits attached hereto, the provisions of this Agreement shall control.
- 6.21 ENTIRE AGREEMENT: This Agreement including all attached exhibits is the entire, complete, final and exclusive expression of the Parties with respect to the matters addressed herein and supersedes all other agreements or understandings, whether oral or written, or entered into between DISTRICT and CONTRACTOR prior to the execution of this Agreement. No statements, representations or other agreements, whether oral or written, made by any Party which are not embodied herein shall be valid or binding. No amendment, modification or supplement to this Agreement shall be valid and binding unless in writing and duly executed by the Parties pursuant to Section 6.15, above.
- 6.22 COUNTERPARTS: This Agreement shall be executed in TWO (2) original counterparts each of which shall be of equal force and effect. No handwritten or typewritten amendment, modification or supplement to any one counterparts shall be valid or binding unless made to all three counterparts in conformity with Section 6.15, above.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed the day and year first appearing in this Agreement, above.

MARYSVILLE JOINT UNIFIED SCHOOL  
DISTRICT:

By: \_\_\_\_\_  
Gay Todd, Superintendent

Contractor

By: Aaron Hill

Name: Aaron Hill

Title: CELDT Testing Consultant

Exhibit A  
Scope of Work

**CELDT testing team Contractual 2015-2016 School Year**

Aaron Hill

\$5,000.00

(Testing at multiple sites throughout the district Aug. – Oct. 2015)



**CONTRACT SERVICES AGREEMENT**  
**Educational Services – CELDT Testing Consultant**

THIS CONTRACT SERVICES AGREEMENT ("Agreement") is made and entered into on 7/28/2015 (hereinafter, the "Effective Date"), by and between the MARYSVILLE JOINT UNIFIED SCHOOL DISTRICT ("DISTRICT") and Jan Hill (hereinafter, "CONTRACTOR"). For the purposes of this Agreement DISTRICT and CONTRACTOR may be referred to collectively by the capitalized term "Parties." The capitalized term "Party" may refer to DISTRICT or CONTRACTOR interchangeably.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions herein contained, DISTRICT and CONTRACTOR agree as follows:

**I. ENGAGEMENT TERMS**

1.1 **SCOPE OF WORK:** Subject to the terms and conditions set forth in this Agreement and all exhibits attached and incorporated hereto, CONTRACTOR agrees to perform the services and tasks set forth in **Exhibit "A"** (hereinafter referred to as the "**Scope of Work**"). CONTRACTOR further agrees to furnish to DISTRICT all labor, materials, tools, supplies, equipment, services, tasks and incidental and customary work necessary to competently perform and timely complete the services and tasks set forth in the Scope of Work. For the purposes of this Agreement the aforementioned services and tasks set forth in the Scope of Work shall hereinafter be referred to generally by the capitalized term "Work." CONTRACTOR shall not commence with the performance of the Work until such time as DISTRICT issues a written Notice to Proceed.

1.2 **TERM:** This Agreement shall have a term of **2015-2016** commencing from **July 2015 – October 2015**

1.3 **COMPENSATION:**

- A. CONTRACTOR shall perform the various services and tasks set forth in the Scope of Services in accordance with the compensation schedule which is **see Exhibit A.** (hereinafter, the "Approved Rate Schedule").
- B. Section 1.3(A) notwithstanding, CONTRACTOR's total compensation during the Term of this Agreement or any extension term shall not exceed the budgeted aggregate sum **FIVE THOUSAND AND NO CENTS (\$5,000.00)** (hereinafter, the "Not-to-Exceed Sum"), unless such added expenditure is first approved by the DISTRICT acting in consultation with the Superintendent and the Director of Fiscal Services. In the event CONTRACTOR's charges are projected to exceed the Not-to-Exceed Sum prior to the expiration of the Term or any single extension term, DISTRICT may suspend CONTRACTOR's performance pending DISTRICT approval of any anticipated expenditures in excess of the Not-to-Exceed Sum or any other DISTRICT-approved amendment to the compensation terms of this Agreement.

1.4 **PAYMENT OF COMPENSATION:** The Not-to-Exceed Sum shall be paid to CONTRACTOR monthly increments of **ONE THOUSAND TWO HUNDRED FIFTY AND NO CENTS (\$1,250.00)** as the Work is completed. Following the conclusion of each calendar month, CONTRACTOR shall submit to DISTRICT an itemized invoice indicating the services performed and tasks completed during the recently concluded calendar month, including services and tasks performed and the reimbursable out-of-pocket expenses incurred. If the amount of CONTRACTOR's monthly compensation is a function of hours works by CONTRACTOR's personnel, the invoice shall indicate the number of hours worked in the recently concluded calendar month, the persons responsible for performing the Work, the rate of compensation at which such services and tasks were performed, the subtotal for each tasks and service performed and a grand total for all services performed. Within **THIRTY (30)** calendar days of receipt of each invoice, DISTRICT shall notify CONTRACTOR in writing of any disputed amounts included in the invoice.

Within FORTY-FIVE (45) calendar day of receipt of each invoice, DISTRICT shall pay all undisputed amounts included on the invoice. DISTRICT shall not withhold applicable taxes or other authorized deductions from payments made to CONTRACTOR.

- 1.5 ACCOUNTING RECORDS: CONTRACTOR shall maintain complete and accurate records with respect to all matters covered under this Agreement for a period of three (3) years after the expiration or termination of this Agreement. DISTRICT shall have the right to access and examine such records, without charge, during normal business hours. DISTRICT shall further have the right to audit such records, to make transcripts therefrom and to inspect all program data, documents, proceedings, and activities.
- 1.6 ABANDONMENT BY CONTRACTOR: In the event CONTRACTOR ceases to perform the Work agreed to under this Agreement or otherwise abandons the undertaking contemplated herein prior to the expiration of this Agreement or prior to completion of any or all tasks set forth in the Scope of Work, CONTRACTOR shall deliver to DISTRICT immediately and without delay, all materials, records and other work product prepared or obtained by CONTRACTOR in the performance of this Agreement. Furthermore, CONTRACTOR shall only be compensated for the reasonable value of the services, tasks and other work performed up to the time of cessation or abandonment, less a deduction for any damages, costs or additional expenses which DISTRICT may incur as a result of CONTRACTOR's cessation or abandonment.

## II. PERFORMANCE OF AGREEMENT

- 2.1 DISTRICT'S REPRESENTATIVES: The DISTRICT hereby designates Representative, Lennie Tate (hereinafter, the "DISTRICT Representatives") to act as its representatives for the performance of this Agreement. The Superintendent shall be the chief DISTRICT Representative. The DISTRICT Representatives or their designee shall act on behalf of the DISTRICT for all purposes under this Agreement. CONTRACTOR shall not accept directions or orders from any person other than the DISTRICT Representatives or their designee.
- 2.2 CONTRACTOR REPRESENTATIVE: CONTRACTOR hereby, Jan Hill to act as its representative for the performance of this Agreement (hereinafter, "CONTRACTOR Representative"). CONTRACTOR Representative shall have full authority to represent and act on behalf of the CONTRACTOR for all purposes under this Agreement. CONTRACTOR Representative or his designee shall supervise and direct the performance of the Work, using his best skill and attention, and shall be responsible for all means, methods, techniques, sequences and procedures and for the satisfactory coordination of all portions of the Work under this Agreement. Notice to the CONTRACTOR Representative shall constitute notice to CONTRACTOR.
- 2.3 COORDINATION OF SERVICE; CONFORMANCE WITH REQUIREMENTS: CONTRACTOR agrees to work closely with DISTRICT staff in the performance of the Work and this Agreement and shall be available to DISTRICT staff and the DISTRICT Representatives at all reasonable times. All work prepared by CONTRACTOR shall be subject to inspection and approval by DISTRICT Representatives or their designees.
- 2.4 STANDARD OF CARE; PERFORMANCE OF EMPLOYEES: CONTRACTOR represents, acknowledges and agrees to the following:
- A. CONTRACTOR shall perform all Work skillfully, competently and to the highest standards of CONTRACTOR's profession;
  - B. CONTRACTOR shall perform all Work in a manner reasonably satisfactory to the DISTRICT;
  - C. CONTRACTOR shall comply with all applicable federal, state and local laws and regulations, including the conflict of interest provisions of Government code Section 1090 and the Political Reform Act (Government Code Section 81000 *et seq.*);
  - D. CONTRACTOR understands the nature and scope of the Work to be performed under this Agreement as well as any and all schedules of performance;
  - E. All of CONTRACTOR's employees and agents possess sufficient skill, knowledge, training and experience to perform those services and tasks assigned to them by CONTRACTOR; and

- F. All of CONTRACTOR's employees and agents (including but not limited to subcontractors and subconsultants) possess all licenses, permits, certificates, qualifications and approvals of whatever nature that are legally required to perform the tasks and services contemplated under this Agreement and all such licenses, permits, certificates, qualifications and approvals shall be maintained throughout the term of this Agreement and made available to DISTRICT for copying and inspection.
- 2.5 ASSIGNMENT: The skills, training, knowledge and experience of CONTRACTOR are material to DISTRICT's willingness to enter into this Agreement. Accordingly, DISTRICT has an interest in the qualifications and capabilities of the person(s) who will perform the services and tasks to be undertaken by CONTRACTOR or on behalf of CONTRACTOR in the performance of this Agreement. In recognition of this interest, CONTRACTOR agrees that it shall not assign or transfer, either directly or indirectly or by operation of law, this Agreement or the performance of any of CONTRACTOR's duties or obligations under this Agreement without the prior written consent of the DISTRICT. In the absence of DISTRICT's prior written consent, any attempted assignment or transfer shall be ineffective, null and void and shall constitute a material breach of this Agreement.
- 2.6 CONTROL AND PAYMENT OF SUBORDINATES; INDEPENDENT CONTRACTOR: The Work shall be performed by CONTRACTOR or under CONTRACTOR's strict supervision. CONTRACTOR will determine the means, methods and details of performing the Work subject to the requirements of this Agreement. DISTRICT retains CONTRACTOR on an independent contractor basis and not as an employee. CONTRACTOR reserves the right to perform similar or different services for other principals during the term of this Agreement, provided such work does not unduly interfere with CONTRACTOR's competent and timely performance of the Work contemplated under this Agreement and provided the performance of such services does not result in the unauthorized disclosure of DISTRICT's confidential or proprietary information. Any additional personnel performing the Work under this Agreement on behalf of CONTRACTOR are not employees of DISTRICT and shall at all times be under CONTRACTOR's exclusive direction and control. CONTRACTOR shall pay all wages, salaries and other amounts due such personnel and shall assume responsibility for all benefits, payroll taxes, social security and Medicare payments and the like. CONTRACTOR shall be responsible for all reports and obligations respecting such additional personnel, including, but not limited to: social security taxes, income tax withholding, unemployment insurance, disability insurance, workers' compensation insurance and the like.
- 2.7 REMOVAL OF EMPLOYEES OR AGENTS: If any of CONTRACTOR's officers, employees, agents, contractors, subcontractors or subconsultants is determined by the DISTRICT Representatives to be uncooperative, incompetent, a threat to the adequate or timely performance of the tasks assigned to CONTRACTOR, a threat to persons or property, or if any of CONTRACTOR's officers, employees, agents, contractors, subcontractors or subconsultants fail or refuse to perform the Work in a manner acceptable to the DISTRICT, such officer, employee, agent, contractor, subcontractor or subconsultant shall be promptly removed by CONTRACTOR and shall not be re-assigned to perform any of the Work.
- 2.8 COMPLIANCE WITH LAWS: CONTRACTOR shall keep itself informed of and in compliance with all applicable federal, State or local laws to the extent such laws control or otherwise govern the performance of the Work. CONTRACTOR's compliance with applicable laws shall include without limitation compliance with all applicable Cal/OSHA requirements.
- 2.9 NON-DISCRIMINATION: In the performance of this Agreement, CONTRACTOR shall not discriminate against any employee, subcontractor, subconsultant, or applicant for employment because of race, color, creed, religion, sex, marital status, sexual orientation, national origin, ancestry, age, physical or mental disability or medical condition.



- 2.10. INDEPENDENT CONTRACTOR STATUS: The Parties acknowledge, understand and agree that CONTRACTOR and all persons retained or employed by CONTRACTOR are, and shall at all times remain, wholly independent contractors and are not officials, officers, employees, departments or subdivisions of DISTRICT. CONTRACTOR shall be solely responsible for the negligent acts and/or omissions of its employees, agents, contractors, subcontractors and subconsultants. CONTRACTOR and all persons retained or employed by CONTRACTOR shall have no authority, express or implied, to bind DISTRICT in any manner, nor to incur any obligation, debt or liability of any kind on behalf of, or against, DISTRICT, whether by contract or otherwise, unless such authority is expressly conferred to CONTRACTOR under this Agreement or is otherwise expressly conferred by DISTRICT in writing.

### III. INSURANCE

- 3.1 DUTY TO PROCURE AND MAINTAIN INSURANCE: Prior to the beginning of and throughout the duration of the Work, CONTRACTOR will procure and maintain policies of insurance that meet the requirements and specifications set forth under this Article. CONTRACTOR shall procure and maintain the following insurance coverage, at its own expense:
- A. Commercial General Liability Insurance: CONTRACTOR shall procure and maintain Commercial General Liability Insurance ("CGL Coverage") as broad as Insurance Services Office Commercial General Liability coverage (occurrence Form CG 0001) or its equivalent. Such CGL Coverage shall have minimum limits of no less than One Million Dollars (\$1,000,000.00) per occurrence and Two Million Dollars (\$2,000,000.00) in the general aggregate for bodily injury, personal injury, property damage, operations, products and completed operations, and contractual liability.
  - B. Automobile Liability Insurance: CONTRACTOR shall procure and maintain Automobile Liability Insurance as broad as Insurance Services Office Form Number CA 0001 covering Automobile Liability, Code 1 (any auto). Such Automobile Liability Insurance shall have minimum limits of no less than One Million Dollars (\$1,000,000.00) per accident for bodily injury and property damage.
  - C. Workers' Compensation Insurance/ Employer's Liability Insurance: A policy of workers' compensation insurance in such amount as will fully comply with the laws of the State of California and which shall indemnify, insure and provide legal defense for both CONTRACTOR and DISTRICT against any loss, claim or damage arising from any injuries or occupational diseases occurring to any worker employed by or any persons retained by CONTRACTOR in the course of carrying out the Work contemplated in this Agreement. Policy shall contain a waiver of subrogation against the all parties named as additional insureds under this subsection arising from work performed by the CONTRACTOR.
- 3.2 ADDITIONAL INSURED REQUIREMENTS: The CGL Coverage and the Automobile Liability Insurance shall contain an endorsement naming the DISTRICT and DISTRICT's elected and appointed officials, officers, employees, agents and volunteers as additional insureds.
- 3.3 REQUIRED CARRIER RATING: All varieties of insurance required under this Agreement shall be procured from insurers admitted in the State of California and authorized to issue policies directly to California insureds. Except as otherwise provided elsewhere under this Article, all required insurance shall be procured from insurers, who according to the latest edition of the Best's Insurance Guide have an A.M. Best's rating of no less than A:VII. DISTRICT may also accept policies procured by insurance carriers with a Standard & Poor's rating of no less than BBB according to the latest published edition the Standard & Poor's rating guide. As to Workers' Compensation Insurance/ Employer's Liability Insurance, the DISTRICT Representatives are authorized to authorize lower ratings than those set forth in this Section.
- 3.4 PRIMACY OF CONSULTANT'S INSURANCE: All policies of insurance provided by CONTRACTOR shall be primary to any coverage available to DISTRICT or DISTRICT's elected or appointed officials, officers, employees, agents or volunteers. Any insurance or self-insurance maintained by DISTRICT or DISTRICT's elected or appointed officials, officers, employees, agents or volunteers shall be in excess of CONTRACTOR's insurance and shall not contribute with it.

- 3.5 **WAIVER OF SUBROGATION:** All insurance coverage provided pursuant to this Agreement shall not prohibit CONTRACTOR or CONTRACTOR's officers, employees, agents, subcontractors or subconsultants from waiving the right of subrogation prior to a loss. CONTRACTOR hereby waives all rights of subrogation against DISTRICT.
- 3.6 **VERIFICATION OF COVERAGE:** CONTRACTOR acknowledges, understands and agrees, that DISTRICT's ability to verify the procurement and maintenance of the insurance required under this Article is critical to safeguarding DISTRICT's financial well-being and, indirectly, the collective well-being of the residents of the DISTRICT. Accordingly, CONTRACTOR warrants, represents and agrees that it shall furnish DISTRICT with original certificates of insurance and endorsements evidencing the coverage required under this Article on forms satisfactory to DISTRICT in its sole and absolute discretion. **The certificates of insurance and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf, and shall be on forms provided by the DISTRICT if requested.** All certificates of insurance and endorsements shall be received and approved by DISTRICT as a condition precedent to CONTRACTOR's commencement of any work or any of the Work. Upon DISTRICT's written request, CONTRACTOR shall also provide DISTRICT with certified copies of all required insurance policies and endorsements.

#### IV. INDEMNIFICATION

- 4.1 The Parties agree that DISTRICT and DISTRICT's elected and appointed officials, officers, employees, agents and volunteers (hereinafter, the "DISTRICT Indemnitees") should, to the fullest extent permitted by law, be protected from any and all loss, injury, damage, claim, lawsuit, cost, expense, attorneys' fees, litigation costs, or any other cost arising out of or in any way related to the performance of this Agreement. Accordingly, the provisions of this indemnity provision are intended by the Parties to be interpreted and construed to provide the DISTRICT Indemnitees with the fullest protection possible under the law. CONTRACTOR acknowledges that DISTRICT would not enter into this Agreement in the absence of CONTRACTOR's commitment to indemnify, defend and protect DISTRICT as set forth herein.
- 4.2 To the fullest extent permitted by law, CONTRACTOR shall indemnify, hold harmless and defend the DISTRICT Indemnitees from and against all liability, loss, damage, expense, cost (including without limitation reasonable attorney's fees, expert fees and all other costs and fees of litigation) of every nature arising out of or in connection with CONTRACTOR's performance of work hereunder or its failure to comply with any of its obligations contained in this Agreement, except such loss or damage which is caused by the sole negligence or willful misconduct of the CITY.
- 4.3 DISTRICT shall have the right to offset against the amount of any compensation due CONTRACTOR under this Agreement any amount due DISTRICT from CONTRACTOR as a result of CONTRACTOR's failure to pay DISTRICT promptly any indemnification arising under this Article and related to CONTRACTOR's failure to either (i) pay taxes on amounts received pursuant to this Agreement or (ii) comply with applicable workers' compensation laws.
- 4.4 The obligations of CONTRACTOR under this Article will not be limited by the provisions of any workers' compensation act or similar act. CONTRACTOR expressly waives its statutory immunity under such statutes or laws as to DISTRICT and DISTRICT's elected and appointed officials, officers, employees, agents and volunteers.
- 4.5 CONTRACTOR agrees to obtain executed indemnity agreements with provisions identical to those set forth here in this Article from each and every subcontractor or any other person or entity involved by, for, with or on behalf of CONTRACTOR in the performance of this Agreement. In the event CONTRACTOR fails to obtain such indemnity obligations from others as required herein, CONTRACTOR agrees to be fully responsible and indemnify, hold harmless and defend DISTRICT and DISTRICT's elected and appointed officials, officers, employees, agents and volunteers from and against any and all claims and losses, costs or expenses for any damage due to death or injury to any person and injury to any property resulting from any alleged intentional, reckless, negligent, or otherwise wrongful acts, errors or omissions of CONTRACTOR's subcontractors or any other person or entity involved by, for, with or on behalf of CONTRACTOR in the performance of this Agreement. Such costs and expenses shall include reasonable attorneys' fees incurred by counsel of DISTRICT's choice.

- 4.6 DISTRICT does not, and shall not, waive any rights that it may possess against CONTRACTOR because of the acceptance by DISTRICT, or the deposit with DISTRICT, of any insurance policy or certificate required pursuant to this Agreement. This hold harmless and indemnification provision shall apply regardless of whether or not any insurance policies are determined to be applicable to the claim, demand, damage, liability, loss, cost or expense.
- 4.7 This Article and all provisions contained herein (including but not limited to the duty to indemnify, defend and hold free and harmless) shall survive the termination or normal expiration of this Agreement and is in addition to any other rights or remedies which the DISTRICT may have at law or in equity.

## V. TERMINATION

- 5.1 TERMINATION WITHOUT CAUSE: DISTRICT may terminate this Agreement at any time for convenience and without cause by giving CONTRACTOR a minimum of five (5) calendar days prior written notice of DISTRICT's intent to terminate this Agreement. Upon such termination for convenience, CONTRACTOR shall be compensated only for those services and tasks which have been performed by CONTRACTOR up to the effective date of the termination. CONTRACTOR may not terminate this Agreement except for cause as provided under Section 5.2, below. If this Agreement is terminated as provided herein, DISTRICT may require CONTRACTOR to provide all finished or unfinished Documents and Data, as defined in Section 7.1 below, and other information of any kind prepared by CONTRACTOR in connection with the performance of the Work. CONTRACTOR shall be required to provide such Documents and Data within fifteen (15) calendar days of DISTRICT's written request. No actual or asserted breach of this Agreement on the part of DISTRICT pursuant to Section 5.2, below, shall operate to prohibit or otherwise restrict DISTRICT's ability to terminate this Agreement for convenience as provided under this Section.

## 5.2 EVENTS OF DEFAULT; BREACH OF AGREEMENT:

- A. In the event either Party fails to perform any duty, obligation, service or task set forth under this Agreement (or fails to timely perform or properly perform any such duty, obligation, service or task set forth under this Agreement), an event of default (hereinafter, "Event of Default") shall occur. For all Events of Default, the Party alleging an Event of Default shall give written notice to the defaulting Party (hereinafter referred to as a "Default Notice") which shall specify: (i) the nature of the Event of Default; (ii) the action required to cure the Event of Default; (iii) a date by which the Event of Default shall be cured, which shall not be less than the applicable cure period set forth under Sections 5.2.B and 5.2.C below or if a cure is not reasonably possible within the applicable cure period, to begin such cure and diligently prosecute the such cure to completion. The Event of Default shall constitute a breach of this Agreement if the defaulting Party fails to cure the Event of Default within the applicable cure period or any extended cure period allowed under this Agreement.
- B. CONTRACTOR shall cure the following Events of Defaults within the following time periods:
- i. Within three (3) business days of DISTRICT's issuance of a Default Notice for any failure of CONTRACTOR to timely provide DISTRICT or DISTRICT's employees or agents with any information and/or written reports, documentation or work product which CONTRACTOR is obligated to provide to DISTRICT or DISTRICT's employees or agents under this Agreement. Prior to the expiration of the 3-day cure period, CONTRACTOR may submit a written request for additional time to cure the Event of Default upon a showing that CONTRACTOR has commenced efforts to cure the Event of Default and that the Event of Default cannot be reasonably cured within the 3-day cure period. The foregoing notwithstanding, DISTRICT shall be under no obligation to grant additional time for the cure of an Event of Default under this Section 5.2 B.i. that exceeds seven (7) calendar days from the end of the initial 3-day cure period; or
  - ii. Within fourteen (14) calendar days of DISTRICT's issuance of a Default Notice for any other Event of Default under this Agreement. Prior to the expiration of the 14-day cure period, CONTRACTOR may submit a written request for additional time to cure the Event of Default upon a showing that CONTRACTOR has commenced efforts to cure the Event of Default and that the Event of Default cannot be reasonably cured within the 14-day cure period. The foregoing notwithstanding, DISTRICT shall be under no obligation to grant additional time for the cure of an Event of Default under this Section 5.2B.ii that exceeds thirty (30) calendar days from the end of the initial 14-day cure period. .

In addition to any other failure on the part of CONTRACTOR to perform any duty, obligation, service or task set forth under this Agreement (or the failure to timely perform or properly perform any such duty, obligation, service or task), an Event of Default on the part of CONTRACTOR shall include, but shall not be limited to the following: (i) CONTRACTOR's refusal or failure to perform any of the services or tasks called for under the Scope of Work; (ii) CONTRACTOR's failure to fulfill or perform its obligations under this Agreement within the specified time or if no time is specified, within a reasonable time; (iii) CONTRACTOR's and/or its employees' disregard or violation of any federal, state, local law, rule, procedure or regulation; (iv) the initiation of proceedings under any bankruptcy, insolvency, receivership, reorganization, or similar legislation as relates to CONTRACTOR, whether voluntary or involuntary; (v) CONTRACTOR's refusal or failure to perform or observe any covenant, condition, obligation or provision of this Agreement; and/or (vii) DISTRICT's discovery that a statement representation or warranty by CONTRACTOR relating to this Agreement is false, misleading or erroneous in any material respect.

- C. DISTRICT shall cure any Event of Default asserted by CONTRACTOR within FORTY-FIVE (45) calendar days of CONTRACTOR's issuance of a Default Notice, unless the Event of Default cannot reasonably be cured within the 45-day cure period. Prior to the expiration of the 45-day cure period, DISTRICT may submit a written request for additional time to cure the Event of Default upon a showing that DISTRICT has commenced its efforts to cure the Event of Default and that the Event of Default cannot be reasonably cured within the 45-day cure period. The foregoing notwithstanding, an Event of Default dealing with DISTRICT's failure to timely pay any undisputed sums to CONTRACTOR as provided under Section 1.4, above, shall be cured by DISTRICT within five (5) calendar days from the date of CONTRACTOR's Default Notice to DISTRICT.
- D. DISTRICT, in its sole and absolute discretion, may also immediately suspend CONTRACTOR's performance under this Agreement pending CONTRACTOR's cure of any Event of Default by giving CONTRACTOR written notice of DISTRICT's intent to suspend CONTRACTOR's performance (hereinafter, a "Suspension Notice"). DISTRICT may issue the Suspension Notice at any time upon the occurrence of an Event of Default. Upon such suspension, CONTRACTOR shall be compensated only for those services and tasks which have been rendered by CONTRACTOR to the reasonable satisfaction of DISTRICT up to the effective date of the suspension. No actual or asserted breach of this Agreement on the part of DISTRICT shall operate to prohibit or otherwise restrict DISTRICT's ability to suspend this Agreement as provided herein.
- E. No waiver of any Event of Default or breach under this Agreement shall constitute a waiver of any other or subsequent Event of Default or breach. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel, or otherwise.
- F. The duties and obligations imposed under this Agreement and the rights and remedies available hereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. In addition to any other remedies available to DISTRICT at law or under this Agreement in the event of any breach of this Agreement, DISTRICT, in its sole and absolute discretion, may also pursue any one or more of the following remedies:
  - i. Upon written notice to CONTRACTOR, the DISTRICT may immediately terminate this Agreement in whole or in part;
  - ii. Upon written notice to CONTRACTOR, the DISTRICT may extend the time of performance;
  - iii. The DISTRICT may proceed by appropriate court action to enforce the terms of the Agreement to recover damages for CONTRACTOR's breach of the Agreement or to terminate the Agreement; or
  - iv. The DISTRICT may exercise any other available and lawful right or remedy.

CONTRACTOR shall be liable for all legal fees plus other costs and expenses that DISTRICT incurs upon a breach of this Agreement or in the DISTRICT's exercise of its remedies under this Agreement.

G. In the event DISTRICT is in breach of this Agreement, CONTRACTOR's sole remedy shall be the suspension or termination of this Agreement and/or the recovery of any unpaid sums lawfully owed to CONTRACTOR under this Agreement for completed services and tasks.

5.3 SCOPE OF WAIVER: No waiver of any default or breach under this Agreement shall constitute a waiver of any other default or breach, whether of the same or other covenant, warranty, agreement, term, condition, duty or requirement contained in this Agreement. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel, or otherwise.

5.4 SURVIVING ARTICLES, SECTIONS AND PROVISIONS: The termination of this Agreement pursuant to any provision of this Article or by normal expiration of its term or any extension thereto shall not operate to terminate any Article, Section or provision contained herein which provides that it shall survive the termination or normal expiration of this Agreement.

## VI. MISCELLANEOUS PROVISIONS

6.1 DOCUMENTS & DATA; LICENSING OF INTELLECTUAL PROPERTY: All Documents and Data shall be and remain the property of DISTRICT without restriction or limitation upon their use or dissemination by DISTRICT. For purposes of this Agreement, the term "Documents and Data" means and includes all reports, analyses, correspondence, plans, drawings, designs, renderings, specifications, notes, summaries, strategies, charts, schedules, spreadsheets, calculations, lists, data compilations, documents or other materials developed and/or assembled by or on behalf of CONTRACTOR in the performance of this Agreement and fixed in any tangible medium of expression, including but not limited to Documents and Data stored digitally, magnetically and/or electronically. This Agreement creates, at no cost to DISTRICT, a perpetual license for DISTRICT to copy, use, reuse, disseminate and/or retain any and all copyrights, designs, and other intellectual property embodied in all Documents and Data. CONTRACTOR shall require all subcontractors and subconsultants working on behalf of CONTRACTOR in the performance of this Agreement to agree in writing that DISTRICT shall be granted the same right to copy, use, reuse, disseminate and retain Documents and Data prepared or assembled by any subcontractor or subconsultant as applies to Documents and Data prepared by CONTRACTOR in the performance of this Agreement.

6.2 CONFIDENTIALITY: All data, documents, discussion, or other information developed or received by CONTRACTOR or provided for performance of this Agreement are deemed confidential and shall not be disclosed by CONTRACTOR without prior written consent by DISTRICT. DISTRICT shall grant such consent if disclosure is legally required. Upon request, all DISTRICT data shall be returned to DISTRICT upon the termination or expiration of this Agreement. CONTRACTOR shall not use DISTRICT's name or insignia, photographs, or any publicity pertaining to the Work in any magazine, trade paper, newspaper, television or radio production or other similar medium without the prior written consent of DISTRICT.

6.3 FINGERPRINTING. CONTRACTOR shall comply with all applicable provisions of Education Code Section 45125.1. CONTRACTOR will conduct criminal background checks of all employees, agents and/or representatives assigned performing any services and tasks on DISTRICT property on CONTRACTOR's behalf. CONTRACTOR will certify in writing that no such employees, agents and representatives who have been convicted of a violent or serious felony as described in the Notice Re: Criminal Records will have contact with DISTRICT's pupils. CONTRACTOR will provide DISTRICT with a list of all employees providing services pursuant to this Agreement. To the extent permitted under Education Code Section 45125.1, the DISTRICT Representatives may waive any fingerprinting requirements where it is determined that the CONTRACTOR, its employees and agents will have limited or no contact with pupils in the performance of any services and tasks called for under this Agreement. The waiver of the requirements of Education Code Section 45125.1 must be made in writing signed by one or both of the DISTRICT Representatives.

6.4 DRUG FREE WORKPLACE CERTIFICATION. CONTRACTOR shall apprise its officials and employees of the Drug-Free Workplace Act of 1990 (Govt. Code Section 8350 et seq.) (hereinafter, the "Act") which requires that every person or organization awarded a contract or grant for the procurement of property or services from any State agency must certify that it will provide a drug-free workplace by doing certain specified acts. In addition, the Act provides that each contract or grant awarded by a State agency may be subject to suspension of payments or termination of the contract or grant, and the contractor or grantee may be subject to debarment from future contracting, if the contracting agency determines that specified acts have

occurred. CONTRACTOR shall comply with the requirements publication and notification requirements of Government Code Section 8355 as to all employees performing services and tasks under this Agreement on DISTRICT property or from DISTRICT facilities.

- 6.5 FALSE CLAIMS ACT. CONTRACTOR warrants and represents that neither CONTRACTOR nor any person who is an officer of, in a managing position with, or has an ownership interest in CONTRACTOR has been determined by a court or tribunal of competent jurisdiction to have violated the False Claims Act, 31 U.S.C., Section 3789 *et seq.* and the California False Claims Act, Government Code Section 12650 *et seq.*
- 6.6 NOTICES: All notices permitted or required under this Agreement shall be given to the respective Parties at the following addresses, or at such other address as the respective Parties may provide in writing for this purpose:

**CONTRACTOR:**

Jan Hill  
3900 Hildale Ave  
Oroville, CA 95966

Phone: 530-534-0998

Fax:

Email:

**DISTRICT:**

Marysville Joint Unified School District  
1919 B Street  
Marysville, CA 95901  
Phone: 749-6114  
Fax: 742-0573

Such notices shall be deemed effective when personally delivered or successfully transmitted by facsimile as evidenced by a fax confirmation slip or when mailed, forty-eight (48) hours after deposit with the United States Postal Service, first class postage prepared and addressed to the Party at its applicable address.

- 6.7 COOPERATION; FURTHER ACTS: The Parties shall fully cooperate with one another, and shall take any additional acts or sign any additional documents as is reasonably necessary, appropriate or convenient to achieve the purposes of this Agreement.
- 6.8 SUBCONTRACTING: CONTRACTOR shall not subcontract any portion of the Work required by this Agreement, except as expressly stated herein, without the prior written approval of DISTRICT. Subcontracts (including without limitation subcontracts with subconsultants), if any, shall contain a provision making them subject to all provisions stipulated in this Agreement, including provisions relating to insurance requirements and indemnification.
- 6.9 DISTRICT'S RIGHT TO EMPLOY OTHER CONTRACTORS: DISTRICT reserves the right to employ other contractors in connection with the various projects worked upon by CONTRACTOR.
- 6.10 PROHIBITED INTERESTS: CONTRACTOR warrants, represents and maintains that it has not employed nor retained any company or person, other than a *bona fide* employee working solely for CONTRACTOR, to solicit or secure this Agreement. Further, CONTRACTOR warrants and represents that it has not paid nor has it agreed to pay any company or person, other than a *bona fide* employee working solely for CONTRACTOR, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, DISTRICT shall have the right to rescind this Agreement without liability. For the term of this Agreement, no member, officer or employee of DISTRICT, during the term of his or her service with DISTRICT, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.
- 6.11 TIME IS OF THE ESSENCE: Time is of the essence for each and every provision of this Agreement.
- 6.12 GOVERNING LAW AND VENUE: This Agreement shall be interpreted and governed according to the laws of the State of California. In the event of litigation between the Parties, venue, without exception, shall be in the Yuba County Superior Court of

the State of California. If, and only if, applicable law requires that all or part of any such litigation be tried exclusively in federal court, venue, without exception, shall be in the Northern District of California located in the City of San Francisco, California.

6.13 ATTORNEY'S FEES: If either Party commences an action against the other Party, either legal, administrative or otherwise, arising out of or in connection with this Agreement, the prevailing Party in such litigation shall be entitled to have and recover from the losing Party reasonable attorney's fees and all other costs of such action.

6.14 SUCCESSORS AND ASSIGNS: This Agreement shall be binding on the successors and assigns of the Parties.

6.15 NO THIRD PARTY BENEFIT: There are no intended third party beneficiaries of any right or obligation assumed by the Parties. All rights and benefits under this Agreement inure exclusively to the Parties.

6.16 CONSTRUCTION OF AGREEMENT: This Agreement shall not be construed in favor of, or against, either Party but shall be construed as if the Parties prepared this Agreement together through a process of negotiation and with the advice of their respective attorneys.

6.17 SEVERABILITY: If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.

6.18 AMENDMENT; MODIFICATION: No amendment, modification or supplement of this Agreement shall be valid or binding unless executed in writing and signed by both Parties, subject to DISTRICT approval. The requirement for written amendments, modifications or supplements cannot be waived and any attempted waiver shall be void and invalid.

6.19 CAPTIONS: The captions of the various articles, sections and paragraphs are for convenience and ease of reference only, and do not define, limits, augment, or describe the scope, content, or intent of this Agreement.

6.20 INCONSISTENCIES OR CONFLICTS: In the event of any conflict or inconsistency between the provisions of this Agreement and any of the exhibits attached hereto, the provisions of this Agreement shall control.

6.21 ENTIRE AGREEMENT: This Agreement including all attached exhibits is the entire, complete, final and exclusive expression of the Parties with respect to the matters addressed herein and supersedes all other agreements or understandings, whether oral or written, or entered into between DISTRICT and CONTRACTOR prior to the execution of this Agreement. No statements, representations or other agreements, whether oral or written, made by any Party which are not embodied herein shall be valid or binding. No amendment, modification or supplement to this Agreement shall be valid and binding unless in writing and duly executed by the Parties pursuant to Section 6.15, above.

6.22 COUNTERPARTS: This Agreement shall be executed in TWO (2) original counterparts each of which shall be of equal force and effect. No handwritten or typewritten amendment, modification or supplement to any one counterparts shall be valid or binding unless made to all three counterparts in conformity with Section 6.15, above.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed the day and year first appearing in this Agreement, above.

MARYSVILLE JOINT UNIFIED SCHOOL  
DISTRICT:

By: \_\_\_\_\_  
Gay Todd, Superintendent

Contractor

By: \_\_\_\_\_ *Jan Hill*

Name: Jan Hill

Title: CELDT Testing Consultant

Exhibit A  
Scope of Work

**CELDT testing team Contractual 2015-2016 School Year**

Jan Hill

\$5,000.00


(Testing at multiple sites throughout the district Aug. – Oct. 2015)



## Grant Award Notification

<b>GRANTEE NAME AND ADDRESS</b> Gay Todd, Superintendent Marysville Joint Unified School District 1919 B Street Marysville, CA 95901-3731				CDE GRANT NUMBER			
				FY	PCA	Vendor Number	Suffix
				15	14332	7273	01
<b>Attention</b> Gay Todd, Superintendent				STANDARDIZED ACCOUNT CODE STRUCTURE			COUNTY
<b>Program Office</b> Marysville Joint Unified School District				Resource Code	Revenue Object Code		58
<b>Telephone</b> 530-741-6000				5630	8290		INDEX
<b>Name of Grant Program</b> Education for Homeless Children and Youth Program							0510
GRANT DETAILS	Original/Prior Amendments	Amendment Amount	Total	Amend. No.	Award Starting Date	Award Ending Date	
	\$24,073.00		\$24,073.00		7/1/2015	6/30/2016	
CFDA Number	Federal Grant Number	Federal Grant Name			Federal Agency		
84.196A	S196A15005	Education for Homeless Children and Youth			U.S. Department of Education		
<p>I am pleased to inform you that you have been funded for the Education for Homeless Children and Youth (EHCY) program.</p> <p>This award is contingent upon the availability of funds. If the Legislature or Congress takes action to reduce or defer the funding upon which this award is based, then this award will be amended accordingly.</p> <p>Please return the original, signed Grant Award Notification (AO-400) and completed 2015-16 Grantee Budget Request no later than July 15, 2015, to:</p> <p style="text-align: center;">Pat Boncella, Associate Governmental Program Analyst          School Turnaround Office          California Department of Education          1430 N Street, Room 6208          Sacramento, CA 95814-5901</p>							
<b>California Department of Education Contact</b> Patricia Boncella				<b>Job Title</b> Associate Governmental Program Analyst			
<b>E-mail Address</b> pboncell@cde.ca.gov					<b>Telephone</b> 916-319-0384		
<b>Signature of the State Superintendent of Public Instruction or Designee</b> Tom Torlakson					<b>Date</b> June 10, 2015		
<b>CERTIFICATION OF ACCEPTANCE OF GRANT REQUIREMENTS</b>							
On behalf of the grantee named above, I accept this grant award. I have read the applicable certifications, assurances, terms, and conditions identified on the grant application and in this document; and I agree to comply with all requirements as a condition of funding.							
<b>Printed Name of Authorized Agent</b> Gay Todd, Ed.D.				<b>Title</b> Superintendent			
<b>E-mail Address</b> gtodd@mjsud.com					<b>Telephone</b> 530-749-6101		
<b>Signature</b> Gay Todd					<b>Date</b> 06/23/2015		

June 18, 2015

MJUSD  
Personnel Dept.  
JUL 14 2015  
  
**RECEIVED**

To whom it may concern:

This letter is to inform you of my resignation from the special education teaching position at Yuba Gardens. I was recently offered a position at the Wheatland School District for the 2015-2016 school year and I will be taking that position starting in August of 2015.

I enjoyed my time at Yuba Gardens, and at the Marysville Joint Unified School District. I have learned a lot while working for MJUSD and I have made many friends. I appreciate everyone who I have come in contact with and am grateful for the help that I have received during my first years' as a teacher.

Thank you,

Anne Anderson

6/22/15

MUSD  
Personnel Dept  
JUN 22 2015  
RECEIVED

Dear Ramiro Carreon,

I am writing this letter to inform you that I am resigning from my current teaching position at Yuba Gardens Intermediate. I have accepted a job at Chico Unified that will allow me to work closer to home. I am very thankful for the opportunity to work in this district. I have truly loved teaching in this community. I will miss my school and my colleagues.

Thank you,



Avery Brown



June 22, 2015

Paul Claussen  
2055 Danforth Way  
Plumas Lake, Ca 95961

Ramiro Carreón  
Assistant Superintendent of Personnel Services  
1919 B Street  
Marysville, CA 95901

Dear Mr. Carreón:

Please accept this letter as notice of my resignation from my position as Teacher (SDC) from Lindhurst high school. My last day of employment will be July 15, 2015.

I received an offer to teach for Natomas USD, and after careful consideration, I realize that this opportunity is too exciting for me to decline.

It has been a pleasure working at Lindhurst with the staff over the last three and a half years. Some of the highlights while working here were collaborating with administration, coworker interaction and working with the wonderful kids. I wish MJUSD the best of luck with future endeavors.

I would like to help with the transition of my teaching duties so the department continues to function smoothly after my departure. I am available to help recruit and train my replacement, and I will make certain that all reporting and records are updated before my last day of work.

Thank you again for the opportunity to work for MJUSD. I wish the district and its staff all the best. You can call me at 530-763-4136 if have any further questions.

Sincerely,

  
Paul Claussen

**Ramiro Carreon**

MJUSD

Personnel Dept.

**From:** Rocco Greco <r0cc0gr3c0@gmail.com>  
**Sent:** Monday, July 13, 2015 11:05 AM  
**To:** Ramiro Carreon  
**Subject:** Resignation

JUL 13 2015

**RECEIVED**

I resign my teaching position at MHS, effective immediately. Thank you for all the wonderful years, memories and opportunity to help my community. Best wishes in your future endeavors.

Make choices that help others,  
Rocco Greco

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JUN 15 2015

RECEIVED

June 15, 2015

Kynoch Elementary  
1905 Ahern Street  
Marysville, CA 95901

Dear Mr. Careon,

The purpose of this letter is to resign my position as a 5<sup>th</sup> grade teacher at Kynoch Elementary effective June 15, 2015.

My reason for leaving is I have accepted a new position at Bear River in Wheatland. I have greatly enjoyed my time in the district but have moved to a new attendance area and have a desire to teach where my kids go to school.

I appreciate all of the tremendous opportunities this job has afforded me and will be forever grateful for the experience.

Thank you,



Melissa Morse

## Ramiro Carreon

---

**From:** Mallory Russo  
**Sent:** Monday, July 06, 2015 9:10 AM  
**To:** Ramiro Carreon  
**Cc:** Sarah OBrien  
**Subject:** Mallory Russo's Resignation

MJUSD  
Personnel Dept.  
JUL 06 2015  
**RECEIVED**

Hi Ramiro,

This is my submission of resignation from Marysville Joint Unified.

I have worked at Johnson Park Elementary for the past two years. I currently live in Grass Valley and have been commuting down to Olivehurst, Marysville. I have been offered and accepted a teaching position in Nevada City. My resignation from Johnson Park has only to do with the commute, I was driving every day. I enjoyed and loved every aspect of Johnson Park. I was given many opportunities to grow my teaching. Working for Sarah O'Brien has been wonderful and I could not ask for a more caring, hardworking, involved, and fun principal to work with. Sarah O'Brien was very receptive to new teachers trying new things and giving opportunities for me to bring in new outreaches to the school.

Thank you,

Mallory Russo

3rd Grade Teacher

Johnson Park Elementary

[rcarreon@mjud.com](mailto:rcarreon@mjud.com)

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**Yvonne Sanchez**

---

**From:** Ramiro Carreon  
**Sent:** Thursday, July 02, 2015 6:42 PM  
**To:** LeeAnn Saenz  
**Cc:** Sarah OBrien; Yvonne Sanchez  
**Subject:** Re: Resignation

Thank you, LeeAnn, for your professional courtesy and notification.

Best wishes to you and your family.

Sincerely,  
Ramiro

Sent from my iPhone

> On Jul 2, 2015, at 4:01 PM, LeeAnn Saenz <[lsaenz@mjud.com](mailto:lsaenz@mjud.com)> wrote:

>

> Dear Mr. Carreon,

>

> My name is LeeAnn Saenz and I am currently a 1st grade teacher at Johnson Park. I have accepted a teaching position closer to my home and family in Sacramento. I am resigning from the Marysville Joint Unified School District. I've enjoyed my time in the district. Thank you for your support and understanding.

>

> Sincerely,

> LeeAnn Saenz

>

> Sent from my iPhone

171



**Ramiro Carreon**

---

**From:** Keri Sallee  
**Sent:** Monday, June 29, 2015 2:20 PM  
**To:** Ramiro Carreon  
**Subject:** Resignation

MJUSD  
Personnel Dept.

JUN 29 2015

RECEIVED

I am resigning from my position.

Keri Sallee  
RSP/SDC Teacher  
530.749.6918 ext 6333

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**Ramiro Carreon**

---

**From:** Michael Zysk  
**Sent:** Thursday, June 25, 2015 9:22 AM  
**To:** Kari Ylst; Ramiro Carreon  
**Subject:** Resignation



I effectively tender my resignation from my position at Yuba Gardens Intermediate and the Marysville JUSD, having accepted a position outside of this district.

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M.J.U.S.D Child development,

I Rebecca D'Agostini am resigning from my position as Para Educator at Kynoch  
preschool effective June 30th, 2015.

Sincerely,

Rebecca D'Agostini

A handwritten signature in cursive script that reads "Rebecca D'Agostini".

MJUSD  
Personnel Dept

JUN 25 2015

RECEIVED

MJUSD  
Personnel Dept  
JUN 10 2015  
RECEIVED

June 10, 2015

Dear Mr. Carreon,

I have enjoyed working for Marysville Joint Unified School District.

Please accept this letter of retirement from the position of secretary at Loma Rica Elementary. August 31, 2015 will be my last day of employment. I am planning to retire on September 1, 2015.

During August, I am willing to help in any way to make the transition as smooth as possible. This includes making sure the students are all assigned classes, the teachers have the supplies they need and training my replacement.

Again, it has been a pleasure working for MJUSD.

Sincerely,



Vicki Favela

July 7, 2015

Nancy Gamble  
1301 Val Drive  
Marysville, CA 95901

MJUSD  
Personnel Dept.

JUL 07 2015

RECEIVED

Kathy Woods  
Child Development Director  
Marysville Joint Unified School District  
1919 B Street  
Marysville, CA 95901

Dear Kathy,

I would like to give my official notification to you and to MJUSD that my last day of employment will be July 31, 2015. On that day, I plan to retire.

I am excited to start a new chapter in my life and wanted to take this time to thank-you for all of the wonderful opportunities that I have experienced in the past 26 years working for MJUSD. I have genuinely enjoyed my employment and will deeply miss you, my co-workers, the students, and many others I have been fortunate enough to meet along this journey.

Please let me know what I can do to help you with the transition of my work to another employee.

Again, I have truly enjoyed working for MJUSD and the Child Development Department and will miss you, my co-workers, and workplace at Linda Preschool a great deal.

Sincerely,



Nancy A. Gamble

JUL 01 2015



June 30, 2015

**RECEIVED**

To whom it may concern at Marysville Joint Unified School District

I'm putting in my two weeks' notice in writing for my position as a Special Education  
Para educator at Edgewater Elementary. Effective June 30, 2015.

Sincerely

Shannon Hamilton



MJUSD  
Personnel Dept  
JUN 18 2015

RECEIVED



June 18, 2015

To Whom It May Concern:

I will be retiring after 32 years with MJUSD. My last day will be August 10, 2105. I would like to participate in the early retirement incentive program.

Thank you,



Stephen Morrell

MJUSD  
Personnel Dept.

JUL 10 2015

**RECEIVED**

Jordan Stanaland  
2052 Roy Ranch Way  
Plumas Lake, CA 95961

Cell Phone (530) 713-9372

[jordanstanaland@csus.edu](mailto:jordanstanaland@csus.edu)



July 8, 2015

Ramiro Carreón  
Assistant Superintendent  
Marysville Joint Unified School District  
1919 B Street  
Marysville, CA 95901

Dear Mr. Carreón,

Please accept this letter as my formal resignation from Olivehurst Elementary School as a Para Educator. I will begin the Multiple Subject Teaching Credential Program in August at Sacramento State University. Due to my class schedule, I am unable to work the hours required for this position.

I would like to thank you for all of the great opportunities you have given me as an employee within MJUSD. I am going to miss working at Olivehurst Elementary School and all of my great co-workers I had the pleasure of working with. I have learned so much from working closely with the classroom teachers at Olivehurst Elementary School. I know that everything I have experienced these past two years will be helpful in my own teaching career. I am thankful to have had the opportunity to learn from the teachers around me.

Please let me know if you need any assistance with the transition. Again, thank you so much for the opportunity to gain classroom experience and to learn from the school staff. I am hoping to teach within MJUSD once I complete my credential program in May of 2016.

Sincerely yours,



Jordan Stanaland



**Yvonne Sanchez**

---

~~JUL 16 2015~~

**From:** Yesenia Carrasco-Torres  
**Sent:** Thursday, July 16, 2015 2:43 PM  
**To:** Yvonne Sanchez

**RECEIVED**

As of July 16, 2015 I am resigning my position as a Speech and Language Pathologist Assistant for Marysville Joint Unified School District.

Yesenia Carrasco-Torres

180

MJUSD  
Personnel Dept.  
JUL 14 2015



Dear Mr Carreon

RECEIVED

This letter is to inform  
you of my intent to retire.  
My last day being Oct 2, 2015

I will be participating in the  
15 day work program to keep  
my health insurance for the  
next two years.

July 2016 we will be moving  
out of state putting me more  
than 150 miles from the  
district, which enables me  
to keep my health benefits  
without the 15 day.

I have truly felt MJUSD  
employees a family. I will  
miss everyone especially  
the students

Sincerely

Kathy Wilson  
Custodian  
Covina

July 10, 2015

# Invoice

**Remit To: ISITE Software**

Provider of School Nutrition And Fitness.com

1278 Glenneyre St. Suite 403  
Laguna Beach, CA 92651

Phone # 866-560-1201

Fax # 949-860-7342

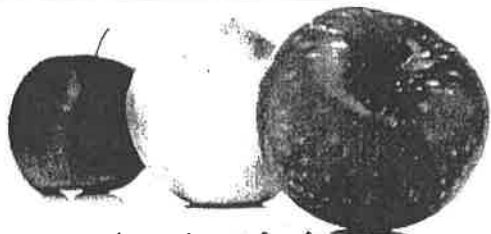
Billing@SchoolNutritionAndFitness.com



Date

7/2/2015



Bill To		Department	Invoice #	2016067	
Marysville Joint Unified SD Attn: Amber Watson Director of Nutrition Services 1919 B Street Marysville, CA 95901			P.O. Number		
			Terms		Net 30
			Rep	MB	
Quantity	Item Code	Description	Price Each	Amount	
1	SN15-16A 4	School Nutrition and Fitness Website: July 1, 2015-June 30, 2016 Website Hosting Includes: hosting, feature/function upgrades, quarterly content updates and support. Custom Website Address	595.00	595.00	
1	SN-URL		69.00	69.00	
Thank you for your business.		 <i>Websites for School Nutrition</i>	Subtotal \$664.00		
Sales Tax (7.5%) \$0.00					
Total \$664.00					



School Nutrition And Fitness by ISITE software 1278 Glenneyre Suite 403, Laguna Beach CA 92651

182

Req# N15-00212

# IMAGE ONE CORP

# INVOICE

6206 Benjamin Road, Suite 301  
Tampa, FL 33634  
Phone 813-888-8288 ext 254 Fax 813-769-2260

INVOICE # P105069  
DATE: 03/15/15  
TERMS: 5/15 2/30 N75  
Due Date: 05/31/15

Bill To: Marysville Joint Unified School District  
Attn: Kit Molinari  
1919 B Street  
Marysville, CA 95901

Ship To: Marysville Joint Unified School District  
Attn: Kit Molinari  
1919 B Street  
Marysville, CA 95901

DESCRIPTION	AMOUNT
Annual RocketSCAN For Meal Applications Maintenance Dates: 07/01/15 - 06/30/16	
Software Subscription for RocketSCAN for Meal Applications 8K License	\$1,125.00
Technical Support for RocketSCAN FMA Scanning Module & RocketSCAN Advanced Exchange	\$347.50
Hardware Service for Panasonic KV-S2028C Scanner S/N: A031ZRH2228	
Technical Support for RocketSCAN FMA Validation & Admin Modules	\$1,012.50
Technical Support for RocketSCAN FMA Online Module	\$612.75
Web Hosting for RocketSCAN FMA Online Module	\$600.00
<b>SUBTOTAL</b>	<b>\$3,697.75</b> ✓
Shipping and Handling	\$0.00
Sales Tax	Exempt
<b>Grand Total</b>	<b>\$3,697.75</b>

PAID MAR 24 2015

13-5310-0-0000-3700-5801-373-9301

P15-02675

< 184.897  
3,512.86

Make all checks payable to **Image One**

If you have any questions concerning this invoice, contact Katy Derenches, 813-769-2252, katyd@image-1.com

Terms: 5% discount is paid by March 30<sup>th</sup>/2% discount if paid by April 14<sup>th</sup>/Net 75 Days

18489

THANK YOU FOR YOUR BUSINESS!

OKAY TO PAY  
SIGNED AW  
DATE 3/19/15

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<b>VENDOR - PO without Receiving</b>				<b>Fiscal Year 2014/15</b>			
Requisition Number <b>N15-00212</b>				Requisition Date <b>03/18/2015</b>			
<b>Summary</b>							
Created by	KITM, 3/18/2015	PO #	P15-02675	Goods & Services			
Department	CHILDNU	Responsibility		Academic Dept			
Status	Complete						
On Hold	No	Attachments	None				
Requisitioner	Kit Molinari	Board Date		Non Taxable	3,512.86		
Order Site	73 - Nutrition Services			Taxable	.00		
Delivery Site	73 - Nutrition Services			Tax (7.5000)	.00		
Delivery Date		Room	209	Shipping (0.00)	.00		
Project				Adjustment	.00		
Info	Annual Rocketscan Maintenance			Requisition Total	<b>3,512.86</b>		
<b>Requisition Vendor Information</b>							
370151/1	IMAGE ONE CORPORATION ATTN: ANDY SAVITT 6206 BENJAMIN ROAD/SUITE 301 , TAMPA, FL 33634-5169						
<b>Purchasing</b>							
PO Date	03/19/2015	PO Printed Date	03/19/2015	Buyer	TINA - Tina Lovell		
Quote		Quote Date					
<b>Line Items</b>							
	Description	Stores Item #	Unit	Order Qty	Rcvd Qty	Unit Price	Extended
	***FOR ACCOUNTING PURPOSES ONLY***						
	REFERENCE Invoice # P105069 DATED 3/15/15						
	ANNUAL ROCKETSCAN MAINTENANCE FOR 7/1/2015 - 06/30/2016						
1	SOFTWARE SUBSCRIPTION FOR ROCKETSCAN MEAL APPLICATIONS 8K LICENSE		EACH	1		1,125.0000	1,125.00
2	TECHNICAL SUPPORT FOR ROCKETSCAN FMA SCANNING MODULE & ROCKETSCAN ADVANCED EXCHANGE		EACH	1		347.5000	347.50
	HARDWARE SERVICE FOR PANASONIC KV-S2028C SCANNER S/N A031ZRH2228						
3	TECHNICAL SUPPORT FOR ROCKETSCAN FMA VALIDATION & ADMIN MODULES		EACH	1		1,012.5000	1,012.50
4	TECHNICAL SUPPORT FOR ROCKETSCAN FMA ONLINE MODULE		EACH	1		612.7500	612.75
5	WEB HOSTING FOR ROCKETSCAN FMA ONLINE MODULE		EACH	1		600.0000	600.00
6	5% DISCOUNT IF PAID BY MARCH 30, 2014		EACH	1		184.8875-	184.89-
<b>Accounts</b>							
		Amount	Encumbered	Expensed	Outstanding		
13- 5310- 0- 0000- 3700- 5801- 373- 9301		3,512.86		3,512.86			
(2015) Nutrition,Contracts,Nutr Svs,Food Servi							

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ESCAPE ONLINE

Page 1 of 2

VENDOR -

Fiscal Year 2014/15

Requisition Number N15-00212

Requisition Date 03/18/2015

## History

03/24/2015	WARRANT	Status set to Complete
03/24/2015	WARRANT	Check 173096 was printed, paying Invoice P105069.
03/24/2015	CARRIED	Status changed from Ready for Payment to Check Pending
03/24/2015	CARRIED	Check processed for Invoice P105069 on register WR000424.
03/19/2015	TINAL	Original PO printed, Status changed to Ready for Payment
03/19/2015	TINAL	On Hold changed from "Yes" to "No"
03/18/2015	AMBERW	Status set to Approved
03/18/2015	KITM	Status set to Submitted
03/18/2015	KITM	Requisition copied from N14-00179

## Approvals

Level	Sub Level	Status	Approver	Approved By	Approved	Comment
20	0	Approved	AMBERW	AMBERW	03/18/15	

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ESCAPE ONLINE

Page 2 of 2



identiMetrics  
400 York Road  
Suite 200  
Jenkintown, PA 19046

identiMetrics™

(215)836-5640x107  
sdunphy@identimetrics.net  
<http://www.identimetrics.net>

# Invoice

Date	Invoice #
07/01/2015	4911
Terms	Due Date
On Receipt	07/01/2015

## Bill To

Amber Watson  
Marysville Joint Unified School District  
1919 B Street  
Marysville, CA 95901 USA

RECEIVED JUN 8 - 2015

Ship Date	Ship Via
07/01/2014	USPS

Quantity	Item	Description	Price	Amount
14	Annual Licensing & Support	• Annual Licensing and Support for 12 months from the date of this invoice. Includes telephone, email and remote technical support, general database administration, end of year maintenance & product enhancements/updates. Renews automatically.	499.00	6,986.00
14	Loca:School	• Arboga Elementary Browns Valley Elementary Cedar Lane Elementary Cordua Elementary Covillaud Elementary Dobbins Elementary Edgewater Elementary Ella Elementary Johnson Park Elementary Kynoch Elementary Linda Elementary Loma Rica Elementary Olivehurst Elementary Yuba Feather Elementary	0.00	0.00
<b>Received</b>  JUN 05 2015  MJUSD Fiscal Services			<b>Total</b>	<b>\$6,986.00</b>

Thank you so much for your order! Let us know if you have any questions. We're here for you!!  
215-836-5640 x107

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**Marysville Joint Unified School District**

**Nutrition Services**

1919 B Street \* Marysville, CA 95901

P: (530) 749-6178 F: (530) 741-7829

Date: \_\_\_\_\_

Dear Parent or Guardian:

Re: Biometric Scan System

The MJUSD Nutrition Services Department uses the NutriKids Point of Sale (POS) computerized system during our meal service. When using this system, we also utilize a biometric finger scanning identification system at \_\_\_\_\_ to increase the efficiency and security of meal services.

The Biometric Scan system consists of a finger reader that identifies each student as he/she passes through the serving line. Once the student is identified, the biometric system passes the student's identification to the POS serving line software. An advantage to the biometric system is that it does not require students to carry a lunch card or memorize a PIN number. Each student will be required to scan their finger initially, in order to enroll them into the system. However, the system does not store a copy of the fingerprint. Instead, the biometric system creates a template of unique fingerprint characteristics. This makes the biometric system extremely secure because no fingerprints can be created from these unique characteristics. At no time is a fingerprint image stored. No fingerprints can be recreated or delivered to any agency – governmental or otherwise.

**If you do NOT want your child enrolled in this identification method you must complete the second page of this letter and return it to MJUSD Nutrition Services, 1919 B Street, Marysville, CA 95901 by:\_\_\_\_\_.**

It is important to us that your child's experience in school is educational and rewarding. We hope you will find this way of identifying your child to be safe, easy, accurate, and efficient. If you have questions, please feel free to call me at (530) 749-6178. Thank you, it is a pleasure serving you and your children.

Amber Watson, RD, SNS

Nutrition Services Director

"In accordance with Federal Law and U.S. Department of Agriculture policy, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, age, or disability. To file a complaint of discrimination, write USDA, Director, Office of Adjudication, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410 call toll free (866) 632-9992 (Voice). Individuals who are hearing-impaired or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339; or (800) 845-6136 (Spanish). USDA is an equal opportunity provider and employer."





Marysville Joint Unified School District

Nutrition Services

1919 B Street \* Marysville, CA 95901

P: (530) 749-6178 F: (530) 741-7829

### Biometric Fingerprint Scan System Opt-Out

My Child / Children are **NOT** to be enrolled by this student identification method.

Parent Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Phone: \_\_\_\_\_ Email Address: \_\_\_\_\_

Student ID	First Name	MI	Last Name	School	Grade
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

Please return to your student's cafeteria or mail to:

MJUSD Nutrition Services

1919 B Street

Marysville, CA 95901

# The Student Identification Finger Scanning Process

1. In order to be enrolled in the computer software, the student's finger is scanned by the biometric finger scanner.

1.



2. The computer software develops a grid of intersection points from the swirls and arcs of the scanned finger.

2.



3. The template is created by the software that shows the intersection of unique points on the finger. The fingerprint image is destroyed.

3.



4. The template is converted to a binary number.

4.



5. The binary number is then encrypted and stored.

5.



6. When the student returns to be identified, the finger scanner again scans the finger. The computer software now compares the new template (Template A) with the other templates in the database. When a matching template is found (Template B), the student is identified.

Template A



Template B

This identification and matching process takes under one second to complete.

**REMEMBER: AT NO TIME IS A FINGERPRINT IMAGE EVER STORED. NO FINGERPRINTS CAN BE RECREATED FROM THE TEMPLATE!**

## Differences Between Student Identification Software and Law Enforcement Applications

Student Identification Software	Law Enforcement Applications
Uses flat images of only two fingers to create templates	Captures rolled images of all 10 fingers
Flat images reveal the center of the finger and require only a minimum of unique identifying points in order to make a match	Rolled images capture unique identifying points on the entire finger surface in order to collect the maximum number of unique identifying points
The purpose is to identify a student already enrolled in the software	The purpose is to identify suspects based on fingerprint images directly taken from a crime scene

### Frequently Asked Questions

Q. Can my fingerprint be given to anyone else?

**A. No. There are no fingerprint images stored. Only encrypted numerical representations of the unique points of the fingerprint are stored.**

Q. Can my fingerprint data be taken off the computer and used to re-create my fingerprint?

**A. No. identiMetrics never takes your fingerprint, only unique points. The actual fingerprint cannot be recreated from the encrypted template.**

Q. Can my fingerprints be taken from the computer software and used on another fingerprinting system?

**A. No. identiMetrics uses a proprietary algorithm that can only be used with identiMetrics software.**

Q. Can my fingerprints be copied or used by anyone else?

**A. No. It is impossible to duplicate or falsify fingerprints from the information stored in the identiMetrics software.**

Q. Why Biometrics in Schools?

**A. Many areas in a school require identification. The most common kinds of identification currently in use are picture ID cards, ID numbers, and, of course, visual identification. Each of these methods creates its own issues and is a drain on the time and resources of IT departments.**

**Cards are regularly forgotten, lost, mutilated and shared; ID numbers are easily forgotten, swapped or stolen. Also, visual identification is a poor solution, especially with today's considerable security concerns and reporting issues. By using biometrics for identification, the problems and costs associated with the current methods can be avoided and new standards of accountability can be put into place.**

Q. Do twins have the same fingerprints?

**A. No. Every person has unique fingerprints, even twins.**

Q. Do finger scanners spread germs?

**A. According to a Purdue University study, biometric sensors are no dirtier than doorknobs.**

For more information go to [www.identimetrics.net](http://www.identimetrics.net).



Division of PortionPac Chemical Corp.

PortionPac Chemical Corporation  
400 N Ashland Avenue  
Chicago IL 60622  
(800) 289-7725 x 5703

## Marysville Joint Unified School District : Marysville, CA Child Nutrition Department Service Agreement

SFSPac® shall deliver a complete food safety & sanitation system, including education, just-in-time delivery of detergents and accessories, and HACCP verification from August 01, 2015 to July 31, 2016.

### SFSPac Food Safety & Sanitation System

#### **SERVICE**

SFSPac is a complete system of food safety and sanitation for your district-not a detergent delivery service. Our service model distinguishes our program from all others.

- + You will be notified of all service visits and activities with a pre-visit notification.
- + Your service representative will visit on a 30-working-day rotation.
- + Site visits include education, support, and routine checks as well as on-the-spot corrective action as part of our HACCP verification service.
- + SFSPac's certified Food Safety Specialists are certified ServSafe® instructors and proctors and participate in a Factory Certification program that includes OSHA, HACCP and SNA Level 1 curriculum.
- + Hazardous Materials Audits in each facility assess liability as part of a Hazardous Communication Plan.

After each service call, service reports detailing areas of success and concern are sent electronically to the Child Nutrition Director within 48 hours. Reports include date, service duration, education provided, services provided, corrective action taken, and results of the HACCP verification and compliance check.

#### **EDUCATION**

With our ongoing education, your team receives the support they need to succeed. We conduct food safety and sanitation education at every site visit. Educational material can be used between visits and for new hires:

- + An Education Module Calendar based on OSHA Guidelines, ServSafe and HACCP principles. Education Module topics include proper hand washing; sanitizing techniques; food safety; temperature logs; calibrating thermometers and record keeping.
- + An SFSPac Procedure & Reference guide that provides standard operating procedures, product mixing and use instructions, MSDS, sanitizer logs and equipment cleaning procedures.
- + Instructional posters including proper mixing, sanitizer testing, proper hand washing, manual ware washing and proper dining table cleaning.
- + SFSPac educational videos on food safety and sanitation practices.
- + An online learning portal with cleaning procedures, cleaning modules, and quizzes to track progress.

#### **MATERIALS**

SFSPac will provide environmentally preferred cleaning detergents, sanitation tools and education to help maintain proper levels of sanitation to the 11 sites in the district as required by the Marysville Joint Unified School District Child Nutrition Department and the County Health Department.

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SFSPac liquid cleaning detergents are manufactured in America in pre-measured portion-controlled Pac® brand pouches. Package labeling has clear dilution and use instructions in English and Spanish. Detergents dilute instantly in hot or cold water, make an effective cleaning solution which leaves no film or residue, and will not stain or discolor equipment when used at recommended proportions. SFSPac cleaning detergents are biodegradable, butyl free, acid free, phosphate free and carcinogen free. SFSPac cleaning detergents are Green Seal™ certified or are in the process of seeking certification under available protocols. A full materials list is attached.

## WAREWASH PROGRAM

SFSPac will provide a total closed-loop dish machine chemical program including de-liming agents. Wall charts and technical bulletins will be provided and posted at each site. State-of-the-art digital dispensing allows for accurate and efficient chemical performance. All equipment is loaned at no charge to the district.

Upon installation of the equipment, all staff will receive in-service education on equipment, proper operation and maintenance of the dish machine. Site-based education will be performed on proper racking, de-liming, appropriate workflow, sanitary loading and unloading and maintenance checkpoints.

## AGREEMENT TERMS

This set-cost agreement, which includes delivery of the specified SFSPac Food Safety & Sanitation System, from August 01, 2015 to July 31, 2016, may be extended at the discretion and consensus of both parties.

- + Price changes may be absorbed by the district based on the Consumer Price Index or Wholesale Price Index but may not exceed 5% in any year unless this agreement is renegotiated.
- + Service billings are based on 12 equal installments on the 1st day of each month from August 01, 2015 through July 31, 2016.
- + Any Child and Adult food care programs (CAFCP) will be billed separately.
- + Sites with year-round calendars or summer feeding programs will be billed at a prorated monthly rate.


11	Sites	\$2,612.50	Monthly Billing Amount
12	Billings	\$31,350.00	Annual Billing Amount

## TERMINATION

Either party may terminate this agreement with 60 days written notice. If either party breaches its material obligations and fails to cure the breach within 15 days of receiving written notice, the agreement may be terminated. All materials, dispensers, accessories and instructional charts that are provided as part of this program remain the property of PortionPac® Chemical Corp. and may be removed if the program is cancelled.

## Billing and Remittance

All billings will be from PortionPac Chemical Corporation, unless otherwise notified. Remittance should be made payable to: PortionPac Chemical, Dept 20-7031, P.O. Box 5997, Carol Stream, IL 60197-5997.

Marysville Joint Unified School District Authorized Signature	Printed Name	Date
	Kyle Thatcher	July 20, 2015
PortionPac Chemical Corporation Representative Authorized Signature	Printed Name	Date

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### **MATERIALS ATTACHMENT**

The below SFSPac materials will be provided along with industry-leading cleaning education and HACCP verification:

SFS17 Sanitizer  
SFSPac Degreaser  
SFSPac Green Seal-Certified Pot & Pan Detergent  
SFS5 Green Seal-certified All Purpose Cleaner  
SFSPac Sanitation & Safety Service  
My Terra Wash  
My Terra Rinse  
My Terra Sanitizer-Low Temp Sanitizer  
Estesol Light Duty Hand Cleanser (6)  
SFS20N pH Neutral Germicidal Detergent  
Stoko DuraPro Hand Cream  
SFS14 Green Seal-certified Pot & Pan Detergent

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## Grant Award Notification

<b>GRANTEE NAME AND ADDRESS</b> Gay Todd, Superintendent Marysville Joint Unified School District 1919 B Street Marysville, CA 95901	<b>CDE GRANT NUMBER</b>			
	<b>FY</b>	<b>PCA</b>	<b>Vendor Number</b>	<b>Suffix</b>
	15	14968	7273	00
<b>Attention</b> Amber Watson	<b>STANDARDIZED ACCOUNT CODE STRUCTURE</b>			<b>COUNTY</b>
<b>Program Office</b> Nutrition Services	<b>Resource Code</b>	<b>Revenue Object Code</b>	Yuba	
<b>Telephone</b> 530-749-6178	5370	8220	<b>INDEX</b>	

**Name of Grant Program**  
Fresh Fruit and Vegetable Program

GRANT DETAILS	Original/Prior Amendments	Amendment Amount	Total	Amend. No.	Award Starting Date	Award Ending Date
	\$18,300		\$18,300	0	7-1-15	9-30-15
CFDA Number	Federal Grant Number	Federal Grant Name			Federal Agency	
10.582	7CA310CA1	Fresh Fruit and Vegetable Program			USDA	

Dear Superintendent Todd:

I am pleased to inform you that you have been funded for the Fresh Fruit and Vegetable Program.

This award is made contingent upon the availability of funds. If the Legislature takes action to reduce or defer the funding upon which this award is based, this award will be amended accordingly.

Please return this original, signed Grant Award Notification (AO-400) within 10 days to:

Sauncerae Gans, Analyst  
Nutrition Services Division  
California Department of Education  
1430 N Street, Suite 4503  
Sacramento, CA 95814-5901

<b>California Department of Education Contact</b> Sauncerae Gans	<b>Job Title</b> Analyst
<b>E-mail Address</b> SGans@cde.ca.gov	<b>Telephone</b> 916-323-6775
<b>Signature of the State Superintendent of Public Instruction or Designee</b> <i>Tom Torlakson</i>	<b>Date</b> June 15, 2015

### CERTIFICATION OF ACCEPTANCE OF GRANT REQUIREMENTS

On behalf of the grantee named above, I accept this grant award. I have read the applicable certifications, assurances, terms, and conditions identified on the grant application (for grants with an application process) or in this document or both; and I agree to comply with all requirements as a condition of funding.

<b>Printed Name of Authorized Agent</b> Gay Todd	<b>Title</b> Superintendent
<b>E-mail Address</b> GTodd@mjUSD.com	<b>Telephone</b> 530-749-6102
<b>Signature</b> <i>Gay Todd</i>	<b>Date</b> 7-6-15

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June 17, 2015

## 2015-16 Fresh Fruit and Vegetable Program Award Recipients—First Allocation

COUNTY NAME	LOCAL EDUCATIONAL AGENCY	SCHOOL	GRANT NUMBER	FIRST ALLOCATION (JULY 1, 2015 – SEPTEMBER 30, 2015)
Yuba	Marysville Joint Unified School District	Cedar Lane Elementary	15-14968-7273-00	\$2,785.00
Yuba	Marysville Joint Unified School District	Dobbins Elementary	15-14968-7273-00	\$330.00
Yuba	Marysville Joint Unified School District	Ella Elementary	15-14968-7273-00	\$2,795.00
Yuba	Marysville Joint Unified School District	Johnson Park Elementary	15-14968-7273-00	\$1,630.00
Yuba	Marysville Joint Unified School District	Kynoch Elementary	15-14968-7273-00	\$3,705.00
Yuba	Marysville Joint Unified School District	Linda Elementary	15-14968-7273-00	\$3,800.00
Yuba	Marysville Joint Unified School District	Olivehurst Elementary	15-14968-7273-00	\$3,255.00

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