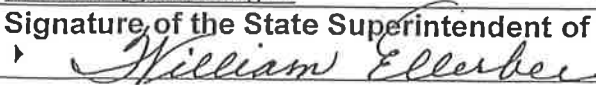
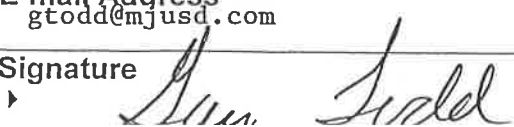


## Grant Award Notification

<b>GRANTEE NAME AND ADDRESS</b> Gay Todd, Superintendent Marysville Joint Unified School District 1919 B Street Marysville, CA 95901-3731				<b>CDE GRANT NUMBER</b>			
				<b>FY</b> 16	<b>PCA</b> 14332	<b>Vendor Number</b> 7273	<b>Suffix</b> 01
<b>Attention</b> Gay Todd, Superintendent				<b>STANDARDIZED ACCOUNT CODE STRUCTURE</b>			<b>COUNTY</b>
<b>Program Office</b> Marysville Joint Unified School District				<b>Resource Code</b> 5630	<b>Revenue Object Code</b> 8290		<b>INDEX</b> 58
<b>Telephone</b> 530-741-6000							
<b>Name of Grant Program</b> Education for Homeless Children and Youth							0604
<b>GRANT DETAILS</b>	<b>Original/Prior Amendments</b>	<b>Amendment Amount</b>	<b>Total</b>	<b>Amend. No.</b>	<b>Award Starting Date</b>	<b>Award Ending Date</b>	
	\$ 26,115.00	\$ 697.00	\$ 26,812.00	1	7/1/2016	6/30/2017	
<b>CFDA Number</b>	<b>Federal Grant Number</b>	<b>Federal Grant Name</b>			<b>Federal Agency</b>		
84.196A	S196A160005	Education for Homeless Children and Youth			U.S. Department of Education		
<p>This is to inform you that your award for the Education for Homeless Children and Youth (EHCY) Program has been amended to restore funding, in whole or in part, that was previously cut from your grant application's budget.</p> <p>This award is made 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) within 10 days of receipt to:</p> <p style="text-align: center;">Patricia Boncella, Associate Governmental Program Analyst Coordinated School Health and Safety Office California Department of Education 1430 N Street, Room 6408 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> 					<b>Date</b> January 3, 2017		
<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 in 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@mjUSD.com					<b>Telephone</b> 530-749-6101		
<b>Signature</b> 					<b>Date</b> January 27, 2017		



## **Memorandum of Understanding between Northern California STREAM Pathways Consortium (NCSPC) Partners**

This Memorandum of Understanding (MOU) is between the Sutter County Superintendent of Schools (SCSOS) and the Marysville Joint Unified School District, hereinafter to be referred in this document as the "District". The district is located at: 1919 B Street, Marysville, CA 95901.

The purpose of the MOU is to establish a formal working relationship between the parties of this Agreement and to set forth operative conditions that will govern this partnership from July 1, 2016 through June 30, 2017. Should legislative action, either State or Federal, create the need to alter the terms of this agreement, the agreement shall be null and void and a new MOU will be developed reflecting changes in the law.

Both SCSOS and Marysville Joint Unified School District agree to all of the following contract provisions:

### **Assurances**

SCSOS will:

- Serve as the lead agency and fiscal agent
- For the 2016-2017 school-year agrees to reimburse the District for actual NCSPC expenditures, not to exceed \$333,370.00 in accordance with the budget proposed in the CCPT application, or the latest budget approved for funding; The unspent portion of the allocated amount listed above may be rolled over to the following fiscal year as long as all of the assurances listed below have been met
- Provide fiscal support through sub-award of California Career Pathways Trust (CCPT) funds in accordance with the budget proposed in the CCPT application for funding
- Assume responsibility for completion and submission of all data, NCSPC program goals and objectives in accordance with CDE-required assurances and certifications;
- Provide support services for NCSPC identified career pathway programs.
- Provide leadership and support to NCSPC partners
- Promote the vision and sustainability of the NCSPC pathway programs and provide dedicated staff charged with developing and supporting NCSPC career pathways
- Develop a formal decision-making structure including identifying key leaders from education and each industry sector

- Commit to participate in statewide CCPT Network meetings, and to become members of a virtual learning community to share expertise and experiences on the development of career pathway programs, as well as pertinent resources, tools, and strategies
- Commit to maximize available funding streams (in addition to grant funding), to support the needs of all participating students; leverage, connect, and build upon existing investments in education and workforce development
- With the assistance of Industry Sector Coordinators (ISC's), districts, and business partners, develop standards for Work-based Learning (WBL) activities as well as curriculum that ensures student and teacher readiness for WBL activities;
- With the assistance of districts, ISC's, and business partners, develop and implement a seamless career readiness certification program aligned to regional business and educational needs and standards
- Create a formal request system for student WBL opportunities and a system for communicating these requests to the business partners
- Coordinate sector meetings that allow secondary, post-secondary, community and industry partners to network and learn from each other
- Convene K-12, Community College, industry and other critical partners to facilitate the development of innovative courses to be used by NCSPC teachers that will ensure effective programs of study aligned to the seven NCSPC sectors, meet district guidelines and graduation requirements, as well as, articulation, dual enrollment, and/or UC a-g approval
- Coordinate the development and implementation of curriculum and industry assessments to be used by NCSPC teachers that integrates STREAM, Career Readiness, Entrepreneurship, academic/technical knowledge, skills and standards across all NCSPC sectors
- Coordinate professional development for district and school staff aligned to pathway development, curriculum integration, data driven instruction, and innovative teaching methods
- Submit budget changes, a yearly expenditure report, a yearly progress report and one end of project report to show (1) student momentum points, (2) program outcomes measures, and (3) program deliverables are being met, within the timelines outlined in the grant
- Develop and coordinate a system of Regional Advisory Committees composed of industry professionals, Deputy Sector Navigators, Industry Sector Coordinators, NCSPC Coordinators and NCSPC Leadership
- Register and upload data to Cal-PASS Plus to facilitate secure data collection; develop of a regional student information system to support the data requirements of the CCPT grant
- With the assistance of the Yuba Community College District, develop regional blended learning cohorts

District's will:

- Fully implement and sustain the NCSPC pathways by providing leadership, funding, staffing, facilities and additional supports required to develop and sustain high quality pathways;
- Register for Cal-PASS Plus to facilitate secure data collection;
- Allocate NCSPC funds according to the SCSOS approved spending plan;
- Assign of at least one certificated or classified staff person to process and report relevant budget activities including semi-annual reports to NCSPC;
- Participate in at least 75% of NCSPC collaboration opportunities such as professional development, governance, sector meetings, post-secondary and industry agreements;
- Recruit, enroll and support, by pathway, students that are broadly representative of the overall school population, including students with special needs;
- Work with the NCSPC pathway workgroups to establish opportunities for all students to:
  - Complete approved community college courses while enrolled in high school
  - Participate in developmentally appropriate WBL experiences to expand career and postsecondary awareness
  - Develop personal characteristics and skill sets which are required for success in the workplace;
- Between July 1, 2015 and June 30, 2019 develop funding streams (in addition to CCPT funding), to sustain the progress of district pathways as evidenced by the inclusion of pathway funding in the district LCAP;
- Assign at least one ELA and/or Math coach or lead teacher to assist in the development and implementation of an integrated academic and technical curricula aligned with CCSS for each CCPT pathway over the course of the CCPT funding cycle;
- Assign at least one certificated or classified staff person to collect, organize, and report relevant data to the NCSPC Research Team within the timelines set forth by NCSPC;
- Assign of at least one counselor, administrator or support staff person for outreach and assistance in identifying and enrolling students in each CCPT pathway;
- Allow NCSPC staff access to pathway recruits and enrolled students for relevant assessments, WBL preparation and WBL placements.

Budget Controls:

- Prior approval must be obtained for any capital outlay or equipment replacement purchases; An inventory of capital outlay purchases must be maintained per CDE guidelines
- Budget transfers between programs must be approved by the SCSOS; Expenditure of funds in anticipation of approval is not permitted; Budget revisions shall be submitted to SCSOS prior to May 1<sup>st</sup>, 2017
- The District agrees to maintain internal control records for each of the NCSPC courses operated. Such records shall be kept according to standard guidelines followed on all federal and/or state funded programs.



- Districts shall submit a mid-year invoice for reimbursement of actual expenditures from July 1, 2016 – December 31, 2016 which is due January 15, 2017; Districts may submit a 2<sup>nd</sup> invoice for reimbursement of actual expenditures from January 1, 2017 – March 31, 2017 which is due April 15, 2017; Districts shall submit a 3<sup>rd</sup> invoice for reimbursement with the balance due payable upon receipt of a final accounting statement showing all actual expenditures by July 15, 2017. This accounting statement shall accompany the final invoice from the District.
- Accounting statements, forms and related records shall be subject to audit by the Sutter County Superintendent of Schools; In the event the funding SCSOS receives from the State of California is reduced, deferred, or otherwise delayed, a deficit factor to all final reimbursements may be applied; The deficit factor applied will be determined by SCSOS and NCSPC leadership
- Audit findings caused by the District's failure to comply with the SCSOS and NCSPC policies and procedures and/or California education codes are the sole responsibility of the District

### **Terms**

The terms of this MOU shall commence on July 1, 2016 and shall extend through June 30, 2017, and will be reviewed for renewal thereafter from year to year unless a party gives 60-days written notice of termination. All Parties enter into this MOU for the express purpose of implementing the NCSPC program.

### **Nondiscrimination**

All NCSPC Partners shall comply with all applicable Federal, State, and local anti-discrimination laws, regulations, policies, and ordinances and will not unlawfully discriminate, in the performance of services under this Agreement based on the actual or perceived race, religious creed, color, national origin, nationality, ethnicity, ethnic group identification, ancestry, age, marital status, pregnancy, physical or mental disability, medical condition, genetic information, gender, gender identity, gender expression, sex, or sexual orientation, veteran status, or any other basis protected by law.

### **Modification of Agreement**

The NCSPC Partners acknowledge that any modification to this Agreement shall only be effective if in writing and signed by all parties hereto.

### **Dispute Resolutions**

Any disputes that arise under this agreement shall be brought to the NCSPC Leadership. NCSPC Leadership will meet to determine an appropriate resolution of the dispute. In so doing, NCSPC Leadership may request relevant information from any Partner and may invite affected Partners to attend the meeting. Any member of NCSPC Leadership who has a conflict will recuse himself or herself from the meeting. NCSPC Leadership will inform all affected Partners of the resolution of the dispute following the meeting. In the event that a Partner is unsatisfied with the resolution, the Partner may bring the dispute to the Sutter County Superintendent of Schools.

### **Indemnification**

Each Partner agrees to defend, indemnify, and hold harmless the other Partners (including their directors, agents, officers and employees), from any claim, action, or proceeding arising from any actual or alleged act or omission of the indemnifying party, its director, agents, officers, or employees arising from the indemnifying party's duties and obligations described in this agreement or imposed by law.

It is the intention of the Partners that the provisions of this paragraph be interpreted to impose on each Partner responsibility to the other for the acts and omissions of their respective elected and appointed officials, employees, representatives, agents, subcontractors and volunteers. It is also the intention of the Partners that where comparative fault is determined to have been contributory, principles of comparative fault will be followed.

### **Execution**


This MOU may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Photographic copies of such signed counterparts may be used in lieu of the originals for any purpose.

### **Insurance**

Each Partner shall be responsible for maintaining sufficient insurance to protect against claims arising from death, bodily or personal injury, or damage to property resulting from actions, omissions, or operations of the Partner, or by its employees or agents, in the performance of this Agreement. Each District shall be responsible for providing any insurance coverage, including when applicable workers' compensation, for employees and students participating in their NCSPC programs.

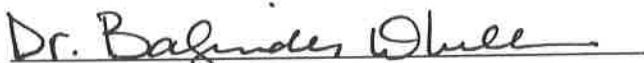
### **Confidential Information**

Each Partner shall maintain the privacy of student educational records in compliance with the Family Educational Rights and Privacy Act (FERPA) and corresponding California laws.



Director, College & Career Readiness

Date: 12/1/16



Superintendent- SCSOS

Date: 1-5-17

\_\_\_\_\_  
Superintendent- District

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

**TRI-COUNTY ROP  
PROP 20 FUNDS FOR INSTRUCTIONAL MATERIALS  
2016-17 FISCAL YEAR**

As discussed at the September 12<sup>th</sup> Steering Committee meeting there is approximately \$82,000.00 in the ROP Prop 20 lottery budget we would like to disperse to you. This \$6,300.00 is additional funding and can only be used for instructional materials for ROP courses.

Originally, we requested you complete a Request for Funding Form and submit it to us for approval. Since then we have learned we can disperse the full amount in a lump sum and we have decided this may be easier for everyone involved.

To receive the \$6,300.00 you need to sign and date this form and then return it to our accountant, Brenda Spannbauer. Please send this form with original signatures to:

Sutter County Superintendent of Schools  
Attention: Brenda Spannbauer  
970 Klamath Lane  
Yuba City, CA 95993

We would like to request you submit your completed form as soon as possible, but no later than April 30, 2017. If our accountant does not receive your form by this deadline, you may lose the opportunity to receive these funds.

**Use of funds:** Proposition 20 states the funds are "for the purchase of instructional materials." E.C 60010(h) states "instructional materials" means "all materials designed for use by pupils and their teachers as a learning resource and help pupils to acquire facts, skills, or opinions or to develop cognitive processes. Instructional materials may be printed or non-printed and may include textbooks, technology-based materials, other educational materials, and tests."

Technology-based materials "means those basic or supplemental instructional materials that are designed for use by pupils and teachers as learning resources and that require the availability of electronic equipment in order to be used as a learning resource. This does not include equipment required to make use of those materials. Items such as paper, pencils, or other supplies with no instructional content are not applicable. The materials must have instructional content.

**I hereby agree that I will deposit the Prop 20 funds into Resource 6300 and spend these funds according to the regulations outlined in the California Education Code Section 60010(h).**

\_\_\_\_\_  
District Authorized Signature

\_\_\_\_\_  
Date

**Approved for \$6,300.00 disbursement to: MARYSVILLE HIGH SCHOOL**

\_\_\_\_\_  
Eric Pomeroy, Director

Business Services Department

Approval: PK

Date: 2/3/17

\_\_\_\_\_  
ate

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**TRI-COUNTY ROP  
PROP 20 FUNDS FOR INSTRUCTIONAL MATERIALS  
2016-17 FISCAL YEAR**

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\_\_\_\_\_  
District Authorized Signature

\_\_\_\_\_  
Date

**Approved for \$6,300.00 disbursement to: LINDHURST HIGH SCHOOL**

\_\_\_\_\_  
Eric Pomeroy, Director

\_\_\_\_\_  
Business Services Department

\_\_\_\_\_  
Date

Approval: *[Signature]*

Date: 2/3/17

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8678 - Foothill Inplant



### **CONTRACT SERVICES AGREEMENT**

#### **Technicon Engineering Services, Inc. – Inplant Special Inspection and Testing for Foothill Intermediate School Shade Canopy**

THIS CONTRACT SERVICES AGREEMENT ("Agreement") is made and entered into this 28<sup>th</sup> day of February 2017, (hereinafter, the "Effective Date"), by and between the MARYSVILLE JOINT UNIFIED SCHOOL DISTRICT ("DISTRICT") and Technicon Engineering Services, Inc., a California Corporation (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 160 calendar days commencing from May 15, 2017. Nothing in this Section shall operate to prohibit or otherwise restrict the DISTRICT's ability to terminate this Agreement at any time for convenience or for cause

#### **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 are per Exhibit A and the DSA Approved Specifications and prints (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 of one thousand eight hundred and seventy two and 00/100 (\$1,872.00) (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 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 the Superintendent and Ryan DiGiullo, Assistant Superintendent, Business Services and Cynthia Jensen, Director of Facilities, (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 designates Darren G. Williams 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.

The Parties acknowledge and agree that CONTRACTOR shall perform, at CONTRACTOR's own cost and expense and without any reimbursement from DISTRICT, any services necessary to correct any errors or omissions caused by CONTRACTOR's failure to comply with the standard of care set forth under this Section or by any like failure on the part of CONTRACTOR's employees, agents, contractors, subcontractors and subconsultants. Such effort by CONTRACTOR to correct any errors or omissions shall be commenced immediately upon their discovery by either Party and shall be completed within seven (7) calendar days from the date of discovery or such other extended period of time authorized by the DISTRICT Representatives in writing and in their sole and absolute discretion. The Parties acknowledge and agree that DISTRICT's acceptance of any work performed by CONTRACTOR or on CONTRACTOR's behalf shall not constitute a release of any deficiency or delay in performance. The Parties further acknowledge, understand and agree that DISTRICT has relied upon the foregoing representations of CONTRACTOR, including but not limited to the representation that CONTRACTOR possesses the skills, training, knowledge and experience necessary to perform the Work skillfully, competently and to the highest standards of CONTRACTOR's profession.

- 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.
- 2.11. COMPLIANCE WITH LABOR CODE PROVISIONS: CONTRACTOR and any subcontractor performing or contracting any work shall comply with all applicable provisions of the California Labor Code for all workers, laborers and mechanics of all crafts, classifications or types, including, but necessarily limited to the following:
- A. In accordance with California Labor Code Section 1810, eight (8) hours of labor in performance of the Work shall constitute a legal day's work under this Contract. CONTRACTOR and any subcontractor shall pay workers overtime pay (not less than one and one-half (1½) times the base rate of pay) as required by California Labor Code Section 1815. CONTRACTOR and any subcontractor shall, as a penalty to the DISTRICT, forfeit twenty-five dollars (\$25) for each worker employed in the execution of the contract by the respective contractor or subcontractor for each calendar day during which the worker is required or permitted to work more than eight (8) hours in any one calendar day and forty (40) hours in any one calendar week in violation so the provisions of Article 3 of Chapter 1 of Part 7, Division 2 of the California Labor Code, which is incorporated by this reference as though fully set forth herein.
  - B. Pursuant to the provisions of California Labor Code, Sections 1770 *et. seq.*, the CONTRACTOR and any subcontractor under CONTRACTOR shall pay not less than the prevailing rate of per diem wages as determined by the Director of the California Department of Industrial Relations. Pursuant to the provisions of California Labor Code Section 1773.2. The CONTRACTOR is hereby advised that copies of the prevailing rate of per diem wages and a general prevailing rate for holidays, Saturdays and Sundays and overtime work in the locality in which the work is to be performed for each craft, classification, or type of worker required to execute the Agreement, are on file in the office of the



DISTRICT Secretary, which copies shall be made available to any interested party on request. The CONTRACTOR shall post a copy of said prevailing rate of per diem wages at each job site.

- C. As required by Section 1773.1 of the California Labor Code, the CONTRACTOR shall pay travel and subsistence payments to each worker needed to execute the work, as such travel and subsistence payments are defined in the applicable collective bargaining agreements filed in accordance with this Section.
- D. To establish such travel and subsistence payments, the representative of any craft, classification, or type of workman needed to execute the contracts shall file with the Department of Industrial Relations fully executed copies of collective bargaining agreements for the particular craft, classification or type of work involved. Such agreements shall be filed within ten (10) days after their execution and thereafter shall establish such travel and payments whenever filed thirty (30) days prior to the call for bids.
- E. The CONTRACTOR shall comply with the provisions of Section 1775 of the California Labor Code and shall, as a penalty to the DISTRICT, forfeit up to fifty dollars (\$50) for each calendar day, or portion thereof, for each worker paid less than the prevailing rate of per diem wages for each craft, classification, or type of worker needed to execute the contract. The CONTRACTOR shall pay each worker an amount equal to the difference between the prevailing wage rates and the amount paid worker for each calendar day or portion thereof for which a worker was paid less than the prevailing wage rate. CONTRACTOR is required to pay all applicable penalties and back wages in the event of violation of prevailing wage law, and CONTRACTOR and any subcontractor shall fully comply with California Labor Code Section 1775, which is incorporated by this reference as though fully set forth herein.
- F. CONTRACTOR and any subcontractor shall maintain and make available for inspection payroll records as required by California Labor Code Section 1776, which is incorporated by this reference as though fully set forth herein. CONTRACTOR is responsible for ensuring compliance with this section. CONTRACTOR and each subcontractor shall keep an accurate payroll record, showing the name, address, social security number, work classification, and straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by him or her in connection with the Project. Said payroll shall be certified and shall be available for inspection at all reasonable hours at the principal office of the CONTRACTOR on the following basis:
  - i. A certified copy of an employee's payroll record shall be made available for inspection or furnished to the employee or his or her authorized representative on request.
  - ii. A certified copy of all payroll records shall be made available for inspection or furnished upon request to the DISTRICT, the Division of Labor Standards Enforcement, and the Division of Apprenticeship Standards of the Department of Industrial Relations.
  - iii. A certified copy of all payroll records shall be made available upon request by the public for inspection or for copies thereof; provided, however, that a request by the public shall be made through the DISTRICT, the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement. If the requested payroll records have not been provided, the requesting party shall, prior to being provided the records, reimburse the costs of preparation to the CONTRACTOR, subcontractors, and the entity through which the request was made. The public shall not be given access to the records at the principal offices of the CONTRACTOR. The certified payroll records shall be on forms provided by the Division of Labor Standards Enforcement or shall contain the same information as the forms provided by the division. Each CONTRACTOR shall file a certified copy of the records with the entity that requested the records within ten (10) days after receipt of a written request. Any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by the DISTRICT, the Division

of Apprenticeship Standards, or the Division of Labor Standards Enforcement shall be marked or obliterated in such a manner as to prevent disclosure of an individual's name, address, and social security number. The name and address of the CONTRACTOR awarded the contract or performing the contract shall not be marked or obliterated. The CONTRACTOR shall inform the DISTRICT of the location of the records including the street address, DISTRICT, and shall, within 5 working days, provide a notice of change of location and address. The CONTRACTOR shall have ten (10) days in which to comply subsequent to receipt of written notice specifying in what respects the CONTRACTORS must comply with Section. In the event that the CONTRACTOR fails to comply within the 10-day period, he or she shall, as a penalty to the state or the DISTRICT, forfeit \$25.00 dollars for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement, these penalties shall be withheld from progress payments then due. Responsibility for compliance with Section lies with the CONTRACTOR.

- iv. The CONTRACTOR and any subcontractors shall, when they employ any person in any apprenticeable craft or trade, apply to the joint apprenticeship committee administering the apprenticeship standards of the craft or trade in the area of the construction site for a certificate approving the CONTRACTOR or subcontractor under the apprenticeship standards for the employment and training of apprentices in the area or industry affected; and shall comply with all other requirements of Section 1777.5 of the California Labor Code, which is incorporated by this reference as though fully set forth herein. The responsibility of compliance with California Labor Code Section 1777.5 during the performance of this Agreement rests with the CONTRACTOR. Pursuant to California Labor Code Section 1777.7, in the event the CONTRACTOR willfully fails to comply with the provisions of California Labor Code Section 1777.5, the CONTRACTOR shall be denied the right to bid on any public works contract for up to three (3) years from the date noncompliance is determined and be assessed civil penalties.

- G. In accordance with the provisions of Article 5, Chapter 1, Part 7, Division 2 (commencing with Section 1860), and Chapter 4, Part 1, Division 4 (commencing with Section 3700) of the California Labor Code, the CONTRACTOR is required to secure the payment of compensation to its employees and for that purpose obtain and keep in effect adequate Workers' Compensation Insurance and Employers Liability Insurance. If the CONTRACTOR, in the sole discretion of the DISTRICT satisfies the DISTRICT of the responsibility and capacity under the applicable Workers' Compensation Laws, if any, to act as self-insurer, the CONTRACTOR may so act, and in such case, the insurance required by this paragraph need not be provided. The CONTRACTOR is advised of the provisions of Section 3700 of the California Labor Code, which requires every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code and shall comply with such provisions before commencing the performance of the work of this Contract. The Notice to Proceed with the Work under this Agreement will not be issued, and the CONTRACTOR shall not commence work, until the CONTRACTOR submits written evidence that it has obtained full Workers' Compensation Insurance coverage for all persons whom it employs or may employ in carrying out the work under this Contract. This insurance shall be in accordance with the requirements of the most current and applicable state Workers' Compensation Insurance Laws. In accordance with the provisions of Section 1861 of the California Labor Code, the CONTRACTOR in signing this Agreement certifies to the DISTRICT as true the following statement: "I am aware of the provisions of Section 3700 of the Labor Code which requires every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code, and I will comply with such provisions before commencing the performance of the work of this contract." A subcontractor is not allowed to commence work on the project until verification of Workers' Compensation Insurance coverage has been obtained and verified by the CONTRACTOR and submitted to the Construction Manager for the DISTRICT's review and records.



H. In accordance with the provisions of Section 1727 of the California Labor Code, the DISTRICT, before making payment to the CONTRACTOR of money due under a contract for public works, shall withhold and retain there from all wages and penalties which have been forfeited pursuant to any stipulation in the contract, and the terms of Chapter 1, Part 7, Division 2 of the California Labor Code (commencing with Section 1720). But no sum shall be withheld, retained or forfeited, except from the final payment, without a full investigation by either the Division of Labor Standards Enforcement or by the DISTRICT.

## 2.12 WARRANTY.

- A. CONTRACTOR warrants all Work performed and goods provided under this Agreement shall: (i) meet all conditions of the Agreement; (ii) shall be free from all defects in design, materials and workmanship; and (iii) shall be fit for the purposes intended. If any defects occur within twelve (12) months following acceptance, CONTRACTOR shall be solely responsible for the correction of those defects. The warranty set forth under this Section 2.14(A) shall be in addition to any warranties for equipment and fixtures that may be installed by CONTRACTOR in the performance of this Agreement as provided under Section 2.14(B) and 2.14(C), below.
- B. CONTRACTOR shall transfer to DISTRICT all of CONTRACTOR's rights to and interest to any and all manufacturers' warranties or guarantees for any equipment or fixtures installed by CONTRACTOR in the performance of this Agreement. Where applicable, DISTRICT shall be named as the owner-beneficiary in any warranty or guarantee. CONTRACTOR shall deliver to DISTRICT all the written material comprising the manufacturers' warranties or guarantees. CONTRACTOR shall ensure that each warranty or guarantee is in full force and effect from the date the DISTRICT starts using the equipment or fixtures. All manufacturers' warranties or guarantees shall be in addition to the CONTRACTOR's warranty set forth under Section 2.14(A), above or Section 2.14(C), below.
- C. In addition to all manufacturers' warranties and all other warranties implied by law, CONTRACTOR warrants that all equipment and fixtures installed in the performance of this Agreement shall conform to the Scope of Work and any additional plans, drawings or specifications incorporated into this Agreement. CONTRACTOR further warrants that all equipment and fixtures installed by CONTRACTOR shall be merchantable; of good workmanship and material; and free from defect.

2.14 SAFETY: CONTRACTOR shall comply with all workplace safety measures as may be required by applicable federal, State or local laws so as to safeguard against injury to persons or damage to property. In performing the Work, CONTRACTOR shall at all times be in compliance with all applicable federal, State and local rules and regulations, and shall exercise all necessary precautions for the safety of employees appropriate to the nature of the Work and the conditions under which any work is to be performed, including but not limited to:

- A. Adequate life protection and lifesaving equipment and emergency procedures;
- B. Instructions in accident prevention for all employees and subcontractors, such as safe walkways, scaffolds, fall protection ladders, bridges, gang planks, confined space procedures, trenching and shoring, equipment and other safety devices, equipment and wearing apparel as are necessary or lawfully required to prevent accidents or injuries; and
- C. Adequate facilities for the proper inspection and maintenance of all safety measures.

## 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.
- 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 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.
- 3.4 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.
- 3.5 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:**  
Technicon Engineering Service, Inc.  
4539 N. Brawley #108  
Fresno, CA 93722  
Attn: Darren G. Williams  
Phone: (559) 276-9311  
Email: [darrenw@technicon.net](mailto:darrenw@technicon.net)

**DISTRICT:**  
Marysville Joint Unified School District  
1919 B Street, room 214  
Marysville, CA 95901  
Attn: Ryan DiGiullo, Asst. Superintendent,  
Business Services  
Phone: (530) 749-6151  
Email: [rdigiullo@mjUSD.k12.ca.us](mailto:rdigiullo@mjUSD.k12.ca.us)

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, 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: \_\_\_\_\_  
Ryan DiGiulio, Assistant Superintendent of  
Business Services

**TECHNICON ENGINEERING SERVICES, INC.,  
A CALIFORNIA CORPORATION:**

By: \_\_\_\_\_  
Name: Darren G. Williams  
Title: President

DATE: 1/24/17

EXHIBIT 'A'



GEOTECHNICAL &amp; ENVIRONMENTAL ENGINEERING - CONSTRUCTION TESTING &amp; INSPECTION

January 20, 2017

TES No. MP17-015

**Ms. Cynthia Jensen**  
**Marysville Joint Unified School District**  
 191 B. Street  
 Marysville, CA 95901  
 Phone: 530-749-6151  
 Email: [cjensen@mjusd.k12.ca.us](mailto:cjensen@mjusd.k12.ca.us)

**PROJECT:** Foothill Intermediate Shade Canopy 20'x80'  
 5351 Fruitland Road  
 Marysville, CA

**SUBJECT:** Cost Estimate for Materials Testing and Inspections Services

Ms. Jensen:

In accordance with your request, **TECHNICON Engineering Services, Inc. (TECHNICON)** is pleased to provide you with this cost estimate for testing for the above referenced project. We will do our best to keep the testing cost to a minimum. This estimate is based on the preliminary construction schedule, which is subject to change.

Foothill Intermediate Shade Canopy 20'x80' 5351 Fruitland Road Marysville, CA		Quantity	Rate	Estimated Fees
<b>Structural Steel</b>				
Material Identifications	4/Hours	\$89/Hour		\$356
Shop Welding Special Inspection	4/Hours	\$89/Hour		\$356
<b>Subtotal for Structural Steel</b>				<b>\$712</b>
<b>Travel</b>				
Fuel Surcharge	2/Trips	\$25/Per Trip		\$50
<b>Subtotal for Travel</b>				<b>\$50</b>
<b>Final Reports DSA</b>				
Final Structural	1/LS	\$370/LS		\$370
<b>Subtotal for Final Reports</b>				<b>\$370</b>
<b>Report Preparation</b>				
Registered Civil Engineer	2/Hours	\$175/Hour		\$350
Project Management	2/Hours	\$120/Hour		\$240
Administration	2/Hours	\$75/Hour		\$150
<b>Subtotal for Report Preparation</b>				<b>\$740</b>
<b>ESTIMATED COST OF CONSTRUCTION TESTING AND INSPECTION</b>				<b>\$1,872</b>

CORPORATE OFFICE - 4539 N. Brawley Avenue #108, Fresno, CA 93722 - P 559.276.9311 - F 559.276.9344

VISALIA OFFICE - 151 S. Dunworth Avenue, Visalia, CA 93292 - P 559.732.0200 - F 559.732.0830

MERCED OFFICE - 2345 Jetway Drive, Atwater, CA 95301 - P 209.384.9300 - F 209.384.0891

[www.technicon.net](http://www.technicon.net)

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Rates (additional charges if needed)	
Overtime @ 1.5 x \$89 (If required after 8 hours and Saturdays)	\$133.50/Hour
Double time @ 2 x \$89 (If required after 12 hours and Sundays/Holidays)	\$178/Hour
Mileage (\$0.85 per mile charged outside of a 10 mile radius)	\$0.85

### CONDITIONS

The fees and conditions of this proposal will remain in effect for a period of 90 days. Our technicians and inspectors will attempt, wherever possible, to combine observation and testing during site visits, in order to keep the final bill as low as possible. However, as the presence of our personnel at the site will depend upon the contractor's schedule and the progress of the work, the fees presented above are to be considered as estimates only, and shall not be construed as guaranteed maximum fees. The invoices will reflect the time spent and service performed, and may be greater or less than the estimated amounts.

Fees are predicated upon our understanding that this project is subject to California Prevailing Wage Law (i.e. certified payroll), and are based upon straight-time rates. Work performed on weekends, holidays, and when work starts outside of regular business hours is subject to a 4-hour minimum charge. Saturdays, night work, and premium hours (before 7 a.m., after 5 p.m. or in excess of 8 hours in one day) for personnel are at time and one-half; Sundays and holidays are at double time. TECHNICON will notify the DSA project inspector for authorization to perform our service on overtime. Field services for regular work days are subject to a 2-hour minimum charge for inspections, consultations, sampling, or show up time and 2-hour increments, M-F 7 a.m. to 3 p.m. with a minimum of 24 hour schedule notice and a 4 hour cancellation notice. Time is accumulated on a portal to portal basis.

Routine project supervision by an engineer has been included in the above quotation. However, please note that the above quotation does not include charges for weekly site meetings, plan reviews, site visits to address unforeseen problem areas, or other such services. Fees for such services will be charged at the fee schedule rates in effect at the time of the services request.

Charges for re-inspection due to failing results, or when testing or inspection is requested but the contractor is not ready and does not cancel scheduled work are also not included in the estimate and will be billed at the hourly rates listed previously. This firm shall not be responsible for back-charging contractors.

Client agrees to pay for the described services in accordance with the compensation provisions in the cost estimate. Unless otherwise specified in the cost estimate, payment to Consultant will be made within 30 days of the date of billing. Our unit cost was based on work being conducted locally. Should portions of the work be subcontracted to out-of town subcontractors, additional incurred costs will be charged accordingly.

\*Rates are subject to change due to changes in Prevailing Wage Law or its application. In the event that it is determined or alleged that Prevailing Wage Law applies to any addition aspect of the project, the Client agrees to pay TECHNICON Engineering Services, Inc. (Consultant) any and all additional compensation necessary to adjust Consultant's Wage, to pay any penalties that may be levied against Consultant due to alleged compliance with the Prevailing Wage Law, and to pay for apprentices, supervision, certified payrolls, and other administrative costs as necessary to comply with Prevailing

TECHNICON  
ENGINEERING SERVICES, INC.

Wage Law. In the event that work thought to be subject to Prevailing Wage is determined not to be subject to prevailing Wage, no refund of fees will be given.

Respectfully submitted,  
**TECHNICON Engineering Services, Inc.**



Darren G. Williams, RCE  
President

Accepted By: \_\_\_\_\_

P.O. # : \_\_\_\_\_

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**TECHNICON**  
ENGINEERING SERVICES, INC.

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## CONTRACT TERMS AND CONDITIONS (REV 1/2017)

### I SCOPE

Consultant (**TECHNICON**) agrees to perform the services described in the proposal which incorporates these terms and conditions. Unless modified in writing by the parties hereto, the duties of Consultant shall not be construed to exceed those services specifically set forth in the proposal. The proposal and these terms and conditions, when executed by Client, shall constitute a binding agreement on both parties.

### II COMPENSATION

Client agrees to pay for the described services in accordance with the compensation provisions in the proposal. Unless otherwise specified in the proposal, payment to Consultant will be made within 30 days of the date of billing; interest on the unpaid balance will accrue beginning on the 31st day at that rate of 2 percent per month or the maximum interest rate permitted by law, whichever is less. Such interest is due and payable when the overdue payment is made. Client agrees that periodic billings from Consultant to client are correct, conclusive, and binding on client unless Client, within ten (10) calendar days from the receipt of such billing, notifies Consultant in writing of alleged inaccuracies, discrepancies, or errors in the billing. Client agrees that if Client requests services not specified pursuant to the scope of services description within this agreement, Client agrees to pay for all such additional services as extra work in accordance with the project fee schedule.

### III RESPONSIBILITY

Consultant is employed to render a professional service only, and any payments made by Client are compensation solely for such services rendered and recommendations made in carrying out the work. Consultant shall follow the practice of the engineering profession to make findings, provide opinions, make factual presentations, and provide professional advice and recommendations. Consultant shall only act as an advisor in all governmental relations. In performing the services under this contract, Consultant shall act as agent of Client. Consultant's review or supervision of work prepared or performed by other individuals or firms employed by Client shall not relieve those individuals or firms of complete responsibility for the adequacy of their work.

It is understood that any resident engineering or inspection provided by Consultant is for the purpose of determining compliance with the technical provisions of the project specifications and does not constitute any form of guarantee or insurance with respect to the performance of a contractor. Consultant does not assume responsibility for methods or appliance used by a contractor, for safety of construction work, or for compliance by contractors with laws and regulations.

### IV SCOPE OF CLIENT SERVICES

Client agrees to cooperate with Consultant in every way on the project, including but not limited to:

1. Coordinate with tenants for access to sampling locations.
2. Provide all available information on past history and operations at the site.
3. Provide all available information on the location of all underground tanks, piping, and utilities at the site.

Client agrees not to use or permit any other person to use plans, drawings, or other work products prepared by Consultant, which plans, drawings, or other work products are not final and which are not signed and stamped or sealed by Consultant. Client agrees to be liable and responsible for any such use of not final plans, drawings, and other work products not signed and stamped or sealed by Consultants and waives liability against Consultant for their use. Client further agrees that final plans, drawings, or other work product are for the exclusive use of Client and may be used by Client only for the project described on the face hereof. Such final plans, drawings or other work products may not be changed nor used on a different project without the written authorization or approval Consultant.

### V INDEMNIFICATION

Consultant agrees to indemnify, and hold Client harmless from liability arising out of the sole negligent errors or sole negligent omissions of Consultant, its agents, employees, officers, directors, or representatives in the performance of Consultant's duties under this Agreement. Consultant's liability shall be limited to the actual loss sustained, but in no event shall it exceed the limits of Consultant's insurance policies in force at the time of this work. Such negligence shall be measured by standards in effect at that time services are rendered, not by later standards. Client may not assert any claim against Consultant after the shorter of: (1) 3 years from substantial completion of services giving rise to the claim; or (2) the statute of limitation provided by law. Client acknowledges Consultant will perform part of the work at facilities that may contain hazardous materials or conditions, and that Consultant had no prior role in the generation, treatment, storage, or disposition of any hazardous materials or conditions that may be encountered at the site. In consideration of the associated risks that may give rise to claims by third parties or employees of Client, Client agrees to indemnify, defend and hold Consultant harmless (including attorney's fees) from any and all losses, damages, claims, or actions brought by any third party or employee of Client against Consultant or Consultant's employees, agents, officers, or directors, in any way arising out of the presence of hazardous materials at the site, except for claims shown by final judgment to arise out of the sole negligence of Consultant.

TECHNICON  
ENGINEERING SERVICES, INC.

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**CONSULTING**  
**CONTRACT TERMS AND CONDITIONS (REV 11/2017)**

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**VI SUBCONTRACTS**

Consultants shall be entitled, to the extent determined appropriate by Consultant to subcontract any portion of the work to be performed under this project.

**VII ASSIGNMENT**

This agreement is binding on the heirs, successors, and assigns of the parties hereto. The Agreement is not to be assigned by either Client or Consultant without the prior written consent of the other.

**VIII INTEGRATION**

These terms and conditions and the letter agreement to which they are attached represent the entire understanding of Client and Consultant as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered herein. The Agreement may not be modified or altered except in writing signed by both parties.

**IX JURISDICTION**

This agreement shall be administered and interpreted under the laws of the state of California. Jurisdiction of litigation arising from the agreement shall be in that state. If any part of the agreement is found to be in conflict with applicable laws, such part shall be inoperative, null and void insofar as it is in conflict with said laws, but the remainder of the Agreement shall be in full force and effect.

**X PROJECT DELAY**

Client agrees that Consultant is not responsible for delays caused by activities or factors beyond Consultant's reasonable control, including but not limited to, delays by reason of strikes, lockouts, work slowdowns or stoppages, accidents, acts of God, failure of Client to furnish timely information or approve or disapprove Consultant's work promptly, faulty performance by Client or other contractors or governmental agencies. When such delays beyond Consultant's reasonable control occur, Client agrees consultant is not responsible for damages nor shall Consultant be deemed to be in fault of this agreement.

Client also agrees that Consultant shall not be liable for damages resulting from the actions or inactions of governmental agencies including, but not limited to, permit processing, environmental impact reports, general plans and amendments thereto, zoning matters, annexations or consolidation, use or conditional use permits, project or plan approvals, and building permits.

**XI SUSPENSION OF WORK**

Client may suspend, in writing, all or a portion of the work under the Agreement in the event unforeseen circumstances beyond the control of the Client make normal progress in the performance of the work impossible. Consultant may request that the work be suspended by notifying Client, in writing, of circumstances that are interfering with normal progress of the work. Consultant may suspend work on the project in the event Client does not pay invoices within 30 days of the date of billing. If Client fails to pay Consultant within 30 days after invoices are rendered, Client agrees Consultant shall have the right to consider such default in payment a material breach of this entire agreement, and, upon written notice, the duties, obligations, and responsibilities of Consultant under this agreement are terminated. The time for completion of the work shall be extended by the number of days the work is suspended. In the event that the period of suspension exceeds 90 days, the terms of the agreement are subject to renegotiation and both parties are granted the option to terminate work on the suspended portion of the project, in accordance with Article XI.

**XII TERMINATION OF WORK**

Client or Consultant may terminate all or a portion of the work covered by the Agreement for its convenience. Either party may terminate work in the event the other party fails to perform in accordance with the provisions of the Agreement by giving 15 days prior written notice from the party initiating termination to the other. Notice of termination shall be by certified mail with return receipt to sender. In such event, Client shall promptly pay consultant for all fees, charges, and services provided by Consultant.

**XIII ARBITRATION**

All claims, disputes, and other matters in question between the parties to this Agreement arising out of or relating to this Agreement or the breach thereof, which are not disposed by mutual agreement of the parties, shall be decided by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association (AAA). No arbitration arising out of or relating to this Agreement shall include, by consolidation, joinder, or in any other manner, any additional person not a party to this Agreement except by written consent containing a specific reference to this Agreement and signed by the parties hereto and such persons to be joined. This agreement to arbitrate and any agreement to arbitrate with an additional person or persons shall be specifically enforceable under prevailing arbitration law. Notice of demand for arbitration shall be filed in writing with the parties to this Agreement and with the AAA within a reasonable time after the claim, dispute or other matter in question has arisen. In no event shall the demand for arbitration be made after the date when the institution of legal or equitable proceedings based on such claim, dispute or other matter in question would be barred by the applicable statute of limitations. The award rendered by the arbitrators shall be final, and judgment may be entered in accordance with applicable law in any court having jurisdiction thereof.

**TECHNICON**  
ENGINEERING SERVICES, INC.

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## Request for Taxpayer Identification Number and Certification

Give Form to the  
requester. Do not  
send to the IRS.

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.  
**TECHNICON Engineering Services, Inc.**

2 Business name/disregarded entity name, if different from above

3 Check appropriate box for federal tax classification; check only one of the following seven boxes:  
☐ Individual/sole proprietor or single-member LLC  
☐ Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶  
☐ Other (see instructions) ▶  
☐ C Corporation  
☒ S Corporation  
☐ Partnership  
☐ Trust/estate

4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):  
Exempt payee code (if any) \_\_\_\_\_  
Exemption from FATCA reporting code (if any) \_\_\_\_\_  
(Applies to accounts maintained outside the U.S.)

5 Address (number, street, and apt. or suite no.)  
**4539 N. Brawley #108**  
6 City, state, and ZIP code  
**Fresno, CA 93722**

7 List account number(s) here (optional)

8 Requester's name and address (optional)

**Part I Taxpayer Identification Number (TIN)**

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I Instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

Note. If the account is in more than one name, see the instructions for line 1 and the chart on page 4 for guidelines on whose number to enter.

Social security number								
				-				
OR								
Employer identification number								
7	7	-	0	2	0	9	4	8

**Part II Certification**

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
- I am a U.S. citizen or other U.S. person (defined below); and
- The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions on page 3.

Sign Here \_\_\_\_\_ Signature of U.S. person ▶ *Marcel Kemp* Date ▶ 01/19/2017

### General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.  
Future developments. Information about developments affecting Form W-9 (such as legislation enacted after we release it) is at [www.irs.gov/irb](http://www.irs.gov/irb).

### Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following:

- Form 1099-INT (interest earned or paid)
- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)

- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See *What is backup withholding?* on page 2.

By signing the filled-out form, you:

- Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
- Certify that you are not subject to backup withholding, or
- Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income, and
- Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See *What is FATCA reporting?* on page 2 for further information.

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YEAR

2017

**Withholding Exemption Certificate**

CALIFORNIA FORM

590

(This form can only be used to certify exemption from nonresident withholding under California R&amp;TC Section 18662. This form cannot be used for exemption from wage withholding.)

File this form with your withholding agent.  
(Please type or print)

Withholding agent's name

Vendor/Payee's name

Technical Engineering Services

Vendor/Payee's ☐ Social security number  
☐ SSN no. ☐ California corp. no. ☒ FEIN

77-0209487

Note:  
Failure to furnish your  
identification number will  
make this certificate void.

Vendor/Payee's address (number and street)

4539 N. Bradley #108

APT no.

Private Mailbox no.

Vendor/Payee's daytime telephone no.

(559) 276-9311

City

Fresno

State

CA

ZIP Code

93722

I certify that for the reasons checked below, the entity or individual named on this form is exempt from the California income tax withholding requirement on payment(s) made to the entity or individual. Read the following carefully and check the box that applies to the vendor/payee:

☐ **Individuals — Certification of Residency:**

I am a resident of California and I reside at the address shown above. If I become a nonresident at any time, I will promptly inform the withholding agent. See instructions for Form 590, General Information D, for the definition of a resident.

☒ **Corporations:**

The above-named corporation has a permanent place of business in California at the address shown above or is qualified through the California Secretary of State to do business in California. The corporation will withhold on payments of California source income to nonresidents when required. If this corporation ceases to have a permanent place of business in California or ceases to be qualified to do business in California, I will promptly inform the withholding agent. See instructions for Form 590, General Information E, for the definition of permanent place of business.

☐ **Partnerships:**

The above-named partnership has a permanent place of business in California at the address shown above or is registered with the California Secretary of State, and is subject to the laws of California. The partnership will file a California tax return and will withhold on foreign and domestic nonresident partners when required. If the partnership ceases to do any of the above, I will promptly inform the withholding agent. Note: For withholding purposes, a Limited Liability Partnership is treated like any other partnership.

☐ **Limited Liability Companies (LLC):**

The above-named LLC has a permanent place of business in California at the address shown above or is registered with the California Secretary of State, and is subject to the laws of California. The LLC will file a California tax return and will withhold on foreign and domestic nonresident members when required. If the LLC ceases to do any of the above, I will promptly inform the withholding agent.

☐ **Tax-Exempt Entities:**

The above-named entity is exempt from tax under California or federal law. The tax-exempt entity will withhold on payments of California source income to nonresidents when required. If this entity ceases to be exempt from tax, I will promptly inform the withholding agent.

☐ **Insurance Companies, IRAs, or Qualified Pension/Profit Sharing Plans:**

The above-named entity is an insurance company, IRA, or a federally qualified pension or profit-sharing plan.

☐ **California Irrevocable Trusts:**

At least one trustee of the above-named irrevocable trust is a California resident. The trust will file a California fiduciary tax return and will withhold on foreign and domestic nonresident beneficiaries when required. If the trustee becomes a nonresident at any time, I will promptly inform the withholding agent.

☐ **Estates — Certification of Residency of Deceased Person:**

I am the executor of the above-named person's estate. The decedent was a California resident at the time of death. The estate will file a California fiduciary tax return and will withhold on foreign and domestic nonresident beneficiaries when required.

CERTIFICATE: Please complete and sign below.

Under penalties of perjury, I hereby certify that the information provided herein is, to the best of my knowledge, true and correct. If conditions change, I will promptly inform the withholding agent.

Vendor/Payee's name and title (type or print)

Darrin Williams - President/CEO

Vendor/Payee's signature

Date

1/20/17

For Privacy Act Notice, get form FDB 1131 (Individuals only).

59003103

Form 590 (2) (REV. 2003)

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**Marysville Joint Unified School District**

**1919 B Street, Marysville, California 95901  
Purchasing Department**

**PUBLIC WORKS CONTRACT FOR SERVICES UNDER \$45,000**

THIS CONTRACT made and entered into on 02.28.2017 (Insert Board meeting date or ratification date), by and between Star Energy Management, Inc hereinafter called the CONTRACTOR and the MARYSVILLE JOINT UNIFIED SCHOOL DISTRICT hereinafter called the DISTRICT.

WITNESSETH; The parties do hereby contract and agree as follows:

1. The CONTRACTOR shall furnish labor and materials to the DISTRICT in accordance with the Terms & Conditions set forth in ATTACHMENT B hereof and incorporated herein by this reference and any specifications attached for a total contract price of:

twenty three thousand four hundred five dollars and 00 /100 Dollars (\$ 23,405.00 )

(MAY NOT EXCEED \$45,000) – to be paid in full within thirty (30) days after completion and acceptance.

2. Contractor shall be a licensed contractor pursuant to the Business and Professions Code and shall be licensed in the following classification: C10- Electrical (add applicable to trade).

3. (Check contractor license classification appropriateness at: <http://www.cslb.ca.gov/GeneralInformation/Library/LicensingClassifications/> and contractor license status at: <https://www2.cslb.ca.gov/OnlineServices/CheckLicense/CheckLicense.aspx>).

4. This contract shall commence upon Board approval as of 31/1/2017 (Insert date after Board approval date or ratification date) with work to be completed within ( ) consecutive days and/or by August 31, 2017.

5. **SCOPE OF WORK:** By submitting a proposal, contractors warrant that they have made a site examination as they deem necessary as to the condition of the site and certify all measurements, specifications and conditions affecting the work to be performed at the site. Proposals are subject to acceptance by the signing of a contract and issuance of an appropriate purchase order. The District reserves the right to accept or reject any and all quotes and reserves the right to waive any informality in any quote. **CONTRACTOR PROPOSES TO FURNISH LABOR AND MATERIAL IN ACCORDANCE WITH THE FOLLOWING SPECIFICATIONS:** (Describe in detail the scope of the proposed project and materials to be furnished)

- Refer to ATTACHMENT J, attached hereto (insert or attached proposal must state at prevailing wage for all services \$1,000 or above but under \$45,000)



# Marysville Joint Unified School District

## NONCOLLUSION AFFIDAVIT

The party making the foregoing bid certifies that the bid is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the bid is genuine and not collusive or sham; that the bidder has not directly or indirectly induced or solicited any other bidder to put false or sham bid, and has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham bid, or that anyone shall refrain from bidding; that the bidder has not in any manner, directly or indirectly, sought by agreement communication, or conference with anyone to fix the bid price of the bidder or any other bidder, or to fix any overhead, profit, or cost element of the bid price, or of that of any other bidder, or to secure any advantage against the public body awarding the contract of anyone interested in the proposed contract; that all statements contained in the bid are true; and, further, that the bidder has not directly or indirectly, submitted his or her bid price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham bid.

IN WITNESS WHEREOF, the parties hereunto have subscribed to this Contract, including all Contract Documents as listed below:

<input checked="" type="checkbox"/> Noncollusion Affidavit	<input checked="" type="checkbox"/> ATTACHMENT F - Proof of Contractor Annual Registration with DIR
<input checked="" type="checkbox"/> ATTACHMENT A - Contractor Certification Form	<input checked="" type="checkbox"/> ATTACHMENT G - Withholding Exemption Certificate - CA Form 590
<input checked="" type="checkbox"/> ATTACHMENT B - Terms and Conditions (5 pages)	<input checked="" type="checkbox"/> ATTACHMENT H - W9 Form
<input checked="" type="checkbox"/> ATTACHMENT C - Contractor's Certificate Regarding Workers' Compensation	<input checked="" type="checkbox"/> ATTACHMENT I - Certificate of Insurance and Additional Insured Endorsement
<input checked="" type="checkbox"/> ATTACHMENT D - Criminal Background Investigation/Fingerprinting Certificate	<input checked="" type="checkbox"/> ATTACHMENT J - Scope of Work
<input checked="" type="checkbox"/> ATTACHMENT E - Prevailing Wage and Related Labor Requirements Certification	Purchase Order No. _____

### TYPE OF BUSINESS ENTITY

☐ Individual  
☐ Sole Proprietorship  
☐ Partnership  
☒ Corporation  
☐ Other

### TAX IDENTIFICATION

80-0472536  
 Employer Identification Number

License No: 621730 Classification: C10-EL Expiration Date: 04/30/2018

(District Use Only: License verified by [Signature] Date: 12/15/2016  
 Fill at time of preparation - DISTRICT STAFF ONLY

I hereby agree to abide by these terms and conditions if awarded the project as described herein. Under penalty of perjury, I certify that I am a duly authorized agent/representative of the company providing this proposal. I also certify that none of the individuals identified on attached certification form (if applicable) or any individual identified above has been convicted of a felony as defined in Education Code 45122.1

Contractor Name: Star Energy Management, Inc

Contractor Address: 6120 Lincoln Blvd. Ste R

Oroville, CA 95968

Phone: 530 532 9250

Email: cjensen@mjuvnet.com

☒ Print Name: Cory Birkholz

☒ Title: V.P.

☒ Authorized Signature: [Signature]

District Acceptance: Ryan DiGiullo, Assistant Superintendent of Business Services

Date: 02/28/2017  
 Board Approval Date

## Contractor's License Detail for License # 621730

**DISCLAIMER:** A license status check provides information taken from the CSLB license database. Before relying on this information, you should be aware of the following limitations.

CSLB complaint disclosure is restricted by law (B&P 7124.6) if this entity is subject to public complaint disclosure, a link for complaint disclosure will appear below. Click on the link or button to obtain complaint and/or legal action information.

Per B&P 7071.17, only construction related civil judgments reported to the CSLB are disclosed.

Arbitrations are not listed unless the contractor fails to comply with the terms of the arbitration.

Due to workload, there may be relevant information that has not yet been entered onto the Board's license database.

### Business Information

STAR ENERGY MANAGEMENT INC  
6120 LINCOLN BLVD SUITE R  
OROVILLE, CA 95966  
Business Phone Number: (530) 532-0260

Entity Corporation

Issue Date 08/10/1991

Reissue Date 04/14/2010

Expire Date 04/30/2018

### License Status

This license is current and active.

All information below should be reviewed.

### Classifications

C10 - ELECTRICAL

### Bonding Information

#### Contractor's Bond

This license filed a Contractor's Bond with RLI INSURANCE COMPANY.

Bond Number: LSM0170281

Bond Amount: \$15,000

Effective Date: 01/01/2016

Contractor's Bond History

#### Bond of Qualifying Individual

The qualifying individual ROBERT ALLAN BIRKHOLOZ certified that he/she owns 10 percent or more of the voting stock/membership interest of this company; therefore, the Bond of Qualifying Individual is not required.

Effective Date: 04/14/2010

### Workers' Compensation

This license has workers compensation insurance with the CALIFORNIA INSURANCE COMPANY

Policy Number: 4626533201

Effective Date: 02/15/2016

Expire Date: 02/15/2017

Workers' Compensation History

### Miscellaneous Information

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04/14/2010 - LICENSE REISSUED TO ANOTHER ENTITY

Other

Personnel listed on this license (current or disassociated) are listed on other licenses.

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## Marysville Joint Unified School District

### ATTACHMENT A

#### CONTRACTOR CERTIFICATION FORM

#### CERTIFICATION PURSUANT TO EDUCATION CODE SECTION 45125.1

The District has determined per Education Code Section 45125.1, subdivision (c) that in performing services to this contract, Contractor's employees may have contact with pupils. As required under Education Code Section 45125.1, subdivision (a), Contractor shall require their employees, including the employees of any subcontractor, who will provide services pursuant to this contract to submit their fingerprints in a manner authorized by the Department of Justice in order to conduct a criminal background check to determine whether such employees have been convicted of or have charges pending for a felony as defined in Education Code Section 45122.1.

Contractor shall not permit any employee to perform services who may come in contact with pupils under this contract until the Department of Justice has determined that the employee has not been convicted of a felony or has not criminal charges pending for a felony as defined in Section 45122.1.

Contractor shall certify in writing to the District that all of its employees who may come in contact with pupils have not been convicted of or have no criminal charges pending for a felony as defined in Education Code Section 45122.1.


Contractor shall defend, indemnify, protect and hold the District and its agents, officers and employees harmless from and against any and all claims asserted or liability established for damages or injuries to any person or property which arise from or are connected with or are caused or claimed to be caused by Contractor's failure to comply with all of the requirements contained in Education Code Section 45125.1, including, but not limited to, the requirements prohibiting Contractor for using employees who may have contact with pupils who have been convicted or have charges pending for a felony as defined in Education Code Section 45122.1.

It is understood that by signing this document, Contractor agrees they are familiar with Education Code Section 45122.1. The following individuals are employees of Contractor who may come in contact with pupils in the performance of services in this contract.

X Name(s) of employee(s):  
Ron Birkholz  
Marty Brusseau  
Mike Walker  
Alejandro Navarro  
Brad Rousseau

Name(s) of employee(s):  
Alfredo Navarro

I certify that none of the individuals identified above has been convicted of a felony as defined in Education Code Section 45122.1.

X Dated: 12-8-16 Star Energy Management, Inc (Company)  
X  (Authorized Signature)  
X Cory Birkholz (Print Name)  
X V. P. (Title)

(Complete only if pertinent)





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### ATTACHMENT B

### TERMS AND CONDITIONS

**ARTICLE 1. WAGE RATES:** Pursuant to the provisions of article 2 (commencing at section 1770), chapter 1, part 7, divisions 2 of the Labor Code of California, the Director of Industrial Relations has ascertained the general prevailing rate of per diem wages in the locality in which this public work is to be performed for each craft, classification or type of worker needed to execute the contract. Copies of said determinations are on file at District's principal office and available to any interested party on request. Refer to web site ([www.dir.ca.gov](http://www.dir.ca.gov)).

Holiday and overtime work, when permitted by law, shall be paid for at a rate of at least one and one-half times the general prevailing rate of per diem wages as determined by the Director of Industrial Relations, unless otherwise specified. Each worker of the Contractor or any of his subcontractors engaged in work on the project shall be paid not less than the general prevailing rate of per diem wages determined by the Director of Industrial Relations, regardless of any contractual relationship which may be alleged to exist between the Contractor or any subcontractor and such workers.

Each worker needed to execute the work on the project shall be paid travel and subsistence payments, as such travel and subsistence payments are defined in the applicable collective bargaining agreements filed with the Department of Industrial Relations in accordance with Labor Code section 1173.8.

The Contractor shall, as a penalty to the District, forfeit not more than fifty dollars (\$50) for each calendar day, or portion thereof, for each worker paid less than the prevailing rates as determined by the Director of Industrial Relations for the work or craft in which the worker is employed for any public work done under the contract by him or by any subcontractor under him. Prevailing wage rates shall also be used when determining wages paid for change order items. The amount of this forfeiture shall be determined by the Labor Commissioner and shall be based on consideration of the Contractor's mistake, inadvertence, or neglect in failing to pay the correct rate of prevailing wages, or the previous record of the Contractor in meeting his prevailing wage obligations, or the Contractor's willful failure to pay the correct rates of prevailing wages. The difference between the prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate shall be paid to each worker by the Contractor, and the Contractor shall be bound by the provisions of Labor Code section 1775.

Any worker employed to perform work on the project, which work is not covered by any classification listed in the general prevailing rate of per diem wages determined by the Director of Industrial Relations, shall be paid not less than the minimum rate of wages specified therein for the classification which most nearly corresponds to work to be performed. Such minimum wage rate shall be retroactive to the time of initial employment of such person in such classification.

Pursuant to Labor Code section 1773.1, per diem wages are deemed to include employer payments for health and welfare, pension, vacation, travel time, subsistence pay and similar purposes. Contractor shall post at appropriate conspicuous points on the site of project, a schedule showing all determined minimum wage rates and all authorized deductions, if any, from unpaid wages actually earned.

Contractor and each subcontractor shall keep an accurate payroll record, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman,

apprentice, worker, or other employee employed by him in connection with the public work.

The payroll records required above shall be certified and shall be available for inspection at all reasonable hours at the principal office of the Contractor on the following basis:

- A certified copy of an employee's payroll record shall be made available for inspection or furnished to such employee or his or her authorized representative on request.
- A certified copy of all payroll records shall be made available for inspection or furnished upon request to a representative of District, the Division of Labor Standards Enforcement, and the Division of Apprenticeship Standards of the Department of Industrial Relations.
- A certified copy of all payroll records shall be made available upon request to the public for inspection or copies thereof made; provided, however, that a request by the public shall be made through either the District, the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement. The public shall not be given access to such records at the principal office of the Contractor.

A Contractor or Subcontractor shall not be qualified to submit a proposal on, be listed on a proposal (subject to the requirements of Public Contract Code section 4104), or engage in the performance of any contract for public work unless currently registered and qualified to perform public work pursuant to Labor Code §1725.5, except under the limited circumstances set forth in Labor Code §1771.1(a). This requirement shall apply to any bid proposal submitted on or after March 1, 2015, and any contract for public work awarded on or after April 1, 2015. The District may not accept a proposal or enter into a contract for a public works project with an unregistered contractor.

Pursuant to Labor Code §1771.4, this Contract is subject to compliance monitoring and enforcement by the Department of Industrial Relations. Each Contractor and Subcontractor performing work on the Project shall be required to comply with the provisions of the California Labor Code, beginning with section 1720, and the regulations of the Department of Industrial Relations' Division of Labor Standards Enforcement (i.e., the Labor Commissioner), including, but not limited to, the standard provisions requiring payment of prevailing wages, maintenance and submission of certified payroll records, and the hiring of apprentices as appropriate. Unless otherwise specified, the Contractor shall be required to post job site notices regarding the requirements of this paragraph, as prescribed by regulation. For all new public works projects awarded on or after April 1, 2016, Contractor and each Subcontractor shall be required to furnish the records specified in Labor Code §1776 directly to the Labor Commissioner at least monthly, or more frequently if specified in the Contract Documents, and in a format prescribed by the Labor Commissioner. This requirement shall apply to all projects, whether new or ongoing, on or after January 1, 2016.

Contractor shall be responsible for complying with the provisions California Labor Code beginning with Section 1720, and the regulations of the Department of Industrial Relations, including, but not limited to, the standard provisions requiring payment of prevailing wages, maintenance and submission of certified weekly payrolls, and hiring of apprenticeship as appropriate. Contractor shall work with the Compliance Monitoring Unit to ensure the full compliance with the Department of Industrial Relations and applicable labor law.

**ARTICLE 2. APPRENTICES:** Apprentices of any crafts or trades may be employed and, when required by Labor Code section 1777.5, shall be employed provided they are properly indentured to the Contract in full compliance with provisions of the Labor Code. The prime



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contractor shall bear the responsibility of compliance with Labor Code section 1777.5 for all apprenticeable occupations and agrees that he will comply with said section which reads: "Nothing in this chapter shall prevent the employment of properly registered apprentices upon public works. Every apprentice shall be paid the standard wage paid to apprentices under the regulations of the craft or trade at which he is employed, and shall be employed only at the work of the craft or trade to which he is registered."

Only apprentices, as defined in Section 3077, who are in training under apprenticeship standards and written apprentice agreements under Chapter 4 (commencing with Section 3070), of Division 3, of the Labor Code, are eligible to be employed on public works. The employment and training of each apprentice shall be in accordance with the provisions of the apprenticeship standards and apprentice agreements under which he or she is training.

When the contractor to whom the contract is awarded by the District, in performing any of the work under the contract or subcontract, employs workers in any apprenticeable craft or trade, the contractor and subcontractor shall apply to the joint apprenticeship committee administering the apprenticeship standards of the craft or trade in the area of the site of the public work for a certificate approving the contractor or subcontractor under the apprenticeship standards for the employment and training of apprentices in the area or industry affected. However, approval as established by the joint apprenticeship committee or committees shall be subject to approval of the Administrator of Apprenticeship. The joint apprenticeship committee or committees, subsequent to approving the subject contractor or subcontractor, shall arrange for the dispatch of apprentices to the contractor or subcontractor in order to comply with this section. Every contractor and subcontractor shall submit contact award information to the applicable joint apprenticeship committee which shall include an estimate of journeyman hours to be performed under the contract, the number of apprentices to be employed, and the approximate date the apprentices will be employed. There shall be an affirmative duty upon the joint apprenticeship committee or committees administering the apprenticeship standards of the craft or trade in the area of the site of the public work to ensure equal employment and affirmative action in apprenticeship for women and minorities. Contractors or subcontractors shall not be required to submit individual applications for approval to local joint apprenticeship committees provided they are already covered by the local apprenticeship standards. The ratio of work performed by apprentices to journeymen who shall be employed in the craft or trade on the public work may be the ratio stipulated in the apprenticeship standards under which the joint apprenticeship committee operates, but, except as otherwise provided in this section, in no case shall the ratio be less than one hour of apprentice work for every five hours of labor performed by a journeyman. However, the minimum ratio for the land surveyor classification shall not be less than one apprentice for each five journeymen.

Any ratio shall apply during any day or portion of a day when any journeyman, or the higher standard stipulated by the joint apprenticeship committee, is employed at the job site and shall be computed on the basis of the hours worked during the day by journeymen so employed, except for the land surveyor classification. The Contractor shall employ apprentices for the number of hours computed as above before the end of the contract. However, the Contractor shall endeavor, to the greatest extent possible, to employ apprentices during the same time period that the journeymen in the same craft or trade are employed at the job site. Where an hourly apprenticeship ratio is not feasible for a particular craft or trade, the Division of Apprenticeship Standards, upon application of a joint apprenticeship committee, may order a minimum ratio of not less than one apprentice for each five journeymen in a craft or trade classification.

The Contractor or subcontractor, if he is covered by this section, upon the issuance of the approval certificate, or if he has been previously approved in the craft or trade, shall employ the number of apprentices or the ratio of apprentices to journeymen stipulated in the

apprenticeship standards. Upon proper showing by the Contractor that he employs apprentices in such craft or trade in the state on all of his contracts on an annual average of not less than one hour of apprentice work for every five hours of labor performed by a journeyman, or in the land surveyor classification, one apprentice for each five journeymen, the Division of Apprenticeship Standards may grant a certificate exempting the Contractor from the 1-to-5 hourly ratio as set forth in the section. This section shall not apply to contracts of general contractors or to contracts of specialty contractors not bidding for work through a general or prime contractor, when the contracts of general contractors or those specialty contractors involve less than thirty thousand (\$30,000) or 20 working days. This section shall not use any work performed by a journeyman in excess of eight hours per day or 40 hours per week to calculate the hourly ratio.

"Apprenticeable craft or trade," as used in this section, means a craft or trade determined as an apprenticeable occupation in accordance with the rules and regulations prescribed by the Apprenticeship Council. The joint apprenticeship committee shall have the discretion to grant a certificate, which shall be subject to the approval of the Administrator of Apprenticeship, exempting a contractor from the 1-to-5 ratio set forth in this section when it finds that any one of the following conditions is met: a) Unemployment for the previous three-month period in such area exceeds an average of 16 percent. b) The number of apprentices in training in such area exceeds a ratio of 1-to-5. c) If there is a showing that the apprenticeable craft or trade is replacing at least one-thirtieth of its journeymen annually through apprenticeship training, either on a statewide basis, or on a local basis. d) Assignment of an apprentice to any work performed under a public works contract would create a condition which would jeopardize his life, or the life, safety, or property of fellow employees or the public at large or if the specific task to which the apprentice is to be assigned is of such a nature that training cannot be provided by a journeyman.

When exemptions are granted to an organization which represents contractors in a specific trade from the 1-to-5 ratio on a local or statewide basis, the member contractors will not be required to submit individual applications for approval to local joint apprenticeship committees, if they are already covered by the local apprenticeship standards.

A contractor to whom the contract is awarded, or any subcontractor under him who, employs journeymen or apprentices in any apprenticeable craft or trade to perform work under the contract and who is not contributing to a fund or funds to administer and conduct the apprenticeship program in any craft or trade in the area of the site of the public work, to which fund or funds other contractors in the area of the site of the public work are contributing, shall contribute to the fund or funds in each craft or trade in which he employs journeymen or apprentices on the public work in the same amount or upon the same basis and in the same manner as the other contractors do. Where the trust fund administrators are unable to accept the fund, contractors not signatory to the trust agreement shall pay a like amount to the California Apprenticeship Council. This contractor or subcontractor may add the amount of the contributions in computing his bid for the contract. The Division of Labor Standards Enforcement is authorized to enforce the payment of the contributions to the fund or funds as set forth in Labor Code Section 227.

The District awarding the contract shall cause to be inserted in the contract stipulations to effectuate this section. The stipulations shall fix the responsibility of compliance with this section for all apprenticeable occupations with the prime contractor. All decisions of the joint apprenticeship committee under this section are subject to Labor Code Section 3081.

**ARTICLE 3. WORK HOURS:** As provided in article 3 (commencing at section 1810), chapter 1, part 7, division 2 of the Labor Code, eight (8) hours of labor shall constitute a legal day's work. The time of service of any worker employed at any time by the Contractor or by any subcontractor on any subcontract under this contract upon the work or upon any part of the work contemplated by this contract is limited and





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restricted to eight (8) hours during any one-calendar day and forty (40) hours during any one-calendar week, except as hereinafter provided. Notwithstanding the provisions hereinabove set forth, work performed by employees of Contractor in excess of eight (8) hours per day, and forty (40) hours during any one week, shall be permitted upon this public work upon compensation for all hours worked in excess of eight (8) hours per day at not less than one and one-half times the basic rate of pay.

The Contractor and every subcontractor shall keep accurate record showing the name and actual hours worked each calendar day and each calendar week by each worker employed by him in connection with the work or any part of the work contemplated by this contract. The record shall be kept open at all reasonable hours to the inspection of the District and the Division of Labor Law Enforcement, Department of Industrial Relations of the State of California.

The Contractor shall pay to the District a penalty of twenty-five dollars (\$25) for each worker employed in the execution of this contract by the Contractor or by any subcontractor or by any subcontractor for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any calendar day and forty (40) hours in any one calendar week in violation of the provisions of article 3 (commencing at section 1810), chapter 1, part 7, division 2 of the Labor Code.

Any work necessary to be performed after regular working hours, or on Sundays or other holidays shall be performed without additional expense to District

**ARTICLE 4. SUBCONTRACTING:** Contractor agrees to bind every subcontractor by terms of the contract as far as such terms are applicable to subcontractor's work. If Contractor shall subcontract any part of this contract, Contractor shall be fully responsible to District for acts and omissions of subcontractor and of persons either directly or indirectly employed. Nothing contained in contract documents shall create any contractual relation between any subcontractor and District.

**ARTICLE 5. ASSIGNMENT:** Contractor shall not assign or transfer by operation of law or otherwise any or all of its rights, burdens, duties, or obligations under this contract without prior written consent of District.

**ARTICLE 6. WORKERS' COMPENSATION INSURANCE:** The Contractor shall provide, during the life of this contract, workers' compensation insurance for all its employees engaged in work under this contract, or at the site of the project, and if work is sublet, the Contractor shall require the subcontractor similarly to provide workers' compensation insurance for all the latter's employees. Any class of employee or employees not covered by a subcontractor's insurance shall be covered by the Contractor's insurance. The Contractor shall provide to the District a Certificate regarding Workers' Compensation available from the District prior to performing the work of the contract.

**ARTICLE 7. PROOF OF INSURANCE:** Contractor must provide Commercial General Liability Insurance (including automobile insurance) which provides limits of not less than \$1,000,000 per occurrence (combined single limit) and \$2,000,000 Project Specific Aggregate (for this project only). Any general liability policy provided by Contractor hereunder shall contain an endorsement which applies its coverage to District, members of District's Board of Trustees, and the officers, agents, employees and volunteers of District, the State Allocation Board, if applicable, the architect, and the architect's consultants, if applicable, individually and collectively as additional insured. Coverage additional to that shown above to be evidenced in a provided Certificate of Insurance is as follows: Products-Comp/Ops Aggregate \$1,000,000; Automobile \$1,000,000; Personal and Advertising Injury \$1,000,000; Each Occurrence \$1,000,000; Fire Damage minimum \$100,000; Medical Expense (per person) \$5,000. \*Activities that place buildings at risk for fire (use of kitchen, portable lighting, heavy electrical gear, etc. must have a \$1,000,000 Property/Fire limit.

The limits set forth above shall not be construed to relieve the Contractor from liability in excess of such coverage, nor shall it limit contractor's indemnification obligations to District, and shall not preclude the District from taking such other actions available to District under other provisions of the contract documents or law.

Contractor and any subcontractor shall not commence work nor shall he allow any subcontractor to commence work under this contract until all required insurance certificates have been delivered to and approved by District.

**ARTICLE 8. INDEMNIFICATION:** District shall not be liable for, and Contractor shall defend and indemnify District against any and all claims, demands, liability, judgments, awards, fines, mechanics' liens or other liens, labor disputes, losses, damages, expenses, charges or costs of any kind or character, including attorneys' fees and court costs (hereinafter collectively referred to as "Claims"), which arise out of or are in any way connected to the work covered by this contract arising either directly or indirectly from any act, error, omission or negligence of Contractor or its contractors, licensees, agents, servants or employees, including, without limitation, Claims caused by the concurrent act, error, omission or negligence of District or its agents or employees. However, Contractor shall have no obligation to defend or indemnify District from a Claim if it is determined by a court of competent jurisdiction that such Claim was caused by the active negligence, sole negligence, or willful misconduct of District or its agents or employees.

**ARTICLE 9. MATERIALS:** Contractor warrants good title to all material, supplies and equipment installed or including in the work. Except as otherwise specifically stated in this contract, Contractor shall provide and pay for all materials, labor, tools, equipment, water, lights, power, transportation, superintendence, temporary constructions of every nature, and all other services and facilities of every nature whatsoever necessary to execute and complete this contract within specified time. Unless otherwise specified, all materials shall be new and both workmanship and materials shall be of good quality. Materials shall be furnished in ample quantities and at such times as to insure uninterrupted progress of work. Contractor shall be entirely responsible for damage or loss by weather or other causes to materials or work under this contract.

**ARTICLE 10. PATENTS, ROYALTIES AND INDEMNITIES:** The Contractor shall hold and save the District and its officers, agents and employees harmless from liability of any nature or kind, including cost and expense, for or on account of any patented or unpatented invention, process, article, or appliance manufactured or used in the performance of this contract, including its use by the District, unless otherwise specifically stipulated in the contract documents.

**ARTICLE 11. GUARANTEE:** Besides guarantees required elsewhere, Contractor shall, and hereby does, guarantee all work for a period of one year after date of acceptance of work by District and shall repair or replace any or all such work, together with any other work, which may be displaced in so doing, that may prove defective in workmanship and/or materials within a one year period from date of acceptance without expense whatsoever to District, ordinary wear and tear, unusual abuse or neglect excepted. District will give notice of observed defects with reasonable promptness. Contractor shall notify District upon completion of repairs.

This article does not in any way limit the guarantee of any items for which a longer guarantee is specified or on any items for which a manufacturer gives a guarantee for a longer period. Contractor shall furnish District all appropriate guarantee or warranty certificates upon completion of the project.

**ARTICLE 12. PROTECTION OF WORK AND PROPERTY:** The Contractor shall be responsible for all damages to persons or property that occur as a result of his fault or negligence in connection with the prosecution of this contract and shall be responsible for the proper care and protection of all materials delivered and work performed until



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completion and final acceptance by the District. All work shall be solely at the Contractor's risk. Contractor shall adequately protect adjacent property from settlement or loss of lateral support as provided by law and contract documents. Contractor shall take all necessary precautions for safety of employees on the work and shall comply with all applicable safety laws and building codes to prevent accidents or injury to persons on, about, or adjacent to premises where work is being performed. Contractor shall erect and properly maintain at all times, as required by conditions and progress of work, all necessary safeguards, signs, barriers, light and watchmen for protection of workers and the public and shall post danger signs warning against hazards created by such features in the course of construction. Contractor shall designate a responsible member of the organization on the work, whose duty shall be prevention of accidents. Contractor shall report name and position of person so designated to District.

**ARTICLE 13. DISTRICT'S RIGHT TO TERMINATE CONTRACT:** If the Contractor refuses or fails to prosecute the work or any seizable part thereof with such diligence as will insure its completion within the time specified or any extension thereof, or fails to complete said work within such time, or if the Contractor should be adjudged a bankrupt, or if Contractor should make a general assignment for the benefit of creditors, or if a receiver should be appointed on account of insolvency, or if Contractor should persistently or repeatedly refuse or should fail, except in cases for which extension of time is provided, to supply enough properly skilled workers or proper materials to complete the work in time specified, or should fail to make prompt payment to subcontractors or for material or labor, or persistently disregard laws, ordinances or instructions of District, or otherwise be guilty of a substantial violation of any provision of the contract, or if Contractor or subcontractors should violate any of the provisions of this contract, then District may, without prejudice to any other right or remedy, serve written notice upon Contractor and surety of its intention to terminate this contract, such notice to contain the reasons for such intention to terminate, and unless within ten days after the service of such notice such condition shall cease or such violation shall cease and satisfactory arrangements for the correction thereof be made, this contract shall upon the expiration of said ten (10) days, cease and terminate.

### **ARTICLE 14. COMPLIANCE WITH STORM WATER PERMIT**

Contractor shall be required to comply with all conditions of the State Water Resources Control Board ("State Water Board") National Pollutant Discharge Elimination System General Permit for Waste Discharge Requirements for Discharges of Storm Water Runoff Associated with Construction Activity ("Permit") - General NPDES Permit No. CAS000004 adopted by the State Water Resources Control Board. Contractor shall be responsible for filing the Notice of Intent and for obtaining the Permit and include all costs in the Contract amount. Contractor shall be responsible for procuring, implementing and complying with the provisions, monitoring and reporting requirements as required by the Permit. Contractor shall provide copies of all reports and monitoring information to the District Representative. Failure to comply with the Permit is in violation of federal and state law.

**ARTICLE 15. CLEAN UP:** Contractor at all times shall keep premises free from debris such as waste, rubbish and excess materials and equipment caused by his work; debris shall be removed from premises. Contractor shall not leave debris under, in, or about the premises. Upon completion of work Contractor shall clean interior and exterior of building including fixtures, equipment, walls, floors, ceilings, roofs, window sills and ledges, horizontal projections and any areas where debris has collected so surfaces are free from foreign material or discoloration; Contractor shall clean and polish all glass, plumbing fixtures and finish hardware and similar finish surfaces and equipment and remove temporary fencing, barricades, planking and construction toilet and similar temporary facilities from site.

**ARTICLE 16. PROVISIONS REQUIRED BY LAW DEEMED INSERTED:** Each and every provision of law and clause required by law to be inserted in this contract shall be deemed to be inserted

herein and the contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provisions is not inserted, or is not correctly inserted then upon application of either party the contract shall forthwith be physically amended to make such insertion or correct.

**ARTICLE 17. EXCAVATION DEEPER THAN FOUR FEET:** If this contract involves digging trenches or other excavations that extend deeper than four feet below the surface, then all of the following apply:

- The Contractor shall promptly, and before the following conditions are disturbed, notify the District, in writing of any: (1) Material that the Contractor believes may be material that is hazardous waste, as defined in section 25117 of the Health and Safety Code, that is required to be removed to a Class I, Class II, or Class III disposal site in accordance with provisions of existing law. (2) Subsurface or latent physical conditions at the site differing from those indicated. (3) Unknown physical conditions at the site of any unusual nature, different materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in this contract.
- Upon receiving any such notice, the District shall promptly investigate the conditions, and if it finds that the conditions do materially so differ, or do involve hazardous waste, and cause a decrease or increase in the Contractor's cost of, or the time required for, performance of any part of the work shall issue a change order under the procedures described in this contract.
- In the event that a dispute arises between the District and the Contractor whether the conditions materially differ or involve hazardous waste, or cause a decrease or increase in the Contractor's cost of, or time required for, performance of any part of the work, the Contractor shall not be excused from any scheduled completion date provided for by this contract, but shall proceed with all work to be performed under the contract. A contractor shall retain any and all rights provided either by contract or by law, which pertain to the resolution of disputes and protest between the contracting parties.

### **ARTICLE 18. REMOVAL OR RELOCATION OF MAIN OR TRUNKLINE UTILITY FACILITIES:**

The Contractor shall not be assessed for liquidated damages for delay in completion of this project, when such delay was caused by the failure of the awarding authority of this contract or the owner of the utility to provide for removal or relocation of the existing main or trunkline utility facilities; however, when the Contractor is aware that removal or relocation of an existing utility has not been provided for, Contractor shall promptly notify the awarding authority and the utility in writing, so that provision for such removal or relocation may be made to avoid and minimize any delay which might be caused by the failure to remove or relocate the main or trunkline utility facilities, or to provide for its removal or relocation. In accordance with section 4215 of the Government Code, if the Contractor while performing the contract discovers any existing main or trunkline utility facilities not identified by the public agency in the contract plans or specifications, he shall immediately notify the public agency and utility in writing. The public utility, where they are the owners, shall have the sole discretion to perform repairs or relocation work or permit the Contractor to do such repairs or relocation work at a reasonable price. The Contractor shall be compensated for the costs of locating, repairing damage not due to the failure of the Contractor to exercise reasonable care, and removing or relocating such utility facilities not indicated in the plans and specifications with reasonable accuracy, and for equipment on the project necessarily idled during such work.

**ARTICLE 19. CHANGE ORDERS:** Change orders may not cause the total aggregate cost of the project to exceed \$45,000 or the project will become subject to California Uniform Public Construction Cost Accounting Act (CUPCAA) bid regulations. The District, without invalidating contract, and as provided by law, may order extra work or make changes by altering, adding to, or deducting from work, the contract sum being adjusted accordingly. All such work shall be subject to prevailing wage rates and shall be executed under the conditions of the original contract except that any claim for extension of



## Marysville Joint Unified School District

time caused thereby shall be adjusted at the time of ordering such change. In giving instructions, Contractor agrees that the District shall have authority to make minor changes in work, not involving change in cost, and not inconsistent with the purposes or approvals of the project. Otherwise, except in an emergency endangering life or property, no extra work or change shall be made unless pursuant to a written order from District, and no claim for an addition to the contract sum shall be valid unless so ordered.

**ARTICLE 20. RESOLUTION OF CONSTRUCTION CLAIMS OF \$375,000 OR LESS:** For public work claims of \$375,000 or less between Contractor and District, if District has not elected to resolve disputes by arbitration pursuant to article 7.2 (commencing with section 10240) of chapter 1 of part 2 of the Public Contract Code, the provisions of article 1.5 (commencing with section 20104) of chapter 1 of part 3 of the Public Contract Code apply ("Article 1.5").

For purposes of Article 1.5, "public work" has the same meaning as in section 3100 and 3108 of the Civil Code. "Claim" means a separate demand by Contractor for a time extension, or payment of money or damages for work done by or for Contractor, payment for which is not otherwise expressly provided in the contract or to which Contractor would not otherwise be entitled, or a payment disputed by District.

Each claim shall be submitted in writing before the date of final payment and shall include all necessary substantiating documentation. District shall respond in writing within forty-five (45) days of receipt of the claim if the claim is less than \$50,000 ("\$50,000 claim") or within sixty (60) days of receipt of the claim, if the claim is over \$50,000 but less than or equal to \$375,000 ("\$50,000-\$375,000 claim"). In either case, District may request in writing within thirty (30) days of receipt of the claim, any additional documentation supporting the claim or relating to defenses to the claim the District may have against the claimant. Any additional information shall be requested and provided upon mutual agreement of the District and the claimant. District's written response to the claim shall be submitted to claimant within fifteen (15) days after receipt of the further documentation for \$50,000 claims or within thirty (30) days after receipt of the further documentation for \$50,000-\$375,000 claims or within a period of time no greater than that taken by the claimant in producing the additional information, whichever is greater.

Within fifteen (15) days of receipt the District's response, if claimant disputes District's written response or within fifteen (15) days of the District's failure to respond within the time prescribed, the claimant shall provide written notification to District demanding an informal conference to meet and confer ("conference") to be scheduled by the District within thirty (30) days. If the claim or any portion of the claim remains in dispute following the meet and confer ("meet and confer") to be scheduled by the District within 30 days. If the claim or any portion of the claim remains in dispute following the meet and confer conference, the claimant may file a claim as provided in Chapter 1 (commencing with section 900) and Chapter 2 (commencing with section 910) of Part 3 of Division 3.6 of Title 1 of the Government Code. For purposes of those provisions, the period of time within which a claim must be filed is tolled from the time the claimant submits a written claim until the time the claim is denied, including time utilized as a result of the meet and confer process.

If a civil action is filed to resolve claims within sixty (60) days (but no earlier than thirty (30) days) following the filing or responsive pleadings, the court shall submit the matter to nonbinding mediation unless waived by mutual stipulation of both parties. The mediation process shall provide that both parties select a disinterested third person mediator within fifteen (15) days, shall be commenced within thirty (30) days of the submittal and concluded within fifteen (15) days from the commencement of the mediation unless time is extended upon a good case showing to the court or by stipulation of both parties. If the parties fail to select a mediator within the 15-day period, any party may petition the court to appoint the mediator.

If the material remains in dispute, the case shall be submitted to judicial arbitration pursuant to chapter 2.5 (commencing with section 1141.10) of title 3 of part 3 of the Code of Civil Procedure, notwithstanding section 1141.11 of that code. The Civil Discovery Act of 1986 (article 3, commencing with section 2016, of chapter 3 of title 3 or part 4 of the Code of Civil Procedure) shall apply to any proceeding brought under this subdivision consistent with the rules pertaining to judicial arbitration. The court may, upon request by any party, order any witness to participate in the mediation or arbitration process.

Notwithstanding any other provision of law, upon stipulation of the parties, arbitrators appointed for purposes of this article shall be experienced in construction law and, upon stipulation of the parties, mediators and arbitrators shall be paid necessary and reasonable hourly rates not to exceed their customary rate. Such fees and expenses shall be paid equally by the parties, except in the case of arbitration where the arbitrator, for good cause, determines a different division. In no event shall state or county funds pay these fees or expenses. Any party who, after receiving an arbitration award requests a trial de novo but does not obtain a more favorable judgement, shall pay the attorney's fees of the other party arising out of the trial de novo in addition to payment of costs and fees required under chapter 2.5 (commencing with section 1141.10) of title 3 of part 3 of the Code of Civil Procedure. District shall not fail to pay any portion of a claim which is undisputed unless otherwise provided herein and shall pay interest at the legal rate commencing on the date the suit is filed in court on any arbitration award or judgement.

**ARTICLE 21. DRUG FREE/SMOKE FREE/ALCOHOL FREE POLICY:** All District sites are designated drug free/smoke free/alcohol free. The use or abuse of controlled substances, tobacco products and alcohol will not be tolerated.

THIS CONCLUDES THE GENERAL TERMS AND CONDITIONS  
DATED 3/1/2017 (Insert  
date after Board approval date or ratification date) consisting of  
Article 1 through Article 21



## Marysville Joint Unified School District

### ATTACHMENT C

### CONTRACTOR'S CERTIFICATE REGARDING WORKERS' COMPENSATION

Labor Code section 3700 in relevant part provides:

Every employer except the state shall secure the payment of compensation in one or more of the following ways:

(a) By being insured against liability to pay compensation in one or more insurers duly authorized to write compensation insurance in this state.

(b) By securing from the Director of Industrial Relations a certificate of consent to self-insure, which may be given upon furnishing proof satisfactory to the Director of Industrial Relations of ability to self-insure and to pay any compensation that may become due to his[her] employees.

I am aware of the provisions of section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract.

x   
Signature, Contractor's Authorized Representative

x Cory Bickholz  
Name of Contractor's Authorized Representative, (Printed or Typed)

(In accordance with article 5 (commencing at section 1860), chapter 1, part 7, division 2 of the Labor Code, the above certificate must be signed and filed with the awarding body prior to performing any work under this contract.)

(Remainder of page left blank intentionally)





**Marysville Joint Unified School District**

**ATTACHMENT D**

**CRIMINAL BACKGROUND**  
**INVESTIGATION/ FINGERPRINTING CERTIFICATION**

This Criminal Background - Fingerprinting Certification form must be taken to the Marysville Joint Unified School District, 1919 B Street, Marysville, CA 95901.

PROJECT NAME OR CONTRACT NO.: MHS Exterior Lighting - Prop 39 between the  
Marysville Joint Unified School District ("District" or "Owner") and Star Energy Management, Inc  
("Contractor" or "Bidder").

The undersigned does hereby certify to the governing board of the District as follows:

That I am a representative of the Contractor currently under contract ("Contract") with the District; that I am familiar with the facts herein certified, and am authorized and qualified to execute this certificate on behalf of Contractor.

Contractor certifies that it has taken at least one of the following actions with respect to the construction Project that is the subject of the Contract (check all that apply):

☒ 1B The Contractor has complied with the fingerprinting requirements of Education Code Section 45125.1 with respect to all Contractor's employees and all of its subcontractors' employees who may have contact with District pupils in the course of providing services pursuant to the Contract, and the California Department of Justice has determined that none of those employees have been convicted of a felony as defined in Education Code section 45122.1. A complete and accurate list of Contractor's employees and all of its subcontractors' employees who may come in contact with District pupils during the course and scope of the Contract is attached hereto; and/or

☒ 1C Pursuant to Education Code Section 45125.2, Contractor certifies that all employees will be under the continual supervision of, and monitored by, an employee of the Contractor who the California Department of Justice has ascertained has not been convicted of a violent or serious felony. The name and title of the employee who will be supervising Contractor's employees and its subcontractors' employees is:

X Name: Cory Birkholz

X Title: V.P.

X The work on the Contract is at an unoccupied school site and no employee and/or subcontractor or supplier of any tier of Contract shall come in contact with the District pupils.

**ATTACHMENT D Continued on Next Page**



## Marysville Joint Unified School District

### ATTACHMENT D Continued

#### SCHOOL SAFETY ACT - COMMUNICATIONS WITH PUPILS

X In accordance with Education Code Section 45125.1, the District has determined that fingerprinting and certification will be required of the employees of the Contractor who provide services under this Contract (certification form attached).

X In accordance with Education Code Section 45125.1, subdivision c, the District has determined that this Contract is not subject to Education Code Section 45125.1 (a), because the Contractor's employees, including the employees of any subcontractor, will have only "limited contact" with pupils on the site. Justifications is as follows:

X Work will be performed on a day or days when school is not in session (holidays, weekend or non-teaching days - may not include after school hours).

Other, describe:

Signature: [Signature] Title: DIRECTOR Date: 12/5/2016  
Signature of District Official responsible for assuring selected conditions are met in accordance with Education Code Section 45125.2, if applicable.

Contractor understands that District department staff may monitor and evaluate adherence to these conditions during the performance of their work.

(Remainder of page left blank intentionally)



**Marysville Joint Unified School District**

**ATTACHMENT E**

**PREVAILING WAGE AND  
RELATED LABOR REQUIREMENTS CERTIFICATION**

PROJECT NAME OR CONTRACT NO.: MHS Exterior Lighting - Prop 39  
between Marysville Joint Unified School District (the "District" or the "Owner") and  
Star Energy Management, Inc. (the "Contractor" or the "Bidder").

I hereby certify that I will conform to the State of California Public Works Contract requirements regarding prevailing wages, benefits, on-site audits with 48-hours notice, payroll records, and apprentice and trainee employment requirements, for all work on the above Project including, without limitation, the District's labor compliance program, if in use on this Project.

X Date: 12-8-16

Proper Name of Contractor: Star Energy Management, Inc.

x Signature: [Signature]

X Print Name: Cory Birkholz

x Title: V.P.

(Remainder of page left blank intentionally)





**Marysville Joint Unified School District**

**ATTACHMENT F**

**PROOF OF CONTRACTOR ANNUAL REGISTRATION WITH DIR**

**INSERT OR ATTACH HERE**

Attachment E/F



PowerPlan | Contact DIR | CA.gov

Go to Search

Home | Information | Contractors | Safety &amp; Health | Dispute Resolution | Registration | Apprenticeship | Regulatory Affairs | Search

Public Works

## Public Works Contractor (PWC) Registration Search

This is a listing of current and active PWC registrations pursuant to Division 5, Part 7, Chapter 1 (commencing with section 1720 of the California Labor Code)

Enter at least one search criteria to display active registered public works contractor(s) matching your selections.

Registration Year:

Current Fiscal Year: 2016/17 ☒

PWC Registration Number:

example: 1234567890

Contractor Legal Name:

Star Energy

Contractor License Lookup

License Number:

example: 005202 (CCLB)

County:

Select County ☐

Search

Search Results

2 registered contractors found, displaying all registered contractors

Details: Legal Name

View TRUSTAR ENERGY

View STAR ENERGY MANAGEMENT, INC.

About DIR

Who we are

DIR Divisions, Boards &amp; Commissions

Contact DIR

Work with Us

Licensing, registration, certifications &amp; permits

Notification of business

Public Records Act

Learn More

Site Map

Frequently Asked Questions

Jobs at DIR

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Disclaimer | Accessibility Accommodation | Site Help

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100006134 Contractor Details			
Contractor Information		Legal Entity Information	Workers' Compensation
Legal Name		Registration Date	Expiration Date
STAR ENERGY MANAGEMENT, INC.		06/17/2016	06/30/2016
100006134 STAR ENERGY MANAGEMENT, INC.		06/17/2016	06/30/2016
100006134 STAR ENERGY MANAGEMENT, INC.		06/17/2016	06/30/2016
License Number(s)		Workers' Compensation	
CCLB 1021730		06/30/2016	
Mailing Address			
6120 LINCOLN BLVD., SUITE 6			
OROVILLE, CA 95966			
Learn More			
Site Map			
Frequently Asked Questions			
Jobs at CCR			
Physical Address			
6120 LINCOLN BLVD., SUITE 6			
OROVILLE, CA 95966			
Phone Number			
HEATH@STARENERGYINC.COM			
Email Address			
SRL Help			

Disclaimer: This is a preliminary record. It is not a guarantee of accuracy. It is not a contract. It is not a warranty. It is not a representation. It is not a statement of fact. It is not a statement of opinion. It is not a statement of intent. It is not a statement of belief. It is not a statement of knowledge. It is not a statement of information. It is not a statement of anything

YEAR

CALIFORNIA FORM

## 2015 Withholding Exemption Certificate

590

The payee completes this form and submits it to the withholding agent.

Withholding Agent (Type or print)

Name

Payee

Name

Star Energy Management Inc

☐ SSN or ITIN ☒ FEIN ☐ CA Corp no. ☐ CA SOS No. no.

8004725316

Address (apt./ste., room, PO Box, or PMS no.)

6120 Lincoln Blvd. Suite G

City (If you have a foreign address, see instructions.)

Oroville

State ZIP Code

CA 95966

## Exemption Reason

Check only one reason box below that applies to the payee.

By checking the appropriate box below, the Payee certifies the reason for the exemption from the California income tax withholding requirements on payment(s) made to the entity or individual.

☐ Individuals — Certification of Residency:

I am a resident of California and I reside at the address shown above. If I become a nonresident at any time, I will promptly notify the withholding agent. See instructions for General Information D, Definitions.

☒ Corporations:

The corporation has a permanent place of business in California at the address shown above or is qualified through the California Secretary of State (SOS) to do business in California. The corporation will file a California tax return. If this corporation ceases to have a permanent place of business in California or ceases to do any of the above, I will promptly notify the withholding agent. See instructions for General Information D, Definitions.

☐ Partnerships or Limited Liability Companies (LLCs):

The partnership or LLC has a permanent place of business in California at the address shown above or is registered with the California SOS, and is subject to the laws of California. The partnership or LLC will file a California tax return. If the partnership or LLC ceases to do any of the above, I will promptly inform the withholding agent. For withholding purposes, a limited liability partnership (LLP) is treated like any other partnership.

☐ Tax-Exempt Entities:

The entity is exempt from tax under California Revenue and Taxation Code (R&amp;TC) Section 23701 (insert letter) or Internal Revenue Code Section 501(c) (insert number). If this entity ceases to be exempt from tax, I will promptly notify the withholding agent. Individuals cannot be tax-exempt entities.

☐ Insurance Companies, Individual Retirement Arrangements (IRAs), or Qualified Pension/Profit Sharing Plans:

The entity is an insurance company, IRA, or a federally qualified pension or profit-sharing plan.

☐ California Trusts:

At least one trustee and one noncontingent beneficiary of the above-named trust is a California resident. The trust will file a California fiduciary tax return. If the trustee or noncontingent beneficiary becomes a nonresident at any time, I will promptly notify the withholding agent.

☐ Estates — Certification of Residency of Deceased Person:

I am the executor of the above-named person's estate or trust. The decedent was a California resident at the time of death. The estate will file a California fiduciary tax return.

☐ Nonmilitary Spouse of a Military Servicemember:

I am a nonmilitary spouse of a military servicemember and I meet the Military Spouse Residency Relief Act (MSRRA) requirements. See instructions for General Information E, MSRRA.

CERTIFICATE OF PAYEE: Payee must complete and sign below.

Under penalties of perjury, I hereby certify that the information provided in this document is, to the best of my knowledge, true and correct. If conditions change, I will promptly notify the withholding agent.

Payee's name and title (type or print) Heather Baker

Telephone (530) 534-5489

Payee's signature

Heather Baker

Date 5-6-16

**Request for Taxpayer  
Identification Number and Certification**

Give Form to the  
requester. Do not  
send to the IRS.

**1** Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.  
**Star Energy Management, Inc.**

**2** Business name/disregarded entity name, if different from above

**3** Check appropriate box for federal tax classification; check only one of the following seven boxes:  
☐ Individual sole proprietor or single-member LLC  
☒ C Corporation ☐ S Corporation ☐ Partnership ☐ Trust/estate  
☐ Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) **P**  
*Note:* For a single-member LLC that is disregarded, do not check LLC; check the appropriate box in the line above for the tax classification of the single-member owner.  
☐ Other (see instructions) **-**

**4** Exemptions (codes apply only to certain entities; not individuals; see instructions on page 3).  
 Exempt payee code (if any) \_\_\_\_\_  
 Exemption from FATCA reporting code (if any) \_\_\_\_\_  
*Payee is account established outside the U.S.*

**5** Address (number, street, and apt. or suite no.)  
**6120 Lincoln Blvd., Suite G**

**6** City, state, and ZIP code  
**Oroville, CA 95966**

**7** List account number(s) here (optional)

**8** Requester's name and address (optional)

**Part I Taxpayer Identification Number (TIN)**  
Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

*Note:* If the account is in more than one name, see the instructions for line 1 and the chart on page 4 for guidelines on whose number to enter.

Social security number									
				-					
OR									
Employer identification number									
8	0	-	0	4	7	2	5	3	6

**Part II Certification**  
Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
- I am a U.S. citizen or other U.S. person (defined below); and
- The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real-estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign this certification, but you must provide your correct TIN. See the instructions on page 3.

**Sign Here** **Signature of U.S. person** Heather Baker **Date** 8-7-2016

**General Instructions**

Section references are to the Internal Revenue Code unless otherwise noted.  
Future developments. Information about developments affecting Form W-9 (such as legislation enacted after its release) is at [www.irs.gov/irb](http://www.irs.gov/irb).

**Purpose of Form**

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual employer identification number (EIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following:

- Form 1099-DIV (dividend earned or paid)
- Form 1099-INT (interest earned or paid)
- Form 1099-ORD (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-S (stock or mutual fund sales and certain other transactions by broker)
- Form 1099-B (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)

- Form 1099 (various mortgage interest, 1099-E (student loan interest), 1099-T (dividend)
- Form 1099-C (partially paid)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See *What is backup withholding?* on page 3.

By signing this (blue) form, you:

- Certify that the TIN you are giving is correct (or you are waiting for a number to be issued).
- Certify that you are not subject to backup withholding, or
- Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partner's share of effectively connected income, and
- Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See *What is FATCA reporting?* on page 3 for further information.



**Marysville Joint Unified School District**

**ATTACHMENT I**

**CERTIFICATE OF INSURANCE AND ADDITIONAL INSURED ENDORESEMENT**

**Attach two (2) pages at minimum naming Marysville Joint Unified School District  
as Additional Insured**

**(Remainder of page left blank intentionally)**



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
09/29/2016

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	Mainline Insurance Service P.O. Box 120640 Chula Vista CA 91812	CONTACT NAME:	Michael Jones
		PHONE (888) 467-6612	FAX (877) 467-6610
INSURED	Star Energy Management Inc. 6120 Lincoln Blvd Ste G Orville CA 95866	EMAIL ADDRESS:	mjones@mainline-ins.com
		(NAME(S) AFFORDING COVERAGE)	
		INSURER A:	California Insurance Co. 36056
		INSURER B:	Kemper Auto Insurance 36051
		INSURER C:	Crum & Forster 02351
		INSURER D:	
		INSURER E:	
		INSURER F:	

## COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR TYPE	TYPE OF INSURANCE	ADOL INSR	SUBR INSR	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
C	GENERAL LIABILITY	X	X	EPK-113390	06/28/2016	06/28/2017	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Each occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMPOUND AGG \$ 2,000,000 Deductible \$ 2,500
X	COMMERCIAL GENERAL LIABILITY						
	CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR						
	GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO- JECT <input type="checkbox"/> LOC						
B	AUTOMOBILE LIABILITY	X	X	3962358	01/29/2016	01/29/2017	COMBINED SINGLE LIMIT (Each accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
X	ANY AUTO						
X	ALL OWNED AUTOS						
X	HIRED AUTOS						
X	SCHEDULED AUTOS						
X	NON-OWNED AUTOS						
C	UMBRELLA LIAB	X	X	EPX-105794	06/28/2016	06/28/2017	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000
X	EXCESS LIAB						
	CLAIMS-MADE						
	DED						
	RETENTION \$						
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY			48-265332-01-01	02/15/2016	02/15/2017	X <input checked="" type="checkbox"/> NO STATUS <input type="checkbox"/> OTHER EL EACH ACCIDENT \$ 1,000,000 EL DISEASE - EA EMPLOYEE \$ 1,000,000 EL DISEASE - POLICY LIMIT \$ 1,000,000
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/ MEMBER EXCLUDED? (Mandatory in NH)						
	(If yes, describe under DESCRIPTION OF OPERATIONS below)						
C	Pollution Liability			EPK-113390	06/28/2016	06/28/2017	Aggregate 2,000,000
C	Professional Liability			EPK-113390	06/28/2016	06/28/2017	Each Occurrence 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 401, Additional Remarks Schedule, if more space is required)  
Maryville Joint United School District has been added as additional insured in respects to general liability.

## CERTIFICATE HOLDER

## CANCELLATION

AI 012842

Maryville Joint United School District 1919 B Street Maryville CA 95901-	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.  AUTHORIZED REPRESENTATIVE
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Fax: ( ) -

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ACORD 25 (2010/05)

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attachment "J"



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## Energy Efficiency Proposal

Prepared For:

### **MJUSD Exterior Lighting**

1919 B Street  
Marysville, CA 95901

Consultant: Matt Baker

September 28, 2016

Star Energy Management  
6120 Lincoln Ave Ste G  
Oroville, CA 95966

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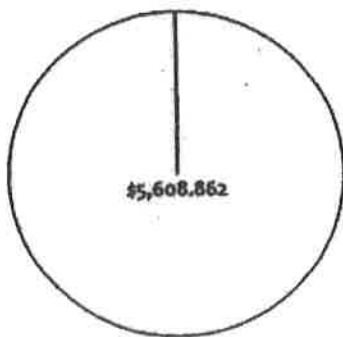
pg 1 of 7

# **MJUSD Exterior Lighting Usage Summary**

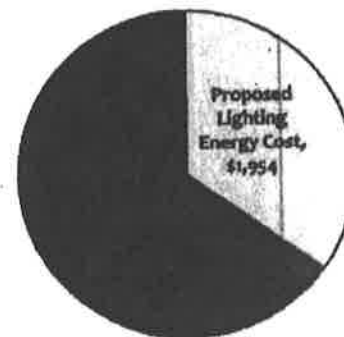


Quantity of Fixtures Surveyed			33
Quantity of Recommended Modifications			33
Current Lighting Energy Consumption: KWH			33,993
Current Lighting Energy Cost:	0.165 per kWh	\$	5,609
Current Lighting Load: kW			8.29
Proposed Energy Consumption: KWH			11,841
Proposed Lighting Energy Cost:	0.165 per kWh	\$	1,954
Proposed Lighting Load: kW			2.89

**Current Lighting Energy Cost:**



**Utility Bill After Retrofit**



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## MJUSD Exterior Lighting Economic Summary



### Energy Savings Analyses

Annual Energy Savings: kWh		22,752
Estimated Annual Savings		
Lighting Energy Savings	\$	3,655.13
Air Conditioning Savings*	\$	-
Maintenance Savings*	\$	184.95
Total Annual Savings	\$	3,840.08
Total Monthly Savings	\$	320.01
Energy Avoidance %		63.17%

### Implementation Expense

Project Cost	\$	25,035
PG&E Rebate	\$	(1,630)
Net Project Cost	\$	23,405

## MJUSD Exterior Lighting

### Economic Summary



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#### Cash Flow Analyses (Lighting Savings Only)

Cash Flow Payback Period (In years)	6.40
Estimated Monthly Lighting Savings	\$ 304.59

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#### Environmental Impact

Reduced Air Pollution	1-Year	5-Year	7-Year	10-Year
Pounds of Carbon Dioxide Emissions	27,292	136,458	191,041	272,916
Pounds of Sulfur Dioxide Emissions	129	646	904	1,291
Pounds of Nitrogen Oxides Emissions	57	286	400	572

MJUSD Exterior Lighting  
 Marysville, CA 95901  
 September 28, 2016

# Facility Fixture Location Spreadsheet



MLMUSD0001 PCE 9-28-2016

Existing Equipment																			
Area Description	Qty	Fixture Type	Fixture Description	Watts	Existing Hours	Existing kWh	Count	Measure	Measure Description	Watts	% On	AVD	ECM kWh	Annual Savings kWh	Annual Savings \$	Existing kWh	Existing \$	Proposed kWh	Proposed \$
1 Toolshed Parking Lot South	7	M/H Flood	250 Watt Metal Halide	4300	281	8,952	7	LED08	Install RAB 100w LED Floodlight MOUNTED100T	200	1.00	4300	3,014	5,938	680.50	1.30	2.04	0.34	
2 Gym Staff Parking Driveway	5	M/H Flood	350 Watt Metal Halide	4080	324	3,772	5	LED03	Install RAB 75W LED Floodlight MOUNTED040	75	1.00	4300	1,509	2,173	254.55	0.530	0.520	0.390	
3 Gym Staff Parking Driveway	2	M/H Sun Style	175 Watt Metal Halide	4100	209	1,714	2	LED03	Install RAB 75W LED Floodlight MOUNTED040	75	1.00	4300	540	1,074	127.34	0.262	0.418	0.166	
4 Pool Pole Light	3	M/H Flood	3000 Watt Metal Halide	4300	1077	13,347	3	LED07	Install RAB 300w LED Floodlight MOUNTED000	300	1.00	4300	3,875	9,472	1,046.48	2.285	3.731	0.603	
5 Southeast Pool Pole Parking	1	M/H Flood	350 Watt Metal Halide	4300	104	254	1	LED04	RAB LED Flood MOUNT-LED-05	90	1.00	4300	140	900	95.00	0.345	0.384	0.000	
6 Northeast Pole W/outhouse	2	M/H Flood	250 Watt Metal Halide	4080	291	1,386	2	LED09	Install RAB 300w LED Floodlight MOUNTED100T	200	1.00	4300	951	1,036	251.04	0.372	0.581	0.110	
7 Pool Area Parking Lot Side Pole	1	M/H Flood	250 Watt Metal Halide	4080	291	1,193	1	LED08	Install RAB 100w LED Floodlight MOUNTED100T	200	1.00	4300	431	700	125.83	0.186	0.291	0.305	
8 Football Field Snackshk	2	M/H Wallpack	350 Watt Metal Halide	4080	184	1,808	2	LED02	Lumark XTOR Creebeam MAGN 75Watt LED Wall Pack MOLA XTOR500L	70	1.00	4300	648	861	142.07	0.210	0.368	0.138	
9 Small WP on Swim & Restroom	10	CFL Wallpack	25 Watt CFL Wallpack	4300	26	1,000	10	LED01	Install Cree Beam LED Wallpack	25	1.00	4300	615	463	74.82	0.130	0.250	0.126	

Star Energy Management

Confidential and Proprietary

ghd/med

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License # 621730

## Customer Proposal/Agreement

<b>Facility Information</b>	<b>Billing Information</b>	<b>Proposal Date</b>	September 28, 2016
MJUSD Exterior Lighting		<b>Project Cost**</b>	\$ 25,035
1919 B Street		<b>PG&amp;E Rebate</b>	\$ 1,630
Marysville, CA 95901		<b>Net Project Cost</b>	\$ 23,405
<b>Contact:</b> Cynthia Jensen		<b>Account Specialist:</b>	Matt Baker
<b>Telephone:</b> (530)749-6151		<b>Proposal Number:</b>	MB.MJUSD8ID#3_PGE_9.28.2016
<b>Fax:</b> (530)741-3718			
<b>Email:</b> cjensen@mjUSD.com			

Cash Purchase	30% due on signing	\$ 7,022
	Balance due on completion	\$ 16,384

This Proposal is confidential and proprietary and not to be shared with any third-party without the expressed permission of Star Energy Management.

## Purchase Agreement

I agree to purchase the agreed upon energy-efficiency equipment detailed in the Itemized Facility Report. It is understood that actual project savings and rebate amounts may vary. Star Energy will bill the operating utility and accept an assignment of rebates if this option is chosen. I will assist SEM in a timely manner to complete all necessary rebate incentive paperwork. Future and equipment counts are as shown in the Report Summary. Any difference from the actual count will result in a credit/charge based on the original price quoted. I understand that if the facility is not in compliance with applicable building codes, SEM is not obligated to install energy efficiency measures. I will not hold SEM responsible for any preexisting problems at the site, including but not limited to toxic or hazardous material found at the facility, roof leaks, or other structural problems. During installation I will keep aisles clear and remove all obstructions not previously identified during the facility audit process. I understand should SEM need to take special measures to clear aisles and remove obstructions not previously identified during the facility audit process, additional installation charges may apply. This proposal includes the standard insurance coverage and warranties. Customer-related requirements for additional insurance, bonding, prevailing wage, and warranties will be added to Project Cost.

Customer Initials: X \_\_\_\_\_

## Disposal Policy

All removed lamps, ballasts and fixtures shall be the responsibility of SEM, and shall be disposed of in an environmentally friendly manner in accordance with all federal, state & local regulations.

Customer Initials: X \_\_\_\_\_

## Warranty Policies and Replacement Program

Within 365 days of installation, SEM will replace free of charge any defective lamp, ballast, fixture or other equipment installed at the facility. After 365 days of installation, SEM will assist the customer in understanding the applicable manufacturer's product warranty options associated with defective product parts. SEM will honor special warranties associated with specific utility rebate programs.

## Payment Policy

Finance charges at the rate of 1 1/2% per month (annual percentage rate 18%) will be charged on past due balances. Such finance charges, if any, begin accruing and become due and payable 30 days after the payment is due unless otherwise specified. Should any litigation be commenced between the parties to this agreement or the rights and duties of either in relation thereto, the party in such litigation, shall be entitled in addition to such other relief as may be granted in litigation, to a reasonable sum as and for his attorney's fees in such litigation or in a separate action brought for that purpose. Any default in payment of the part of the customer shall result in the entire remaining balance becoming immediately due. This instrument constitutes the sole and only agreement between the parties, and correctly sets forth the obligations of each other as of its date. Any agreements or representations, oral or written, express or implied, not expressly set forth in this instrument are null and void. This agreement and all amendments thereto may be executed in several counterparts and shall endure to the benefit of the heirs, executor, administrators, successors and assigns of the parties thereto. Time is expressly declared to be the essence of this agreement. The parties agree that any litigation that should arise shall be litigated in Butte County, CA.

X

Print Name \_\_\_\_\_

\_\_\_\_\_ date

Star Energy Management Inc.

\_\_\_\_\_ date

6120 Lincoln Blvd, Oroville, CA 95966

(530) 532-9250

Fax: 530.532.7555



### CONTRACT SERVICES AGREEMENT

Disability Access Consultants (DAC) for 24 Site Inspections, Transition/Barrier Removal Plans and installation of DACTrak Software.

THIS CONTRACT SERVICES AGREEMENT ("Agreement") is made and entered into this 28<sup>th</sup> day of February 2017 (hereinafter, the "Effective Date"), by and between the MARYSVILLE JOINT UNIFIED SCHOOL DISTRICT ("DISTRICT") and Disability Access Consultants (DAC) a Limited Liability Corporation, (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 245 days: commencing from March 1, 2017 through October 31, 2017 Nothing in this Section shall operate to prohibit or otherwise restrict the DISTRICT's ability to terminate this Agreement at any time for convenience or for cause
- 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 "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 of Sixty Four Thousand Five Hundred Dollars and 00/100 (\$64,500.00) (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 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

Business Services Department

Approval: [Signature]

Date: 1/24/17

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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 task 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 the Superintendent and Ryan DiGiulio, Asst. Superintendent, Business Services (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 designates Barbara Thorpe, President 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.

The Parties acknowledge and agree that CONTRACTOR shall perform, at CONTRACTOR's own cost and expense and without any reimbursement from DISTRICT, any services necessary to correct any errors or omissions caused by CONTRACTOR's failure to comply with the standard of care set forth under this Section or by any like failure on the part of CONTRACTOR's employees, agents, contractors, subcontractors and subconsultants. Such effort by CONTRACTOR to correct any errors or omissions shall be commenced immediately upon their discovery by either Party and shall be completed within seven (7) calendar days from the date of discovery or such other extended period of time authorized by the DISTRICT Representatives in writing and in their sole and absolute discretion. The Parties acknowledge and agree that DISTRICT's acceptance of any work performed by CONTRACTOR or on CONTRACTOR's behalf shall not constitute a release of any deficiency or delay in performance. The Parties further acknowledge, understand and agree that DISTRICT has relied upon the foregoing representations of CONTRACTOR, including but not limited to the representation that CONTRACTOR possesses the skills, training, knowledge and experience necessary to perform the Work skillfully, competently and to the highest standards of CONTRACTOR's profession.

- 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.
- 2.11. COMPLIANCE WITH LABOR CODE PROVISIONS: CONTRACTOR and any subcontractor performing or contracting any work shall comply with all applicable provisions of the California Labor Code for all workers, laborers and mechanics of all crafts, classifications or types, including, but necessarily limited to the following:
- A. In accordance with California Labor Code Section 1810, eight (8) hours of labor in performance of the Work shall constitute a legal day's work under this Contract. CONTRACTOR and any subcontractor shall pay workers overtime pay (not less than one and one-half (1½) times the base rate of pay) as required by California Labor Code Section 1815. CONTRACTOR and any subcontractor shall, as a penalty to the DISTRICT, forfeit twenty-five dollars (\$25) for each worker employed in the execution of the contract by the respective contractor or subcontractor for each calendar day during which the worker is required or permitted to work more than eight (8) hours in any one calendar day and forty (40) hours in any one calendar week in violation so the provisions of Article 3 of Chapter 1 of Part 7, Division 2 of the California Labor Code, which is incorporated by this reference as though fully set forth herein.
  - B. Pursuant to the provisions of California Labor Code, Sections 1770 *et. seq.*, the CONTRACTOR and any subcontractor under CONTRACTOR shall pay not less than the prevailing rate of per diem wages as determined by the Director of the California Department of Industrial Relations. Pursuant to the provisions of California Labor Code Section 1773.2. The CONTRACTOR is hereby advised that copies of the prevailing rate of per diem wages and a general prevailing rate for holidays, Saturdays and Sundays and overtime work in the locality in which the work is to be performed for each craft, classification, or type of worker required to execute the Agreement, are on file in the office of the DISTRICT Secretary, which copies shall be made available to any interested party on request. The CONTRACTOR shall post a copy of said prevailing rate of per diem wages at each job site.
  - C. As required by Section 1773.1 of the California Labor Code, the CONTRACTOR shall pay travel and subsistence payments to each worker needed to execute the work, as such travel and subsistence payments are defined in the applicable collective bargaining agreements filed in accordance with this Section.
  - D. To establish such travel and subsistence payments, the representative of any craft, classification, or type of workman needed to execute the contracts shall file with the Department of Industrial Relations fully executed copies of collective bargaining agreements for the particular craft, classification or type of work involved. Such agreements shall be filed within ten (10) days after their execution and thereafter shall establish such travel and payments whenever filed thirty (30) days prior to the call for bids.
  - E. The CONTRACTOR shall comply with the provisions of Section 1775 of the California Labor Code and shall, as a penalty to the DISTRICT, forfeit up to fifty dollars (\$50) for each calendar day, or portion thereof, for each worker paid less than the prevailing rate of per diem wages for each craft, classification, or type of worker needed to execute the

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contract. The CONTRACTOR shall pay each worker an amount equal to the difference between the prevailing wage rates and the amount paid worker for each calendar day or portion thereof for which a worker was paid less than the prevailing wage rate. CONTRACTOR is required to pay all applicable penalties and back wages in the event of violation of prevailing wage law, and CONTRACTOR and any subcontractor shall fully comply with California Labor Code Section 1775, which is incorporated by this reference as though fully set forth herein.

- F. CONTRACTOR and any subcontractor shall maintain and make available for inspection payroll records as required by California Labor Code Section 1776, which is incorporated by this reference as though fully set forth herein. CONTRACTOR is responsible for ensuring compliance with this section. CONTRACTOR and each subcontractor shall keep an accurate payroll record, showing the name, address, social security number, work classification, and straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by him or her in connection with the Project. Said payroll shall be certified and shall be available for inspection at all reasonable hours at the principal office of the CONTRACTOR on the following basis:
- i. A certified copy of an employee's payroll record shall be made available for inspection or furnished to the employee or his or her authorized representative on request.
  - ii. A certified copy of all payroll records shall be made available for inspection or furnished upon request to the DISTRICT, the Division of Labor Standards Enforcement, and the Division of Apprenticeship Standards of the Department of Industrial Relations.
  - iii. A certified copy of all payroll records shall be made available upon request by the public for inspection or for copies thereof; provided, however, that a request by the public shall be made through the DISTRICT, the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement. If the requested payroll records have not been provided, the requesting party shall, prior to being provided the records, reimburse the costs of preparation to the CONTRACTOR, subcontractors, and the entity through which the request was made. The public shall not be given access to the records at the principal offices of the CONTRACTOR. The certified payroll records shall be on forms provided by the Division of Labor Standards Enforcement or shall contain the same information as the forms provided by the division. Each CONTRACTOR shall file a certified copy of the records with the entity that requested the records within ten (10) days after receipt of a written request. Any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by the DISTRICT, the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement shall be marked or obliterated in such a manner as to prevent disclosure of an individual's name, address, and social security number. The name and address of the CONTRACTOR awarded the contract or performing the contract shall not be marked or obliterated. The CONTRACTOR shall inform the DISTRICT of the location of the records including the street address, DISTRICT, and shall, within 5 working days, provide a notice of change of location and address. The CONTRACTOR shall have ten (10) days in which to comply subsequent to receipt of written notice specifying in what respects the CONTRACTORS must comply with Section. In the event that the CONTRACTOR fails to comply within the 10-day period, he or she shall, as a penalty to the state or the DISTRICT, forfeit \$25.00 dollars for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement, these penalties shall be withheld from progress payments then due. Responsibility for compliance with Section lies with the CONTRACTOR.
  - iv. The CONTRACTOR and any subcontractors shall, when they employ any person in any apprenticeable craft or trade, apply to the joint apprenticeship committee administering the apprenticeship standards of the craft or trade in the area of the construction site for a certificate approving the CONTRACTOR or subcontractor under the apprenticeship standards for the employment and training of apprentices in the area or industry affected; and shall comply with all other requirements of Section 1777.5 of the California Labor Code, which is incorporated by this reference as though fully set forth herein. The responsibility of compliance with California Labor Code Section 1777.5 during the performance of this Agreement rests with the CONTRACTOR. Pursuant

to California Labor Code Section 1777.7, in the event the CONTRACTOR willfully fails to comply with the provisions of California Labor Code Section 1777.5, the CONTRACTOR shall be denied the right to bid on any public works contract for up to three (3) years from the date noncompliance is determined and be assessed civil penalties.

- G. In accordance with the provisions of Article 5, Chapter 1, Part 7, Division 2 (commencing with Section 1860), and Chapter 4, Part 1, Division 4 (commencing with Section 3700) of the California Labor Code, the CONTRACTOR is required to secure the payment of compensation to its employees and for that purpose obtain and keep in effect adequate Workers' Compensation Insurance and Employers Liability Insurance. If the CONTRACTOR, in the sole discretion of the DISTRICT satisfies the DISTRICT of the responsibility and capacity under the applicable Workers' Compensation Laws, if any, to act as self-insurer, the CONTRACTOR may so act, and in such case, the insurance required by this paragraph need not be provided. The CONTRACTOR is advised of the provisions of Section 3700 of the California Labor Code, which requires every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code and shall comply with such provisions before commencing the performance of the work of this Contract. The Notice to Proceed with the Work under this Agreement will not be issued, and the CONTRACTOR shall not commence work, until the CONTRACTOR submits written evidence that it has obtained full Workers' Compensation Insurance coverage for all persons whom it employs or may employ in carrying out the work under this Contract. This insurance shall be in accordance with the requirements of the most current and applicable state Workers' Compensation Insurance Laws. In accordance with the provisions of Section 1861 of the California Labor Code, the CONTRACTOR in signing this Agreement certifies to the DISTRICT as true the following statement: "I am aware of the provisions of Section 3700 of the Labor Code which requires every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code, and I will comply with such provisions before commencing the performance of the work of this contract." A subcontractor is not allowed to commence work on the project until verification of Workers' Compensation Insurance coverage has been obtained and verified by the CONTRACTOR and submitted to the Construction Manager for the DISTRICT's review and records.
- H. In accordance with the provisions of Section 1727 of the California Labor Code, the DISTRICT, before making payment to the CONTRACTOR of money due under a contract for public works, shall withhold and retain there from all wages and penalties which have been forfeited pursuant to any stipulation in the contract, and the terms of Chapter 1, Part 7, Division 2 of the California Labor Code (commencing with Section 1720). But no sum shall be withheld, retained or forfeited, except from the final payment, without a full investigation by either the Division of Labor Standards Enforcement or by the DISTRICT.

## **2.12 WARRANTY.**

- A. CONTRACTOR warrants all Work performed and goods provided under this Agreement shall: (i) meet all conditions of the Agreement; (ii) shall be free from all defects in design, materials and workmanship; and (iii) shall be fit for the purposes intended. If any defects occur within twelve (12) months following acceptance, CONTRACTOR shall be solely responsible for the correction of those defects. The warranty set forth under this Section 2.14(A) shall be in addition to any warranties for equipment and fixtures that may be installed by CONTRACTOR in the performance of this Agreement as provided under Section 2.14(B) and 2.14(C), below.
- B. CONTRACTOR shall transfer to DISTRICT all of CONTRACTOR's rights to and interest to any and all manufacturers' warranties or guarantees for any equipment or fixtures installed by CONTRACTOR in the performance of this Agreement. Where applicable, DISTRICT shall be named as the owner-beneficiary in any warranty or guarantee. CONTRACTOR shall deliver to DISTRICT all the written material comprising the manufacturers' warranties or guarantees. CONTRACTOR shall ensure that each warranty or guarantee is in full force and effect from the date the DISTRICT starts using the equipment or fixtures. All manufacturers' warranties or guarantees shall be in addition to the CONTRACTOR's warranty set forth under Section 2.14(A), above or Section 2.14(C), below.

- C. In addition to all manufacturers' warranties and all other warranties implied by law, CONTRACTOR warrants that all equipment and fixtures installed in the performance of this Agreement shall conform to the Scope of Work and any additional plans, drawings or specifications incorporated into this Agreement. CONTRACTOR further warrants that all equipment and fixtures installed by CONTRACTOR shall be merchantable; of good workmanship and material; and free from defect.

2.14 **SAFETY**: CONTRACTOR shall comply with all workplace safety measures as may be required by applicable federal, State or local laws so as to safeguard against injury to persons or damage to property. In performing the Work, CONTRACTOR shall at all times be in compliance with all applicable federal, State and local rules and regulations, and shall exercise all necessary precautions for the safety of employees appropriate to the nature of the Work and the conditions under which any work is to be performed, including but not limited to:

- A. Adequate life protection and lifesaving equipment and emergency procedures;
- B. Instructions in accident prevention for all employees and subcontractors, such as safe walkways, scaffolds, fall protection ladders, bridges, gang planks, confined space procedures, trenching and shoring, equipment and other safety devices, equipment and wearing apparel as are necessary or lawfully required to prevent accidents or injuries; and
- C. Adequate facilities for the proper inspection and maintenance of all safety measures.

### **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.

I.

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:**  
Disability Access Consultants, LLC  
2243 Feather River Blvd. Oroville, CA 95965  
Attn: Barbara Thorpe  
Phone: 530-533-3000  
Fax: 530-533-3001  
Email: [bthorpe@dac-corp.com](mailto:bthorpe@dac-corp.com)

**DISTRICT:**  
Marysville Joint Unified School District  
1919 B Street  
Marysville, CA 95901  
Attn: Ryan DiGiulio Asst. Superintendent of Business Services  
Phone: 530-749-6151  
Email: [rdigiulio@mjUSD.com](mailto:rdigiulio@mjUSD.com)

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, 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: \_\_\_\_\_  
Ryan DiGiulio, Assistant Superintendent of  
Business Services

Disability Access Consultants (DAC) a Limited Liability Corporation:

By: Barbara Thorpe  
Name: BARBARA THORPE  
Title: PRESIDENT

Reminder of Page left blank intentionally



**EXHIBIT A**  
**SCOPE REQUIREMENTS**

"Exhibit A"

**Proposal for Consultant Services**  
**Americans with Disabilities Act and Related Accessibility Standards and Requirements**  
**For**  
**Marysville Joint Unified School District**

***Description of Disability Access Consultants***

Disability Access Consultants (DAC) provides specialized services to school districts, colleges and charter schools to enhance or achieve compliance with Title II of the Americans with Disabilities Act of 1990 and related legislation. As one of the nation's largest consulting firms specializing in ADA compliance for public schools, DAC has earned a reputation for providing low cost, effective solutions to the educational community.

DAC has extensive experience with assisting school districts with compliance of Title II of the Americans with Disabilities Act, Section 504 of the Rehabilitation Act, the Individuals with Disabilities Education Act and related civil rights laws, accessibility standards and regulations. DAC has an understanding of the programmatic requirements of the ADA, Section 504 of the Rehabilitation Act and related civil rights laws in addition to the facility requirements. The team is staffed by individuals who have served the educational system in leadership roles and by team members that have been involved with the building and construction industry. DAC has a dedicated team of professionals with experience in developing thousands of ADA Transition/Barrier Removal Plans and hundreds of self-evaluations for school districts.

***Schedule of Proposed Activities***

Disability Access Consultants (DAC) proposes to provide the following services for the Marysville Joint Unified School District to enhance, update, document and achieve compliance with the Americans with Disabilities Act of 1990 and with U.S. Department of Justice regulations implementing Subtitle A of Title II of the Act as codified at 28 CFR Part 35 Nondiscrimination on the Basis of Disability In State & Local Services, Section 504 of the Rehabilitation Act and related accessibility standards.

***Inspection of Sites, Develop Transition/Barrier Removal Plans and Software***

DAC will inspect the following Marysville Joint Unified School District sites for compliance with ADA Standards and California Title 24 of the California Building Code (CBC) Accessibility Standards. Inspections will be performed by trained employees of DAC.

**District Schools**

Arboga Elementary  
Anna McKenney Intermediate  
Browns Valley Elementary  
Cedar Lane Elementary  
Cordua Elementary  
Covillaud Elementary  
Dobbins Elementary  
Edgewater Elementary  
Ella Elementary  
Foothill Intermediate  
Johnson Park Elementary  
Kynoch Elementary  
Lincoln (Abraham) Alternative

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Linda Elementary  
Lindhurst High  
Loma Rica Elementary  
Marysville Charter Academy for the Arts  
Marysville High  
~~North Marysville Continuation High~~  
Olivehurst Elementary  
Paragon Collegiate Academy  
South Lindhurst Continuation High  
Yuba Environmental Science Charter Academy  
Yuba Feather Elementary  
Yuba Gardens Intermediate

***Transition/Barrier Removal Plans***

DAC will identify solutions for the removal of structural barriers and determine the best solution or method for the removal of access barriers in each situation. The Transition/Barrier Removal Plan will identify the barriers to accessibility and provide the proposed methods for barrier removal, as required by Title II of the ADA. Findings and recommendations will be incorporated into DAC's Accessibility Management software-DACTrak. DACTrak will allow the District to make modifications in the proposed plan as appropriate according to proposed or allocated funds, remodeling, deferred maintenance or removal of items that have been prioritized by specific needs of students, staff or others.

***Accessibility Management Software***

DAC will provide Transition/Barrier Removal Plan data in our web based DACTrak accessibility management software package to enable the District to revise and track compliance throughout the implementation process. Since DACTrak is a web based management program, no hardware or software is needed, other than access to a web browser. DACTrak is a secure program with varying levels of passwords, depending upon authorization by the District and needs of the users. DACTrak is easy to use and can track items by element (drinking fountains, parking spaces, lavatories etc.) by facility or by item and facility. Cost estimates using industry standards, when available, will be given for most individual recommendations by individual item and element when possible. Multiple types of reports are available, including progress reports. DACTrak allows the user to add notes and email work plans. The program has the ability to sort data and produce accurate up-to-date reports by item, facility, date range, and progress status.

***Key Project Team Members***

Project team members will be on site as needed to complete the tasks identified in the proposal. All employees of Disability Access Consultants have been fingerprinted according to California Education Code, FBI clearances and have background checks.

***DAC California School District Client Experience***

DAC has completed inspections and produced ADA Self-evaluations and Transition Plans for thousands of school sites, JPA's, including the North Bay Schools Insurance Authority of which Marysville Joint Unified School District is a member, and other insured groups. DAC has worked with Districts of all sizes, from one school site to 342 school sites. DAC has assisted Districts to defend their current practices and plans in regards to litigation and has only served on the side to assist school districts and has never assisted with litigation against a school district.

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#### **Project Schedule**

Disability Access Consultants will deliver completed transition/barrier removal plans and software and all other project activities generally within 30 days of the completion of the site inspections. Timelines may be extended, by mutual agreement, if greater timelines are needed (input from the public, construction delays and timelines, modernization, District requests, etc.). The schedule for other activities such as plan reviews and consultation will vary according to the objectives.

#### **Project Amendments**

The Marysville Joint Unified School District may, from time to time, request changes in the scope of services of DAC. Changes in service, including a decrease or increase of compensation, which are mutually agreed upon by and between authorized representative, shall be incorporated in amendments to this contract.

#### **Project Cost by Service**

##### **Inspection of Sites, Transition/Barrier Removal Plans and DACTrak Software**

The cost for the sites listed is \$64,500. The DACTrak accessibility management software will be licensed to the Marysville Joint Unified School District for two years after the completion of the surveys at no cost. Additional years are licensed at \$1,000 per year.

#### **Additional Services**

The hourly cost for additional services is \$90.00 per hour for telephone consultation and plan reviews. On-site consultation is billed at an hourly rate of \$120.00 per hour, plus expenses. Other services, such as expert witness services, are billed at different rates depending upon the locations and timelines of the service.

Submitted by,



Barbara Thorpe, President

Disability Access Consultants (DAC)

2243 Feather River Blvd

Oroville, CA 95965

P: 530-533-3000 or (800) 743-7067

F: 530-533-3001

bthorpe@dac-corp.com

**Approved By Marysville Joint Unified School District:**

---

Authorized Representative

Title

Date

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## PROJECT AUTHORIZATION FOR PROFESSIONAL SERVICES

Project Authorization No.: 77  
Date of Project Authorization: February 28, 2017  
District Program No.: 8178  
Architect's Project No.: 2017-TBD

This Project Authorization is issued pursuant to the "Architectural Services Agreement-Master Agreement", dated the 28<sup>th</sup> of February, 2017 by and between the Marysville Joint Unified School District and Rainforth • Grau • Architects, Inc. (hereinafter referred to as the 'Agreement'), and is considered an integral part of said Agreement, subject to all provisions and conditions thereof.

The Marysville Joint Unified School District (hereinafter referred to as the 'DISTRICT') does hereby authorize Rainforth • Grau • Architects, Inc. (hereinafter referred to as the 'ARCHITECT') to provide professional services on the following project:

### 1. PROJECT DESCRIPTION

- 1.1 Name: Foothill IS Shade Structure  
1.2 Location(s): Foothill Intermediate School

### 2. SCOPE OF WORK / BUDGET / SCHEDULE

- 2.1 Work Statement: Addition of a 20x60 PC shade structure, including a concrete pad to serve as foundation for the shade structure. The project will be bid using the CUPPCA bidding process. Demolition of existing tether ball poles at the location of the structure along with asphalt paving adjacent to the structure and the structure's concrete pad to be completed by the maintenance and operations staff. No additional work is anticipated. As this is a DSA project we will need to provide 20% of the construction cost to address accessibility.
- 2.2 Initial Construction Budget:
- |       |                                    |                 |
|-------|------------------------------------|-----------------|
| 2.2.1 | OFCI 20x60 Shade Structure & Bench | \$45,000        |
| 2.2.2 | 28x60 Grading and Paving           | \$20,000        |
| 2.2.3 | ADA upgrades                       | <u>\$17,000</u> |
| 2.2.4 | Total Construction Estimate        | \$82,000        |
- 2.3 Preliminary Schedule Milestones:
- |       |                               |                                       |
|-------|-------------------------------|---------------------------------------|
| 2.3.1 | Signed Agreement              | February 28, 2017                     |
| 2.3.2 | Construction Documentation    | March                                 |
| 2.3.3 | DSA over-the-counter approval | March 30 TBD                          |
| 2.3.4 | Assign contracts using CUPPCA | April 6 TBD                           |
| 2.3.5 | Construction                  | June 12(first day of summer)-August 4 |
| 2.3.6 | DSA close-out                 | August-September                      |

### 3. ARCHITECT'S SERVICES & CONSULTANTS

- 3.1 The ARCHITECT shall provide basic services for the following phases of Services:

- ☐ Pre-Design  
☐ Site Analysis  
☒ Schematic Design  
☒ Design Development  
☒ Construction Documents  
☐ Bidding and/or Negotiation  
☒ Construction Administration  
☐ Post-Construction  
☐ Other

Business Services Department  
Approval: [Signature]  
Date: 2/3/17

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## PROJECT AUTHORIZATION FOR PROFESSIONAL SERVICES

- 3.2 The ARCHITECT shall provide, with the DISTRICT's approval, the following consultant services as part of the base fee:

☒ Civil Engineer  
☐ Structural Engineer  
☐ Mechanical/Plumbing Engineer  
☐ Electrical Engineer  
☐ Cost Estimating  
☐ Food Service Consultant

- 3.3 The ARCHITECT shall provide, with the DISTRICT's approval, the following consultant services as additional fee (fee basis to be identified herein):

☐ Theater Consultant  
☐ Audio/Visual Consultant  
☐ Acoustic Engineer/Designer  
☐ Traffic Engineer  
☐ Pool Consultant

## 4. ARCHITECT'S COMPENSATION

The following shall represent the method and/or amount of compensation to be paid to the ARCHITECT by the DISTRICT for the Project.

- 4.1 The ARCHITECT shall provide professional services for the Project in accordance with the Terms and Conditions of the Agreement and this Project Authorization.

- 4.2 The DISTRICT shall compensate the ARCHITECT in accordance with the Agreement and this Authorization.

- 4.2.1 For ARCHITECT's Services, compensation shall be computed as follows:  
Stipulated Sum: Compensation as a Stipulated Sum shall be \$16,000

- 4.2.2 For Additional Services, compensation shall be determined per the Agreement.

- 4.2.3 For Reimbursable Expenses, compensation shall be determined per the Agreement and may not exceed 5% of the compensation for ARCHITECT's Services per 4.2.1.

- 4.2.4 The ARCHITECT's Compensation as described herein is based upon authorization of work within 30 days of the draft date of this document and completion of the work as indicated on the project schedule.

## 5. ADDITIONAL SERVICES / SPECIAL PROVISIONS

- 5.1 The ARCHITECT shall be paid an additional fee for the following services:  
Produce a set of DWG format drawings that include inspector, and general contractor as built changes along with all other changes that occurred during construction. If this service is requested we will provide it on a time and materials base.

- 5.2 Special provisions for this project include:

Utilizing the CUPPCA process for procuring construction contracts RGA is not including any Bidding



and/or Negotiation services.


### PROJECT AUTHORIZATION FOR PROFESSIONAL SERVICES

This Project Authorization is hereby approved, with the listed consultants, if any, in Sections 3.2 and 3.3.

Marysville Joint Unified School District  
1919 B Street  
Marysville, CA 95901

\_\_\_\_\_  
Ryan DiGiulio  
Assistant Superintendent of Business Services  
Date: \_\_\_\_\_

Rainforth • Grau • Architects, Inc.  
A Professional Corporation  
2407 J Street, Suite 202  
Sacramento, CA 95816

  
\_\_\_\_\_  
Timothy R. DeWitt, C-23405  
Principal Architect  
Date: \_\_\_\_\_



## MARYSVILLE JOINT UNIFIED SCHOOL DISTRICT

### AGREEMENT FOR INSPECTION SERVICES

PROJECT: Cordua Legacy – Parking Lot Improvements

This agreement is made and entered into on this 28th day of Feb., 2017, by and between the **Marysville Joint Unified School District** hereinafter referred to as "DISTRICT", and **Jack E. Campbell Inspection Services** referred to as "INSPECTOR".

#### WITNESSETH:

WHEREAS, DISTRICT is causing general construction, repairs and/or replacement to be constructed on DISTRICT property in Yuba County, State of California; and

WHEREAS, INSPECTOR is fully licensed and authorized by the State of California to provide inspections on school buildings, portable school buildings, and other structures.

NOW, THEREFORE, in consideration of the mutual promises and agreements herein contained, IT is AGREED by and between the parties hereto as follows:

#### 1.0. Scope of Work


DISTRICT hereby hires INSPECTOR as an independent contractor to perform inspection services on DISTRICT project(s). Such services shall include, but shall not be limited to:

#### 1.1. Specifications

Inspection of the work during construction to assure that all work is done in accordance with the approved plans and specifications and applicable federal, state, and local building codes.

#### 1.2. Log

The maintenance of a detailed daily inspection log.

Business Services Department  
Approval:   
Date: 1/19/17

1.3. Certification

The certification of work completed and in progress, by the contractor, including material and equipment on or off site for pay request verification purposes.

1.4. Other

Such other services as may be designated by the DISTRICT.

2.0. Term

The term of this agreement shall commence on the date the District determines inspection services are necessary, and shall continue until the District determines inspection services are no longer required.

3.1. Rate

DISTRICT shall compensate INSPECTOR at the rate of:

\$70.00 per hour for DSA Class I;  
\$65.00 per hour for DSA Class II;  
\$60.00 per hour for DSA Class III & IV

for all time worked during normal working hours, Monday through Friday up to eight (8) hours per day. Hours worked in excess of eight (8) hours per day, forty (40) hours per week, and on Saturdays shall be compensated at the rate of 1.5 times the hourly rate stated above. All hours worked on Sundays and holidays shall be compensated at the rate of 2.0 times the hourly rate stated above. All overtime work shall be authorized in advance by the DISTRICT Assistant Superintendent, Business Services or designee.

The total fees (including reimbursable expenses) not-to-exceed: **\$1,000.00.**

3.2. Reimbursable Expenses

DISTRICT shall reimburse INSPECTOR for necessary out of pocket expenses, i.e., plan reproductions, long distance telephone calls, and/or film and development costs used for provided services.

3.3. Time Sheets and Payment

INSPECTOR shall submit monthly invoices at the end of each month identifying regular time, overtime, mileage log and receipts for out of pocket expenses. Payment shall be made in full by DISTRICT to INSPECTOR within thirty (30) working days after approval by the District Business Office.

4.0. Records

INSPECTOR shall maintain at all times complete detailed records and an inspection log with regard to the services performed under this agreement. The records shall be the property of the DISTRICT.

5.0. Non-assignability

This agreement and the rights and duties hereunder shall not be assigned in whole or in part without written consent of the DISTRICT.

6.0. Insurance

INSPECTOR shall provide any required insurance at his/her own expense.

7.0. Fingerprint Certification

INSPECTOR will maintain compliance at all times with Education Code Section 45125.2.

This agreement may be canceled by the DISTRICT or the INSPECTOR upon the giving of thirty (30) calendar days advance written notice. Such notice shall be personally served or given by United States Mail. In the event of cancellation, the INSPECTOR shall be paid for all services performed up to the date of the cancellation.

IN WITNESS WHEREOF, this agreement has been executed on the day, month, and year first above written.

For "DISTRICT":

\_\_\_\_\_  
Ryan Digiulio, Assistant Superintendent, Business Services

\_\_\_\_\_  
Date

'INSPECTOR'

  
\_\_\_\_\_  
NAME, Class **3** DSA Inspector

1-23-17  
Date



## MARYSVILLE JOINT UNIFIED SCHOOL DISTRICT

### AGREEMENT FOR INSPECTION SERVICES

PROJECT: **Lindhurst High School HVAC Replacement Phase 3**

This agreement is made and entered into on this **28th** day of **February, 2017**, by and between the **Marysville Joint Unified School District** hereinafter referred to as "DISTRICT", and **Jack E. Campbell Inspection Services** referred to as "INSPECTOR".

#### WITNESSETH:

WHEREAS, DISTRICT is causing general construction, repairs and/or replacement to be constructed on DISTRICT property in Yuba County, State of California; and

WHEREAS, INSPECTOR is fully licensed and authorized by the State of California to provide inspections on school buildings, portable school buildings, and other structures.

NOW, THEREFORE, in consideration of the mutual promises and agreements herein contained, IT is AGREED by and between the parties hereto as follows:

#### 1.0. Scope of Work

DISTRICT hereby hires INSPECTOR as an independent contractor to perform inspection services on DISTRICT project(s). Such services shall include, but shall not be limited to:

#### 1.1. Specifications

Inspection of the work during construction to assure that all work is done in accordance with the approved plans and specifications and applicable federal, state, and local building codes.

#### 1.2. Log

The maintenance of a detailed daily inspection log.

225

1.3. Certification

The certification of work completed and in progress, by the contractor, including material and equipment on or off site for pay request verification purposes.

1.4. Other

Such other services as may be designated by the DISTRICT.

2.0. Term

The term of this agreement shall commence on the date the District determines inspection services are necessary, and shall continue until the District determines inspection services are no longer required.

3.1. Rate

DISTRICT shall compensate INSPECTOR at the rate of:

\$70.00 per hour for DSA Class I;  
\$65.00 per hour for DSA Class II;  
\$60.00 per hour for DSA Class III & IV

for all time worked during normal working hours, Monday through Friday up to eight (8) hours per day. Hours worked in excess of eight (8) hours per day, forty (40) hours per week, and on Saturdays shall be compensated at the rate of 1.5 times the hourly rate stated above. All hours worked on Sundays and holidays shall be compensated at the rate of 2.0 times the hourly rate stated above. All overtime work shall be authorized in advance by the DISTRICT Assistant Superintendent, Business Services or designee.

The total fees (including reimbursable expenses) not-to-exceed: **\$56,500.00.**

3.2. Reimbursable Expenses

DISTRICT shall reimburse INSPECTOR for necessary out of pocket expenses, i.e., plan reproductions, long distance telephone calls, and/or film and development costs used for provided services.

3.3. Time Sheets and Payment

INSPECTOR shall submit monthly invoices at the end of each month identifying regular time, overtime, mileage log and receipts for out of pocket expenses. Payment shall be made in full by DISTRICT to INSPECTOR within thirty (30) working days after approval by the District Business Office.

4.0. Records

INSPECTOR shall maintain at all times complete detailed records and an inspection log with regard to the services performed under this agreement. The records shall be the property of the DISTRICT.

226



5.0. Non-assignability

This agreement and the rights and duties hereunder shall not be assigned in whole or in part without written consent of the DISTRICT.

6.0. Insurance

INSPECTOR shall provide any required insurance at his/her own expense.

7.0 Fingerprint Certification

INSPECTOR will maintain compliance at all times with Education Code Section 45125.2.

This agreement may be canceled by the DISTRICT or the INSPECTOR upon the giving of thirty (30) calendar days advance written notice. Such notice shall be personally served or given by United States Mail. In the event of cancellation, the INSPECTOR shall be paid for all services performed up to the date of the cancellation.

IN WITNESS WHEREOF, this agreement has been executed on the day, month, and year first above written.

For "DISTRICT":

\_\_\_\_\_  
Ryan Digiulio, Assistant Superintendent, Business Services

\_\_\_\_\_  
Date

'INSPECTOR'

\_\_\_\_\_  
NAME, Class 3 DSA Inspector

\_\_\_\_\_  
Date

1-12-17

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# MARYSVILLE JOINT UNIFIED SCHOOL DISTRICT

## AGREEMENT FOR INSPECTION SERVICES

PROJECT: Yuba Feather Legacy (02.106502)

This agreement is made and entered into on this 28th day of Febr., 2017, by and between the **Marysville Joint Unified School District** hereinafter referred to as "DISTRICT", and **Jack E Campbell Inspections, Inc.** referred to as "INSPECTOR".

WITNESSETH:

WHEREAS, DISTRICT is causing general construction, repairs and/or replacement to be constructed on DISTRICT property in Yuba County, State of California; and

WHEREAS, INSPECTOR is fully licensed and authorized by the State of California to provide inspections on school buildings, portable school buildings, and other structures.

NOW, THEREFORE, in consideration of the mutual promises and agreements herein contained, IT is AGREED by and between the parties hereto as follows:

### 1.0. Scope of Work

DISTRICT hereby hires INSPECTOR as an independent contractor to perform inspection services on DISTRICT project(s). Such services shall include, but shall not be limited to:

#### 1.1. Specifications

Inspection of the work during construction to assure that all work is done in accordance with the approved plans and specifications and applicable federal, state, and local building codes.

#### 1.2. Log

The maintenance of a detailed daily inspection log.

Business Services Department

Approval: PR

Date: 1/19/17

228

1.3. Certification

The certification of work completed and in progress, by the contractor, including material and equipment on or off site for pay request verification purposes.

1.4. Other

Such other services as may be designated by the DISTRICT.

2.0. Term

The term of this agreement shall commence on the date the District determines inspection services are necessary, and shall continue until the District determines inspection services are no longer required.

3.1. Rate

DISTRICT shall compensate INSPECTOR at the rate of:

\$70.00 per hour for DSA Class I;  
\$65.00 per hour for DSA Class II;  
\$60.00 per hour for DSA Class III & IV

for all time worked during normal working hours, Monday through Friday up to eight (8) hours per day. Hours worked in excess of eight (8) hours per day, forty (40) hours per week, and on Saturdays shall be compensated at the rate of 1.5 times the hourly rate stated above. All hours worked on Sundays and holidays shall be compensated at the rate of 2.0 times the hourly rate stated above. All overtime work shall be authorized in advance by the DISTRICT Assistant Superintendent, Business Services or designee.

The total fees (including reimbursable expenses) not-to-exceed: \$300.00 X  
cf

3.2. Reimbursable Expenses

DISTRICT shall reimburse INSPECTOR for necessary out of pocket expenses, i.e., plan reproductions, long distance telephone calls, and/or film and development costs used for provided services.

3.3. Time Sheets and Payment

INSPECTOR shall submit monthly invoices at the end of each month identifying regular time, overtime, mileage log and receipts for out of pocket expenses. Payment shall be made in full by DISTRICT to INSPECTOR within thirty (30) working days after approval by the District Business Office.

4.0. Records

INSPECTOR shall maintain at all times complete detailed records and an inspection log with regard to the services performed under this agreement. The records shall be the property of the DISTRICT.

229

5.0. Non-assignability

This agreement and the rights and duties hereunder shall not be assigned in whole or in part without written consent of the DISTRICT.

6.0. Insurance

INSPECTOR shall provide any required insurance at his/her own expense.

7.0 Fingerprint Certification

INSPECTOR will maintain compliance at all times with Education Code Section 45125.2.

This agreement may be canceled by the DISTRICT or the INSPECTOR upon the giving of thirty (30) calendar days advance written notice. Such notice shall be personally served or given by United States Mail. In the event of cancellation, the INSPECTOR shall be paid for all services performed up to the date of the cancellation.

IN WITNESS WHEREOF, this agreement has been executed on the day, month, and year first above written.

For "DISTRICT":

\_\_\_\_\_  
Ryan Digiulio, Assistant Superintendent, Business Services

\_\_\_\_\_  
Date

"INSPECTOR"

\_\_\_\_\_  
Jack E Campbell, Class 3 DSA Inspector

\_\_\_\_\_  
4-23-17

\_\_\_\_\_  
Date

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## MARYSVILLE JOINT UNIFIED SCHOOL DISTRICT

### AGREEMENT FOR INSPECTION SERVICES

PROJECT: **Foothill Shade Canopy**

This agreement is made and entered into on this **28th** day of **February, 2017**, by and between the **Marysville Joint Unified School District** hereinafter referred to as "DISTRICT", and **Jack E. Campbell Inspection Services** referred to as "INSPECTOR".

WITNESSETH:

WHEREAS, DISTRICT is causing general construction, repairs and/or replacement to be constructed on DISTRICT property in Yuba County, State of California; and

WHEREAS, INSPECTOR is fully licensed and authorized by the State of California to provide inspections on school buildings, portable school buildings, and other structures.

NOW, THEREFORE, in consideration of the mutual promises and agreements herein contained, IT is AGREED by and between the parties hereto as follows:

1.0. Scope of Work

DISTRICT hereby hires INSPECTOR as an independent contractor to perform inspection services on DISTRICT project(s). Such services shall include, but shall not be limited to:

1.1. Specifications

Inspection of the work during construction to assure that all work is done in accordance with the approved plans and specifications and applicable federal, state, and local building codes.

1.2. Log

The maintenance of a detailed daily inspection log.

Business Services Department

Approval: [Signature]

Date: 1/19/17

231



1.3. Certification

The certification of work completed and in progress, by the contractor, including material and equipment on or off site for pay request verification purposes.

1.4. Other

Such other services as may be designated by the DISTRICT.

2.0. Term

The term of this agreement shall commence on the date the District determines inspection services are necessary, and shall continue until the District determines inspection services are no longer required.

3.1. Rate

DISTRICT shall compensate INSPECTOR at the rate of:

\$70.00 per hour for DSA Class I;  
\$65.00 per hour for DSA Class II;  
\$60.00 per hour for DSA Class III & IV

for all time worked during normal working hours, Monday through Friday up to eight (8) hours per day. Hours worked in excess of eight (8) hours per day, forty (40) hours per week, and on Saturdays shall be compensated at the rate of 1.5 times the hourly rate stated above. All hours worked on Sundays and holidays shall be compensated at the rate of 2.0 times the hourly rate stated above. All overtime work shall be authorized in advance by the DISTRICT Assistant Superintendent, Business Services or designee.

The total fees (including reimbursable expenses) not-to-exceed: **\$5,500.00.**

3.2. Reimbursable Expenses

DISTRICT shall reimburse INSPECTOR for necessary out of pocket expenses, i.e., plan reproductions, long distance telephone calls, and/or film and development costs used for provided services.

3.3. Time Sheets and Payment

INSPECTOR shall submit monthly invoices at the end of each month identifying regular time, overtime, mileage log and receipts for out of pocket expenses. Payment shall be made in full by DISTRICT to INSPECTOR within thirty (30) working days after approval by the District Business Office.

4.0. Records

INSPECTOR shall maintain at all times complete detailed records and an inspection log with regard to the services performed under this agreement. The records shall be the property of the DISTRICT.

232



5.0. Non-assignability

This agreement and the rights and duties hereunder shall not be assigned in whole or in part without written consent of the DISTRICT.

6.0. Insurance

INSPECTOR shall provide any required insurance at his/her own expense.

7.0 Fingerprint Certification

INSPECTOR will maintain compliance at all times with Education Code Section 45125.2.

This agreement may be canceled by the DISTRICT or the INSPECTOR upon the giving of thirty (30) calendar days advance written notice. Such notice shall be personally served or given by United States Mail. In the event of cancellation, the INSPECTOR shall be paid for all services performed up to the date of the cancellation.

IN WITNESS WHEREOF, this agreement has been executed on the day, month, and year first above written.

For "DISTRICT":

\_\_\_\_\_  
Ryan Digiulio, Assistant Superintendent, Business Services

\_\_\_\_\_  
Date

"INSPECTOR"

\_\_\_\_\_  
NAME, Class 3 D&A Inspector

\_\_\_\_\_  
Date

1-12-17

233



## MARYSVILLE JOINT UNIFIED SCHOOL DISTRICT

### AGREEMENT FOR INSPECTION SERVICES

PROJECT: **Edgewater Modular Restrooms**

This agreement is made and entered into on this **28th** day of **February, 2017**, by and between the **Marysville Joint Unified School District** hereinafter referred to as "DISTRICT", and **Jack E. Campbell Inspection Services** referred to as "INSPECTOR".

WITNESSETH:

WHEREAS, DISTRICT is causing general construction, repairs and/or replacement to be constructed on DISTRICT property in Yuba County, State of California; and

WHEREAS, INSPECTOR is fully licensed and authorized by the State of California to provide inspections on school buildings, portable school buildings, and other structures.

NOW, THEREFORE, in consideration of the mutual promises and agreements herein contained, IT is AGREED by and between the parties hereto as follows:

1.0. Scope of Work

DISTRICT hereby hires INSPECTOR as an independent contractor to perform inspection services on DISTRICT project(s). Such services shall include, but shall not be limited to:

1.1. Specifications

Inspection of the work during construction to assure that all work is done in accordance with the approved plans and specifications and applicable federal, state, and local building codes.

1.2. Log

The maintenance of a detailed daily inspection log.

Business Services Department  
Approval: [Signature]  
Date: 1/19/17

234

1.3. Certification

The certification of work completed and in progress, by the contractor, including material and equipment on or off site for pay request verification purposes.

1.4. Other

Such other services as may be designated by the DISTRICT.

2.0. Term

The term of this agreement shall commence on the date the District determines inspection services are necessary, and shall continue until the District determines inspection services are no longer required.

3.1. Rate

DISTRICT shall compensate INSPECTOR at the rate of:

\$70.00 per hour for DSA Class I;  
\$65.00 per hour for DSA Class II;  
\$60.00 per hour for DSA Class III & IV

for all time worked during normal working hours, Monday through Friday up to eight (8) hours per day. Hours worked in excess of eight (8) hours per day, forty (40) hours per week, and on Saturdays shall be compensated at the rate of 1.5 times the hourly rate stated above. All hours worked on Sundays and holidays shall be compensated at the rate of 2.0 times the hourly rate stated above. All overtime work shall be authorized in advance by the DISTRICT Assistant Superintendent, Business Services or designee.

The total fees (including reimbursable expenses) not-to-exceed: **\$6,800.00**.

3.2. Reimbursable Expenses

DISTRICT shall reimburse INSPECTOR for necessary out of pocket expenses, i.e., plan reproductions, long distance telephone calls, and/or film and development costs used for provided services.

3.3. Time Sheets and Payment

INSPECTOR shall submit monthly invoices at the end of each month identifying regular time, overtime, mileage log and receipts for out of pocket expenses. Payment shall be made in full by DISTRICT to INSPECTOR within thirty (30) working days after approval by the District Business Office.

4.0. Records

INSPECTOR shall maintain at all times complete detailed records and an inspection log with regard to the services performed under this agreement. The records shall be the property of the DISTRICT.

235

5.0. Non-assignability

This agreement and the rights and duties hereunder shall not be assigned in whole or in part without written consent of the DISTRICT.

6.0. Insurance

INSPECTOR shall provide any required insurance at his/her own expense.

7.0 Fingerprint Certification

INSPECTOR will maintain compliance at all times with Education Code Section 45125.2.

This agreement may be canceled by the DISTRICT or the INSPECTOR upon the giving of thirty (30) calendar days advance written notice. Such notice shall be personally served or given by United States Mail. In the event of cancellation, the INSPECTOR shall be paid for all services performed up to the date of the cancellation.

IN WITNESS WHEREOF, this agreement has been executed on the day, month, and year first above written.

For "DISTRICT":

\_\_\_\_\_  
Ryan Digiulio, Assistant Superintendent, Business Services

\_\_\_\_\_  
Date

'INSPECTOR'

\_\_\_\_\_  
NAME, Class 3 DSA Inspector

\_\_\_\_\_  
Date

1-12-17

236



### CONTRACT SERVICES AGREEMENT

#### **Mid Pacific Engineering, Inc – On Site Special Inspection and Testing for Foothill Intermediate School Shade Canopy**

THIS CONTRACT SERVICES AGREEMENT ("Agreement") is made and entered into this 28<sup>th</sup> day of February 2017, (hereinafter, the "Effective Date"), by and between the MARYSVILLE JOINT UNIFIED SCHOOL DISTRICT ("DISTRICT") and Mid Pacific Engineering, Inc., a California Corporation (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 160 calendar days commencing from May 15, 2017. Nothing in this Section shall operate to prohibit or otherwise restrict the DISTRICT's ability to terminate this Agreement at any time for convenience or for cause
- 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 are per Exhibit A and the DSA Approved Specifications and prints (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 of two thousand eight hundred and sixteen dollars and 00/100 (\$2,816.00) (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.

Business Services Department

Approval: JA  
Date: 2/3/17

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- 1.4 **PAYMENT OF COMPENSATION:** The Not-to-Exceed Sum shall be paid to CONTRACTOR monthly increments 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 the Superintendent and Ryan DiGiulio, Assistant Superintendent, Business Services and Cynthia Jensen, Director of Facilities, (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 designates Ken Fritz, Vice President of Construction Services 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:

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- 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.

The Parties acknowledge and agree that CONTRACTOR shall perform, at CONTRACTOR's own cost and expense and without any reimbursement from DISTRICT, any services necessary to correct any errors or omissions caused by CONTRACTOR's failure to comply with the standard of care set forth under this Section or by any like failure on the part of CONTRACTOR's employees, agents, contractors, subcontractors and subconsultants. Such effort by CONTRACTOR to correct any errors or omissions shall be commenced immediately upon their discovery by either Party and shall be completed within seven (7) calendars days from the date of discovery or such other extended period of time authorized by the DISTRICT Representatives in writing and in their sole and absolute discretion. The Parties acknowledge and agree that DISTRICT's acceptance of any work performed by CONTRACTOR or on CONTRACTOR's behalf shall not constitute a release of any deficiency or delay in performance. The Parties further acknowledge, understand and agree that DISTRICT has relied upon the foregoing representations of CONTRACTOR, including but not limited to the representation that CONTRACTOR possesses the skills, training, knowledge and experience necessary to perform the Work skillfully, competently and to the highest standards of CONTRACTOR's profession.

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.
- 2.11. COMPLIANCE WITH LABOR CODE PROVISIONS: CONTRACTOR and any subcontractor performing or contracting any work shall comply with all applicable provisions of the California Labor Code for all workers, laborers and mechanics of all crafts, classifications or types, including, but necessarily limited to the following:
- A. In accordance with California Labor Code Section 1810, eight (8) hours of labor in performance of the Work shall constitute a legal day's work under this Contract. CONTRACTOR and any subcontractor shall pay workers overtime pay (not less than one and one-half (1½) times the base rate of pay) as required by California Labor Code Section 1815. CONTRACTOR and any subcontractor shall, as a penalty to the DISTRICT, forfeit twenty-five dollars (\$25) for each worker employed in the execution of the contract by the respective contractor or subcontractor for each calendar day during which the worker is required or permitted to work more than eight (8) hours in any one calendar day and forty (40) hours in any one calendar week in violation so the provisions of Article 3 of Chapter 1 of Part 7, Division 2 of the California Labor Code, which is incorporated by this reference as though fully set forth herein.
  - B. Pursuant to the provisions of California Labor Code, Sections 1770 *et. seq.*, the CONTRACTOR and any subcontractor under CONTRACTOR shall pay not less than the prevailing rate of per diem wages as determined by the Director of the California Department of Industrial Relations. Pursuant to the provisions of California Labor Code Section 1773.2. The CONTRACTOR is hereby advised that copies of the prevailing rate of per diem wages and a general prevailing rate for holidays, Saturdays and Sundays and overtime work in the locality in which the work is to be performed for each craft, classification, or type of worker required to execute the Agreement, are on file in the office of the

DISTRICT Secretary, which copies shall be made available to any interested party on request. The CONTRACTOR shall post a copy of said prevailing rate of per diem wages at each job site.

- C. As required by Section 1773.1 of the California Labor Code, the CONTRACTOR shall pay travel and subsistence payments to each worker needed to execute the work, as such travel and subsistence payments are defined in the applicable collective bargaining agreements filed in accordance with this Section.
- D. To establish such travel and subsistence payments, the representative of any craft, classification, or type of workman needed to execute the contracts shall file with the Department of Industrial Relations fully executed copies of collective bargaining agreements for the particular craft, classification or type of work involved. Such agreements shall be filed within ten (10) days after their execution and thereafter shall establish such travel and payments whenever filed thirty (30) days prior to the call for bids.
- E. The CONTRACTOR shall comply with the provisions of Section 1775 of the California Labor Code and shall, as a penalty to the DISTRICT, forfeit up to fifty dollars (\$50) for each calendar day, or portion thereof, for each worker paid less than the prevailing rate of per diem wages for each craft, classification, or type of worker needed to execute the contract. The CONTRACTOR shall pay each worker an amount equal to the difference between the prevailing wage rates and the amount paid worker for each calendar day or portion thereof for which a worker was paid less than the prevailing wage rate. CONTRACTOR is required to pay all applicable penalties and back wages in the event of violation of prevailing wage law, and CONTRACTOR and any subcontractor shall fully comply with California Labor Code Section 1775, which is incorporated by this reference as though fully set forth herein.
- F. CONTRACTOR and any subcontractor shall maintain and make available for inspection payroll records as required by California Labor Code Section 1776, which is incorporated by this reference as though fully set forth herein. CONTRACTOR is responsible for ensuring compliance with this section. CONTRACTOR and each subcontractor shall keep an accurate payroll record, showing the name, address, social security number, work classification, and straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by him or her in connection with the Project. Said payroll shall be certified and shall be available for inspection at all reasonable hours at the principal office of the CONTRACTOR on the following basis:
  - i. A certified copy of an employee's payroll record shall be made available for inspection or furnished to the employee or his or her authorized representative on request.
  - ii. A certified copy of all payroll records shall be made available for inspection or furnished upon request to the DISTRICT, the Division of Labor Standards Enforcement, and the Division of Apprenticeship Standards of the Department of Industrial Relations.
  - iii. A certified copy of all payroll records shall be made available upon request by the public for inspection or for copies thereof; provided, however, that a request by the public shall be made through the DISTRICT, the Division of Apprenticeship Standards, or the Division of Labor Standards Enforcement. If the requested payroll records have not been provided, the requesting party shall, prior to being provided the records, reimburse the costs of preparation to the CONTRACTOR, subcontractors, and the entity through which the request was made. The public shall not be given access to the records at the principal offices of the CONTRACTOR. The certified payroll records shall be on forms provided by the Division of Labor Standards Enforcement or shall contain the same information as the forms provided by the division. Each CONTRACTOR shall file a certified copy of the records with the entity that requested the records within ten (10) days after receipt of a written request. Any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by the DISTRICT, the Division

of Apprenticeship Standards, or the Division of Labor Standards Enforcement shall be marked or obliterated in such a manner as to prevent disclosure of an individual's name, address, and social security number. The name and address of the CONTRACTOR awarded the contract or performing the contract shall not be marked or obliterated. The CONTRACTOR shall inform the DISTRICT of the location of the records including the street address, DISTRICT, and shall, within 5 working days, provide a notice of change of location and address. The CONTRACTOR shall have ten (10) days in which to comply subsequent to receipt of written notice specifying in what respects the CONTRACTORS must comply with Section. In the event that the CONTRACTOR fails to comply within the 10-day period, he or she shall, as a penalty to the state or the DISTRICT, forfeit \$25.00 dollars for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Apprenticeship Standards or the Division of Labor Standards Enforcement, these penalties shall be withheld from progress payments then due. Responsibility for compliance with Section lies with the CONTRACTOR.

- iv. The CONTRACTOR and any subcontractors shall, when they employ any person in any apprenticeable craft or trade, apply to the joint apprenticeship committee administering the apprenticeship standards of the craft or trade in the area of the construction site for a certificate approving the CONTRACTOR or subcontractor under the apprenticeship standards for the employment and training of apprentices in the area or industry affected; and shall comply with all other requirements of Section 1777.5 of the California Labor Code, which is incorporated by this reference as though fully set forth herein. The responsibility of compliance with California Labor Code Section 1777.5 during the performance of this Agreement rests with the CONTRACTOR. Pursuant to California Labor Code Section 1777.7, in the event the CONTRACTOR willfully fails to comply with the provisions of California Labor Code Section 1777.5, the CONTRACTOR shall be denied the right to bid on any public works contract for up to three (3) years from the date noncompliance is determined and be assessed civil penalties.
- G. In accordance with the provisions of Article 5, Chapter 1, Part 7, Division 2 (commencing with Section 1860), and Chapter 4, Part 1, Division 4 (commencing with Section 3700) of the California Labor Code, the CONTRACTOR is required to secure the payment of compensation to its employees and for that purpose obtain and keep in effect adequate Workers' Compensation Insurance and Employers Liability Insurance. If the CONTRACTOR, in the sole discretion of the DISTRICT satisfies the DISTRICT of the responsibility and capacity under the applicable Workers' Compensation Laws, if any, to act as self-insurer, the CONTRACTOR may so act, and in such case, the insurance required by this paragraph need not be provided. The CONTRACTOR is advised of the provisions of Section 3700 of the California Labor Code, which requires every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code and shall comply with such provisions before commencing the performance of the work of this Contract. The Notice to Proceed with the Work under this Agreement will not be issued, and the CONTRACTOR shall not commence work, until the CONTRACTOR submits written evidence that it has obtained full Workers' Compensation Insurance coverage for all persons whom it employs or may employ in carrying out the work under this Contract. This insurance shall be in accordance with the requirements of the most current and applicable state Workers' Compensation Insurance Laws. In accordance with the provisions of Section 1861 of the California Labor Code, the CONTRACTOR in signing this Agreement certifies to the DISTRICT as true the following statement: "I am aware of the provisions of Section 3700 of the Labor Code which requires every employer to be insured against liability for Workers' Compensation or to undertake self-insurance in accordance with the provisions of that Code, and I will comply with such provisions before commencing the performance of the work of this contract." A subcontractor is not allowed to commence work on the project until verification of Workers' Compensation Insurance coverage has been obtained and verified by the CONTRACTOR and submitted to the Construction Manager for the DISTRICT's review and records.

- H. In accordance with the provisions of Section 1727 of the California Labor Code, the DISTRICT, before making payment to the CONTRACTOR of money due under a contract for public works, shall withhold and retain there from all wages and penalties which have been forfeited pursuant to any stipulation in the contract, and the terms of Chapter 1, Part 7, Division 2 of the California Labor Code (commencing with Section 1720). But no sum shall be withheld, retained or forfeited, except from the final payment, without a full investigation by either the Division of Labor Standards Enforcement or by the DISTRICT.

## 2.12 WARRANTY.

- A. CONTRACTOR warrants all Work performed and goods provided under this Agreement shall: (i) meet all conditions of the Agreement; (ii) shall be free from all defects in design, materials and workmanship; and (iii) shall be fit for the purposes intended. If any defects occur within twelve (12) months following acceptance, CONTRACTOR shall be solely responsible for the correction of those defects. The warranty set forth under this Section 2.14(A) shall be in addition to any warranties for equipment and fixtures that may be installed by CONTRACTOR in the performance of this Agreement as provided under Section 2.14(B) and 2.14(C), below.
- B. CONTRACTOR shall transfer to DISTRICT all of CONTRACTOR's rights to and interest to any and all manufacturers' warranties or guarantees for any equipment or fixtures installed by CONTRACTOR in the performance of this Agreement. Where applicable, DISTRICT shall be named as the owner-beneficiary in any warranty or guarantee. CONTRACTOR shall deliver to DISTRICT all the written material comprising the manufacturers' warranties or guarantees. CONTRACTOR shall ensure that each warranty or guarantee is in full force and effect from the date the DISTRICT starts using the equipment or fixtures. All manufacturers' warranties or guarantees shall be in addition to the CONTRACTOR's warranty set forth under Section 2.14(A), above or Section 2.14(C), below.
- C. In addition to all manufacturers' warranties and all other warranties implied by law, CONTRACTOR warrants that all equipment and fixtures installed in the performance of this Agreement shall conform to the Scope of Work and any additional plans, drawings or specifications incorporated into this Agreement. CONTRACTOR further warrants that all equipment and fixtures installed by CONTRACTOR shall be merchantable; of good workmanship and material; and free from defect.

2.14 SAFETY: CONTRACTOR shall comply with all workplace safety measures as may be required by applicable federal, State or local laws so as to safeguard against injury to persons or damage to property. In performing the Work, CONTRACTOR shall at all times be in compliance with all applicable federal, State and local rules and regulations, and shall exercise all necessary precautions for the safety of employees appropriate to the nature of the Work and the conditions under which any work is to be performed, including but not limited to:

- A. Adequate life protection and lifesaving equipment and emergency procedures;
- B. Instructions in accident prevention for all employees and subcontractors, such as safe walkways, scaffolds, fall protection ladders, bridges, gang planks, confined space procedures, trenching and shoring, equipment and other safety devices, equipment and wearing apparel as are necessary or lawfully required to prevent accidents or injuries; and
- C. Adequate facilities for the proper inspection and maintenance of all safety measures.

## 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.
- 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 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.
- 3.4 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.
- 3.5 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 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:**  
Mid Pacific Engineering, Inc  
2915 Innsbruck Drive, Suite A  
Redding, Ca 96003  
Attn: Ken Fritz  
Phone: (916) 927-7000  
Email: kfritz@midpacific.com

**DISTRICT:**  
Marysville Joint Unified School District  
1919 B Street, room 214  
Marysville, CA 95901  
Attn: Ryan Digiulio, Asst. Superintendent,  
Business Services  
Phone: (530) 749-6151  
Email: rdigiulio@mjusd.k12.ca.us

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, 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: \_\_\_\_\_


Ryan DiGiulio, Assistant Superintendent of  
Business Services

**A CALIFORNIA CORPORATION ETC.]:**

x By: \_\_\_\_\_

x Name: \_\_\_\_\_

x Title: \_\_\_\_\_

  
KEN FRITZ  
V.P. OF CONSTRUCTION SERVICES



8173

EXHIBIT "A"

**MPE****MID PACIFIC ENGINEERING, INC.**

GEOTECHNICAL ENGINEERING | EARTHWORK TESTING | MATERIALS ENGINEERING AND TESTING | SPECIAL INSPECTIONS

REDDING  
530-246-9499 p  
530-246-9527 fWEST SACRAMENTO  
916-927-7000 p  
916-372-9900 f

Cynthia Jensen  
Marysville Joint Unified School District  
1919 B Street  
Marysville, California 95901

January 20, 2017

*Proposal for Special Inspections and Testing*  
**FOOTHILL INTERMEDIATE SCHOOL SHADE STRUCTURE**  
5351 Fruitland Road  
Loma Rica, California  
MPE No. 17-0028

As requested, our firm will provide special inspection and testing services during the Foothill Intermediate School Shade Structure in Loma Rica, California. The purposes of our work will be to provide on-call materials special inspections and testing as required by the project plans and as directed by your representatives. Results of our work would be summarized in daily field reports following completion of the work.

Attached is our budget estimate that presents a line item breakdown of our anticipated scope of services. At the time this proposal was assembled, plans and specifications were not yet available. Our estimated fees for this project are \$2,816.

Billing for our work will be on a time and materials expense basis using the attached schedule of fees. Please be aware that the construction schedule and the contractor's efficiency affects the number of site visits - and the cost - required for our services. We will bill only for work actually performed on your project

It is emphasized that our representative will not act as supervisor of construction, nor will we direct construction operations. The contractors should be informed that neither the presence of our representative nor the testing by our firm shall excuse them for defects discovered in their work. Job and site safety will be the sole responsibility of the contractors.

If this proposal is acceptable, please issue the appropriate authorization documents for us to proceed with the work.

Thank you for the opportunity to prepare this proposal. Please contact our office with any questions.

Mid Pacific Engineering, Inc.



Ken Fritz  
Vice President Construction Services

Attachments: Budget Estimate, Schedule of Fees

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 **SCANNED**

2915 INNSBRUCK DRIVE, SUITE A, REDDING, CALIFORNIA 96003  
840 EMBARCADERO DRIVE, SUITE 20, WEST SACRAMENTO, CALIFORNIA 95605

pg 1 of 3

**SPECIAL INSPECTION & TESTING SERVICES  
SCOPE & BUDGET ESTIMATES  
FOOTHILL INTERMEDIATE SCHOOL – SHADE STRUCTURE, LOMA RICA, CA**

**SOILS**

Observe Drilling Piers	8 hours @ \$95/hour	= \$760
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**CONCRETE TESTING**

Sample Concrete, Including BPI:	6 hours @ \$95/hour	= \$570
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Sample Pickup:	4 hours @ \$95/hour	= \$380
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Compression Tests:	4 @ \$30	= \$120
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**ADMINISTRATION**

Dept of Industrial Relations Report		= \$150
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DSA Final Verified Report		= \$500
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**MILEAGE:**

4 trips @ 120 miles @ \$0.70/mi	= \$336
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<b>TOTAL ESTIMATE</b>	<b>\$2,816</b>
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Pf 201 3

**MPE**

**MID PACIFIC ENGINEERING, INC.**  
**2015 Prevailing Wage Schedule of Fees – Sacramento Office**

<b>LABOR</b>		<b>Rate per Hour</b>
Field Testing and Inspection Technician		\$95
Senior Field Testing and Inspection Technician (Welding, Bolting and Masonry)		\$105
Senior Field Testing and Inspection Technician (Non Destructive Testing, DSA Masonry)		\$115
Managing Technician		\$115
Laboratory Technician		\$75
Draftsperson		\$70
Staff Engineer/Geologist		\$100
Project Engineer/Geologist		\$125
Senior Engineer/Geologist		\$150
Principal Engineer		\$175
Overtime and Double Time (work beyond 8 hour days, weekends and Holidays) will be billed at a rate of 1.5 and 2 times the hourly rate presented above, respectively. A 2-hour minimum charge will apply on all projects. A 4-hour minimum charge will apply on Saturday and Sundays. An 8-hour minimum charge will apply on Holidays.		
<b>LABORATORY TESTING</b>		<b>Rate per Test</b>
<b>Soil and Aggregate</b>		
Absorption of Sand or Gravel		\$65
Aggregate Unit Weight		\$60
Aggregate Crushed Particles		\$105
Atterberg Limits		\$165
California Impact Method 216		\$200
Compaction Curve		\$235
Consolidation Test		\$560
Corrosion Testing		\$155
Direct Shear Test		\$150
Durability		\$175
Expansion Index		\$175
Grain Size Analysis - Total Sieve (200, Fine and Coarse)		\$230
Grain Size Analysis - Fine or Coarse Sieve		\$110
Grain Size Analysis - Soils Finer than No. 200		\$100
Grain Size Analysis - Hydrometer		\$165
Moisture Content		\$35
Permeability		\$275
Resistance Value - Untreated		\$325
Resistance Value - Treated with Lime or Cement		\$375
Sand Equivalent		\$150
Specific Gravity		\$120
Triaxial Shear - Undisturbed		\$370
Triaxial Shear - Remolded		\$450
Unconfined Compression Test		\$120
Unit Weight and Moisture Content - Undisturbed Sample		\$40
Unit Weight and Moisture Content - Loose Sample		\$65
<b>Concrete and Masonry</b>		
Compression Testing - Concrete 4x8 or 6x12		\$30
Compression Testing - Grout, Mortar or CLSM		\$40
Compression Testing - Masonry Unit or Brick		\$60
Compression Testing - Masonry Prism		\$185
Compression Testing - Concrete Core Including Trimming		\$50
Compression Testing - Shotcrete Core		\$55
Compression Testing - Hold Sample		\$25
Flexural Strength - 6" x 6" concrete beam		\$85
Length Change of Hardened Concrete - Batching, Compression Testing and Shrinkage Measurement		\$1000
Length Change of Hardened Concrete - Shrinkage Measurement		\$400
Masonry Unit Linear Shrinkage, Absorption and Moisture		\$525
Splitting Tensile Test - 6" x 12" Cylinders		\$60
Trial Batch - Compression Testing set of 5		\$600
<b>Reinforcing and Structural Steel</b>		
Anchor Bolt or Prestressing Strand Tensile Strength		\$80
Fire Proofing Unit Weight		\$55
Machining of Special Fittings, Fixtures or Tensile Coupons - per hour		\$75
Rebar Tensile and Bend 1 - 7 bar		\$115
Rebar Tensile and Bend 8 - 14 bar		\$165
Structural Bolt Set Tensile and Hardness		\$350
Please contact our office for laboratory testing not listed on this fee schedule		<b>Quote</b>
<b>MISCELLANEOUS</b>		
Mileage - Billed Portal to Portal		\$0.70/mile
Per Diem		\$135/day
Outside Services		Cost +20%
Final Report of Inspection		\$300
Department of Industrial Relations Wage Reporting		\$150/month

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PK 3013

## PROJECT AUTHORIZATION FOR PROFESSIONAL SERVICES

Project Authorization No.: 5  
Date of Project Authorization: February 28, 2017  
District Program No.:  
Architect's Project No.: 2017-TBD

This Project Authorization is issued pursuant to the "Architectural Services Agreement-Master Agreement", dated the 28<sup>th</sup> of February, 2017 by and between the Marysville Joint Unified School District and Kirk Brainerd Architects, Inc. (hereinafter referred to as the 'Agreement'), and is considered an integral part of said Agreement, subject to all provisions and conditions thereof.

The Marysville Joint Unified School District (hereinafter referred to as the 'DISTRICT') does hereby authorize Kirk Brainerd Architect, Inc. (hereinafter referred to as the 'ARCHITECT') to provide professional services on the following project:

### 1. PROJECT DESCRIPTION

- 1.1 Name: Cordua Elementary School Legacy, Parking Lot Overlay/Access Compliance, DSA 02.105103; 2005  
1.2 Location(s): Cordua Elementary School

### 2. SCOPE OF WORK / BUDGET / SCHEDULE

- 2.1 Work Statement: providing construction drawing and specifications and bid documentation along with a site survey. Scope will include civil engineering, restriping and added signage to obtain a fully ADA compliant parking lot. Construction administrative services will be provided along with kick off and construction meetings to achieve DSA closeout with certification and bid assistance is also included. Reimbursable expenses up to 5% are included as well.
- 2.2 Initial Construction Budget: Approximately **\$20,000**
- 2.3 Preliminary Schedule Milestones:
- |                                     |  |
|-------------------------------------|--|
| 2.3.1 Signed Agreement              | <b>February 28, 2017</b>                     |
| 2.3.2 Construction Documentation    | <b>March 27, 2017</b>                        |
| 2.3.3 DSA over-the-counter approval | <b>March 27, 2017</b>                        |
| 2.3.4 Assign contracts using CUPPCA | <b>April 25, 2017</b>                        |
| 2.3.5 Construction                  | <b>June 12(first day of summer)-August 4</b> |
| 2.3.6 DSA close-out                 | <b>August-September 2017</b>                 |

### 3. ARCHITECT'S SERVICES & CONSULTANTS

- 3.1 The ARCHITECT shall provide basic services for the following phases of Services:

☐ Pre-Design  
☒ Site Analysis  
☒ Schematic Design  
☒ Design Development  
☒ Construction Documents  
☒ Bidding and/or Negotiation  
☒ Construction Administration  
☒ Post-Construction  
☐ Other

Business Services Department  
Approval:   
Date: 2/8/17

## PROJECT AUTHORIZATION FOR PROFESSIONAL SERVICES

- 3.2 The ARCHITECT shall provide, with the DISTRICT's approval, the following consultant services as part of the base fee:

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- ☒ Civil Engineer
- ☐ Structural Engineer
- ☐ Mechanical/Plumbing Engineer
- ☐ Electrical Engineer
- ☐ Cost Estimating
- ☐ Food Service Consultant

- 3.3 The ARCHITECT shall provide, with the DISTRICT's approval, the following consultant services as additional fee (fee basis to be identified herein):

- ☐ Theater Consultant
- ☐ Audio/Visual Consultant
- ☐ Acoustic Engineer/Designer
- ☐ Traffic Engineer
- ☐ Pool Consultant

#### 4. ARCHITECT's COMPENSATION

The following shall represent the method and/or amount of compensation to be paid to the ARCHITECT by the DISTRICT for the Project.

- 4.1 The ARCHITECT shall provide professional services for the Project in accordance with the Terms and Conditions of the Agreement and this Project Authorization.
- 4.2 The DISTRICT shall compensate the ARCHITECT in accordance with the Agreement and this Authorization.
  - 4.2.1 For ARCHITECT's Services, compensation shall be computed as follows: **\$4,500.00**
  - 4.2.2 For Additional Services, compensation shall be determined per the Agreement.
  - 4.2.3 For Reimbursable Expenses, compensation shall be determined per the Agreement and may not exceed 5% of the compensation for ARCHITECT's Services per 4.2.1.
  - 4.2.4 The ARCHITECT's Compensation as described herein is based upon authorization of work within 30 days of the draft date of this document and completion of the work as indicated on the project schedule.

#### 5. ADDITIONAL SERVICES / SPECIAL PROVISIONS

- 5.1 The ARCHITECT shall be paid an additional fee for the following services:  
Produce a set of DWG format drawings that include inspector, and general contractor as built changes along with all other changes that occurred during construction. If this service is requested we will provide it on a time and materials base.

- 5.2 Special provisions for this project include:

**Utilizing the CUPPCA process for procuring construction contracts Kirk Brainerd is not including any Bidding and/or Negotiation services.**

#### PROJECT AUTHORIZATION FOR PROFESSIONAL SERVICES

This Project Authorization is hereby approved, with the listed consultants, if any, in Sections 3.2 and 3.3.

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Marysville Joint Unified School District  
1919 B Street  
Marysville, CA 95901

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Ryan DiGiulio  
Assistant Superintendent of Business Services  
Date: \_\_\_\_\_

Kirk Brainerd, Architect, Inc.  
3510 Coon Hollow Road,  
Placerville, CA 95667

  
\_\_\_\_\_  
Kirk Brainerd  
Principal Architect  
Date: 2/8/17

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☒ Schematic Design  
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☒ Construction Documents  
☒ Bidding and/or Negotiation  
☒ Construction Administration  
☒ Post-Construction  
☐ Other

## PROJECT AUTHORIZATION FOR PROFESSIONAL SERVICES

- 3.2 The ARCHITECT shall provide, with the DISTRICT's approval, the following consultant services as part of the base fee:

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- ☒ Civil Engineer
- ☐ Structural Engineer
- ☐ Mechanical/Plumbing Engineer
- ☐ Electrical Engineer
- ☐ Cost Estimating
- ☐ Food Service Consultant

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- ☐ Theater Consultant
- ☐ Audio/Visual Consultant
- ☐ Acoustic Engineer/Designer
- ☐ Traffic Engineer
- ☐ Pool Consultant

#### 4. ARCHITECT's COMPENSATION

The following shall represent the method and/or amount of compensation to be paid to the ARCHITECT by the DISTRICT for the Project.

- 4.1 The ARCHITECT shall provide professional services for the Project in accordance with the Terms and Conditions of the Agreement and this Project Authorization.
- 4.2 The DISTRICT shall compensate the ARCHITECT in accordance with the Agreement and this Authorization.
  - 4.2.1 For ARCHITECT's Services, compensation shall be computed as follows: **\$4,500.00**
  - 4.2.2 For Additional Services, compensation shall be determined per the Agreement.
  - 4.2.3 For Reimbursable Expenses, compensation shall be determined per the Agreement and may not exceed 5% of the compensation for ARCHITECT's Services per 4.2.1.
  - 4.2.4 The ARCHITECT's Compensation as described herein is based upon authorization of work within 30 days of the draft date of this document and completion of the work as indicated on the project schedule.

#### 5. ADDITIONAL SERVICES / SPECIAL PROVISIONS

- 5.1 The ARCHITECT shall be paid an additional fee for the following services:  
Produce a set of DWG format drawings that include inspector, and general contractor as built changes along with all other changes that occurred during construction. If this service is requested we will provide it on a time and materials base.
- 5.2 Special provisions for this project include:  
**Utilizing the CUPPCA process for procuring construction contracts Kirk Brainerd is not including any Bidding and/or Negotiation services.**

#### PROJECT AUTHORIZATION FOR PROFESSIONAL SERVICES

This Project Authorization is hereby approved, with the listed consultants, if any, in Sections 3.2 and 3.3.

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Marysville Joint Unified School District  
1919 B Street  
Marysville, CA 95901

---

Ryan DiGiulio

Assistant Superintendent of Business Services

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

Kirk Brainerd, Architect, Inc.  
3510 Coon Hollow Road,  
Placerville, CA 95667



---

Kirk Brainerd

Principal Architect

Date: 2/8/17

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JAN 18 2017

RECEIVED

January 17, 2017

Dear MJUSD,

I have made the tough decision to stay at home and be with my daughter. Please accept this as my formal notice of resignation from MJUSD. My last day will be Tuesday January 31, 2017, two weeks from today.

I appreciate your support during my time here and take with me the valuable experiences I have gained over the last 3 years. It has been a pleasure working with the Yuba Gardens Staff and the students.

Please let me know how I can help during this transition. I wish you all the best!

Sincerely,



Marina Gonzales

MJUSD  
Personnel Dept

JAN 24 2017

RECEIVED

Juliana Roura  
1722 Buchanan Street  
Marysville, CA 95901  
530-933-2106  
Juliana.Roura@hotmail.com

1/24/2017

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

Dear Ms. Kathy Woods:

I am writing to announce my resignation from Marysville Joint Unified School District Child Development Program, effective two weeks from this date.

This was not an easy decision to make. The past four years have been very rewarding. I've enjoyed working for you and working with a very successful team dedicated to creating a quality program.

Thank you for the opportunities for growth that you have provided me.

I wish you and the East Marysville Children's Center all the best. If I can be of any help during the transition, please don't hesitate to ask.

Sincerely,



Juliana Roura

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## Grant Award Notification

<b>GRANTEE NAME AND ADDRESS</b> Gay Todd, Ed. D., 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>
	16	14968	7273	01
<b>Attention</b> Amber Watson, RD	<b>STANDARDIZED ACCOUNT CODE STRUCTURE</b>			<b>COUNTY</b> Yuba
<b>Program Office</b> Nutrition Services	<b>Resource Code</b> 5370	<b>Revenue Object Code</b> 8220	<b>INDEX</b> 0190	
<b>Telephone</b> 530-749-6178				

**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
	\$182,562.03	\$6,993.84	\$189,555.87	1	10-1-16	6-30-17
CFDA Number	Federal Grant Number	Federal Grant Name			Federal Agency	
10.582	7CA310CA1	Fresh Fruit and Vegetable Program			USDA	


Dear Superintendent Todd, Ed. D.:

I am pleased to inform you that you have been awarded additional funding 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.

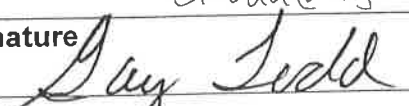
Please sign and return this amended Grant Award Notification (AO-400) within 10 days to:

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

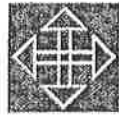
<b>California Department of Education Contact</b> Saucerae Gans	<b>Job Title</b> Analyst
<b>E-mail Address</b> <a href="mailto:sgans@cde.ca.gov">sgans@cde.ca.gov</a>	<b>Telephone</b> 916-323-6775
<b>Signature of the State Superintendent of Public Instruction or Designee</b>  Nick Schweizer, Deputy Superintendent	<b>Date</b>

### 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> Gray Todd	<b>Title</b> Superintendent
<b>E-mail Address</b> <a href="mailto:GTodd@mjUSD.com">GTodd@mjUSD.com</a>	<b>Telephone</b> 530-749-6101
<b>Signature</b> 	<b>Date</b> 2-1-17

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**The Plus Group, inc.**  
"Helping Staff America"

## STAFFING SERVICE AGREEMENT

This agreement is between THE PLUS GROUP, INC. ("TPG"), an Illinois corporation with its headquarters headquartered at 7425 Janes Avenue, Suite 201, Woodridge, Illinois, with the local office at 855 Harter Parkway, Suite 370, Yuba City, California and Marysville Joint Unified School District ("CLIENT"), with district office located 1919 B Street, Marysville, CA 95901.

WHEREAS, TPG is engaged in the business of assigning its employees to perform services for clients; and

WHEREAS, CLIENT desires to engage TPG to provide such services;

NOW, THEREFORE, in consideration of the promises, and of the mutual covenants hereinafter set forth, and intending to be legally bound hereby, the parties hereto agree as follows:

1. TPG shall provide to CLIENT the services of its employees ("Assigned Employees") as requested by CLIENT. CLIENT shall use the services of TPG as a provider of Assigned Employees as set forth on Exhibit A for CLIENT. CLIENT acknowledges and agrees that in the event an Assigned Employee is entitled to additional compensation, as provided by law or at the direction of CLIENT's representative, CLIENT agrees to an increase in the bill rate to reflect such additional compensation plus applicable markup.

2. Responsibilities of TPG: TPG agrees to assume full responsibility for paying, withholding, and transmitting payroll taxes; making unemployment contributions; and handling unemployment and workers' compensation claims involving Assigned Employees with respect to compensation that TPG has agreed to pay. Assigned Employees shall not be entitled to holidays, vacations, disability, insurance, pensions or retirement plans, or any other benefits offered or provided by CLIENT to its direct employees.

3. Selection and Background Checks: TPG shall recruit, interview, test, screen, and ensure compliance with legally required pre-employment obligations for all Assigned Employees to be assigned to CLIENT's facilities prior to their assignment at CLIENT. Possible other checks include criminal conviction record, education, drug testing, credit searches, etc.

4. Payment for Services: CLIENT agrees to pay TPG invoices within thirty (30) days after receipt. ~~In the event CLIENT fails to make payment to TPG within seven days after receipt of any TPG invoice, CLIENT agrees to pay interest on past due amounts at the rate of 1.5% per month or at the maximum rate permitted by law. Interest begins to accrue 20 days after the date of each invoice and continues to accrue until past due amounts are paid in full.~~ If any payment made by CLIENT is returned for any reason, CLIENT agrees to pay a fee of \$50.00 for each returned payment. This fee is in addition to the interest payments that may accrue on unpaid invoices. In the event a portion of any invoice is disputed, the undisputed portion shall be paid. In the event that TPG is required to take legal action to collect unpaid amounts due and owing by CLIENT, CLIENT agrees to pay all collection costs incurred by TPG, including reasonable attorneys fees and costs. This provision shall survive any termination of this Agreement.

5. TPG shall provide workers' compensation insurance coverage for Assigned Employees. The parties agree to immediately notify each other of any injury or accidents or any claim for workers' compensation benefits involving Assigned Employees assigned to CLIENT's facility.

6. Limitations: (a) CLIENT agrees that it will not entrust Assigned Employees with unattended premises, cash, checks, keys, credit cards, merchandise, confidential or trade secret information, negotiable instruments, or other valuables without the express prior written permission of TPG. (b) CLIENT will not request or permit any Assigned Employee to use any vehicle, regardless of ownership, in connection with the performance of services for CLIENT, unless otherwise agreed to in writing between the parties. (c) CLIENT shall not require any Assigned Employee to perform any unlawful act(s). (d) CLIENT will not request Assigned Employees to perform hazardous or high-risk tasks unless CLIENT obtains prior written consent from TPG. (e) TPG reserves the right to not assign or withdraw any Employee at any time.

7. OSHA COMPLIANCE. Because CLIENT controls the facilities in which Assigned Employees work, it is agreed that CLIENT is primarily responsible for compliance with the Occupational Safety and Health Act and comparable state and federal laws and regulations thereunder, to the extent those laws apply to Assigned Employees assigned to CLIENT's facility, except as may be otherwise agreed in writing signed by the parties hereto. Any such agreement shall be included as an addendum to this Agreement. CLIENT agrees to promptly respond to reasonable safety requests made by TPG and any Assigned Employee. CLIENT agrees that it will not retaliate or take retributive action against TPG or any Assigned Employee for making reasonable requests related to safety.

The Plus Group, Inc.

Service Agreement 1/24/17

Business Services Department

Approval: [Signature]

Date: 1/24/17

page 1 of 4

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8. EEO COMPLIANCE. CLIENT and TPG affirm and agree that they are equal employment opportunity employers and are in full compliance with any and all applicable anti-discrimination laws, rules, and regulations. CLIENT and TPG agree not to harass, discriminate against, or retaliate against any employee of the other because of his or her race, national origin, age, sex, religion, disability, marital status, or other category protected by law; nor shall either party cause or request the other party to engage in such discrimination, harassment, or retaliation. In the event of any complaint of unlawful discrimination, harassment, or retaliation by any Assigned Employee, CLIENT and TPG agree to cooperate in the prompt investigation and resolution of such complaint. CLIENT agrees that it will not retaliate or take retributive action against TPG or any Assigned Employee for making or filing a complaint of harassment or discrimination.

9. FMLA COMPLIANCE. CLIENT and TPG agree that for purposes of all statutory and regulatory requirements for employee leaves of absence, including the Family and Medical Leave Act and any similar state or local law, CLIENT and TPG shall cooperate in compliance with any such requirements.

10. ADA COMPLIANCE. The Americans with Disabilities Act (ADA) and similar state and local laws (collectively "Disability Laws") require employers to reasonably accommodate the disabilities of qualified employees. TPG agrees that it will be financially responsible to provide reasonable accommodation to qualified Assigned Employees during the hiring process. CLIENT agrees that it will be financially responsible to provide reasonable accommodation to qualified Assigned Employees at the CLIENT's work site. Upon request from CLIENT, TPG will assist CLIENT in identifying appropriate reasonable accommodations that can be made without undue hardship. It is the responsibility of CLIENT to notify TPG promptly of any request for accommodation by an Assigned Employee.

11. This Agreement shall be for an initial term of one year from the effective date of this Agreement, determined by the later date of signature of the parties. This Agreement shall be automatically renewed for successive one-year terms unless modified or terminated in accordance with the provisions of this Agreement. The parties agree to waive any notice prior to automatic renewal of this Agreement that may be required by state law. Either party may terminate this Agreement by giving 90-days written notice to the other party. Such notice shall be personally delivered or sent by recognized overnight courier or by certified mail, return receipt requested, and shall be effective when received as follows:

As to The Plus Group, inc.

Margaret Fernandez

Branch Manager

The Plus Group, Inc.

855 Harter Parkway, Suite 370

Yuba City, CA 95993

As to CLIENT:

Ryan Digiulio  
Assistant Superintendent of Business Services  
MJUSD  
1919 B Street  
Marysville, CA 95901

Either party may designate a different person to whom notices should be sent at any time by notifying the other party in writing in accordance with this Agreement. Notwithstanding any other provision of this Agreement, in the event the other party declares or becomes bankrupt or insolvent, dissolves or discontinues operations, or fails to make any payments within the time periods specified in this Agreement, either party may terminate this agreement upon 24 hours notice.

12. Conversion Fees: TPG shall waive its right or claim to any placement fee, conversion fee, or liquidated damages in the event CLIENT hires directly on to its own payroll any Assigned Employee at any time after such Assigned Employee has worked at CLIENT's facility for at least 590 hours provided that CLIENT has paid to TPG all invoiced amounts for such Assigned Employee. In the event that CLIENT hires or engages as an independent contractor any Assigned Employee prior to the completion of the agreed conversion period, CLIENT shall pay to TPG a fee in the amount of \$750.00 of the Assigned Employee's annualized compensation, or as otherwise agreed in writing at time of conversion.

13. No Payroll Transfer: CLIENT agrees not to directly or indirectly cause or permit any Assigned Employee assigned to CLIENT by TPG pursuant to this Agreement to transfer to another entity's payroll, or to perform services for CLIENT while on the payroll of any person or firm other than TPG during the term of this Agreement and for a period of 365 days after such Assigned Employee's assignment at CLIENT ends. If CLIENT violates this paragraph, then CLIENT shall pay to TPG a fee in the amount of 20% of the Assigned Employee's annualized compensation, or \$3,000.00, whichever figure is higher, or as otherwise agreed in writing at time of transfer.



14. Notwithstanding any other provision of this Agreement, if CLIENT terminates this Agreement or notifies TPG of its intent to terminate this Agreement, and CLIENT desires to have all or some of the Assigned Employees continue to work at CLIENT's facilities, CLIENT shall (a) pay TPG a conversion or transfer fee as stated in EXHIBIT A (b) To continue to pay TPG for such Assigned Employee's services at TPG's billing rate in effect at the time of the termination of the Agreement for any services performed by such Assigned Employee for a one-year period following the cancellation of this Agreement. CLIENT shall notify TPG which of the options in this paragraph it elects, in writing, at least no more than five (5) days prior to the date it intends to terminate this Agreement and to make such payments as may be required as soon as practicable thereafter, but in no event less than ten (10) days from the date the Agreement is terminated. If CLIENT does not make the election within such five-day (5-day) period, option (a) will apply.

15. Those provisions of this Agreement that by their terms extend beyond the termination or non-renewal of this Agreement shall remain in full force and effect and survive such termination or non-renewal. No provision of this Agreement may be amended or waived unless such amendment or waiver is agreed to in writing signed by the parties.

16. Severability: Each provision of this Agreement shall be considered severable such that if any one provision or clause conflicts with existing or future applicable law, or may not be given full effect because of such law, this shall not affect any other provision which can be given effect without the conflicting provision or clause.

17. Complete Agreement and Authority to Sign: This Agreement, the exhibits attached hereto, and the provisions on the TPG Timesheet Agreement, contain the entire understanding between the parties hereto, and supersede all prior agreements and understandings relating to the subject matter hereof. Any individual signing this Agreement on behalf of CLIENT represents, warrants and guarantees he or she has full authority to do so. Each party represents that it has the power and actual authority to enter into this Agreement and to be bound by the conditions and terms contained therein. The provisions of this Agreement shall inure to the benefit of and be binding upon the parties and their respective representatives, successors, and assigns. CLIENT shall not transfer or assign this Agreement without the written consent of TPG.

18. Waiver: The failure of a party to enforce the provisions of this Agreement shall not be construed as a waiver of any provision or the right of such party thereafter to enforce each and every provision of this Agreement.

19. Ambiguities: The rule of construction that ambiguities in an agreement are to be construed against the drafter shall not be invoked or applied in any dispute regarding the meaning or interpretation of any provision of this Agreement.

20. Arbitration of disputes. (a) Except for claims of non-payment and for injunctive relief, any controversy or dispute between the parties, whether arising out of or in connection with this Agreement or otherwise, shall be resolved in an arbitration under the Federal Arbitration Act and before the American Arbitration Association (AAA) in accordance with AAA's then obtaining Commercial Arbitration Rules at the AAA location closest to TPG's office. The parties shall share the administrative cost of the arbitration and the arbitrator's fee equally. (b) In such arbitration, the arbitrator shall have no authority or power to amend, modify, or in any other way change any of the terms of this Agreement. All decisions of such arbitrator shall be final and binding upon both parties. The prevailing party in such Arbitration as determined by the arbitrator in his or her decision shall be awarded an amount equal to its reasonable attorney's fees incurred in connection with such arbitration, in addition to what other relief may be awarded. The Federal Rules of Procedure and Evidence shall apply to any such proceeding, and the arbitrator shall be a retired Federal or State judge. To the extent applicable in civil actions in Federal courts, the following shall apply and be observed: all rules of pleading (including the right to file a Motion to Dismiss), all rules of evidence, all rights to resolution of the dispute by means of motions for summary judgment, and judgment on the pleadings. Resolution of the dispute shall be based solely upon the law governing the claims and defenses pled, and the arbitrator may not invoke any basis other than such controlling law, including but not limited to notions of "just cause." Awards exceeding Fifty Thousand Dollars (\$50,000.00) shall include the arbitrator's written opinion providing reasoned explanations for the decision, and at either party's written request within ten days after issuance of the award, shall be subject to reversal and remand, modification, or reduction following review of the record and arguments of the parties by a second arbitrator who shall, as far as practicable, proceed according to the law and procedures applicable to appellate review by the Federal courts of appeal regarding a civil judgment following court trial. (c) Judgment upon any award rendered by the arbitrator may be entered in any court having jurisdiction thereof.

21. Indemnifications. (a) To the extent permitted by law, and except for claims, losses, and liabilities expressly disclaimed by TPG in paragraph 22 below, TPG agrees to defend, indemnify, and hold CLIENT harmless of and from any and all claims or losses that CLIENT actually incurs (including reasonable attorney's fees) proximately caused by the fault, negligence, gross negligence, or recklessness of TPG, or TPG's officers, employees (to the exclusion of Assigned Employees under the direction and control of CLIENT), or authorized agents, or which arise from TPG's breach of this Agreement. (b) To the extent permitted by law, CLIENT agrees to defend, indemnify, and hold TPG harmless against any and all claims, losses, and liabilities that TPG incurs (including reasonable attorney's fees agreed upon by CLIENT) that are proximately caused by the fault, negligence, gross negligence, or recklessness of CLIENT, or CLIENT's officers, employees, Assigned Employees under CLIENT's direction and control, or authorized agents, that arise from CLIENT's breach of this Agreement, that arise from risks inherent in CLIENT's business, or that are expressly disclaimed by TPG in paragraph 22. (c) The parties agree that this paragraph 21 is the complete agreement between them with respect to any possible indemnification claim, and waive their right to assert any common-law indemnification or contribution

claim against the other. (d) As a condition precedent to indemnification hereunder, the parties each agree to inform the other within 2 business days of its receipt of any claim, demand, or notice for which indemnification hereunder may be sought, and to cooperate in the investigation and defense of any such claim, demand, or notice.

22. Disclaimer of TPG Liability: TPG expressly disclaims liability for any claim, loss, or liability of any kind whatsoever resulting from: (a) CLIENT's failure to supervise, control, or safeguard premises, processes, or systems; or, without TPG's express prior written approval, entrusting Assigned Employees with unattended premises, cash, checks, keys, credit cards, merchandise, confidential or trade secret information, negotiable instruments, or other valuables. (b) CLIENT requesting or permitting Assigned Employees to use any vehicle, regardless of ownership, in connection with the performance of services for CLIENT unless TPG has given its express prior approval in writing. (c) Claims by any person arising from the acts or omissions of any Assigned Employee that were specifically directed by CLIENT without TPG's express approval. (d) Claims by Assigned Employees for benefits, damages, contributions, or penalties under any employee benefit plan, fringe benefit plan, or personnel policy sponsored and maintained by CLIENT, whether or not CLIENT's plans exclude Assigned Employees from coverage. (e) Promises of increased compensation made by CLIENT to Assigned Employees. (f) Claims by any person relating to any CLIENT product or service. (g) CLIENT's making substantial changes in the Assigned Employee's job duties or risks without TPG's prior written approval. (h) Claims by any person based on allegations that CLIENT's business activities damaged the environment. (i) The conduct of CLIENT's officers, employees, and agents. (j) Failure by CLIENT to provide Assigned Employees with a safe worksite or to provide information, training, and safety equipment with respect to any hazardous substances or conditions to which they may be exposed at the worksite, whether or not required by law. (k) Acts or omissions of any Assigned Employee in the furtherance of CLIENT's particular business, except for those that could occur on any assignment to any type of client and except to the extent that such claim, loss, or liability is caused by TPG's failure to properly perform its screening, selection, assignment, or other contractual duties with respect to the Assigned Employee. (l) Claims for special, indirect, consequential, punitive, or lost profit damages.

23. CLIENT agrees to notify THE PLUS GROUP of its insolvency or its intention to file bankruptcy, dissolve or close its business. CLIENT acknowledges and agrees that the majority of fees paid to TPG are for wages paid to Assigned Employees.

24. Choice of Law: This agreement shall be governed by and construed in accordance with the laws of the State of California, without reference to any conflicts of law principles thereof.

IN WITNESS WHEREOF, The Plus Group, inc. and CLIENT have duly executed this Agreement on the dates set forth below.

MARYSVILLE JOINT UNIFIED SCHOOL DISTRICT

*Re*  
Signature

*Ryan Dibiulio*  
Printed Name  
*Assistant Superintendent*  
*of Business Services*  
Title

*1/25/17*  
Date

THE PLUS GROUP, INC

*Margaret Fernandez*  
Signature

Margaret Fernandez

Printed Name

Branch Manager

Title

*1.24.17*  
Date

EXHIBIT A

THE PLUS GROUP'S PREFERRED RATE SCHEDULE FOR  
MARYSVILLE JOINT UNIFIED SCHOOL DISTRICT'S SHADY CREEK OUTDOOR SCHOOL  
GUARANTEED THROUGH AUGUST 31, 2017

Position

Billing Rate

Licensed Vocational Nurse/  
Healthcare Provider

February 21-24, 2017 @ \$326.16 x 4 = \$1,304.64

Invoice for LVN-Shady Creek Outdoor Classroom will not exceed \$1,304.64 for a 4-day assignment

Total bill rate includes: Employee's per diem rate of pay, workers' compensation insurance, risk management, all statutory costs for employer taxes, payroll administration, human resources responsibilities and recoup of recruiting cost.

This position will be located at Shady Creek Outdoor Classroom site at 18601 Pathfinder Way, Nevada City, CA. All employees will have a valid and current LVN license, clear DOJ-Livescan report, a clear TB result and other certifications and documentation require by the Shady Creek administrators.

Your company agrees that it shall not for a period of one year following or during services to your company pursuant to this agreement, hire or employ any person who was an employee of The Plus Group accept the assignment of the person. by another temporary employment firm.

AGREED TO:

Marysville Joint Unified School District

Re

Signature

Ryan DiGiulio

Printed Name

Assistant Superintendent  
of Business Services

Title

1/25/17

Date

AGREED TO:

The Plus Group, inc.

Margaret Fernandez

Signature

Margaret Fernandez

Printed Name

Branch Manager

Title

1.24.17

Date



## Solution Tree Purchasing Agreement

Effective February 28, 2017, Solution Tree, Inc. ("Solution Tree") located at 555 N. Morton St., Bloomington, IN 47404 and Marysville Joint Unified School District - Linda Elem. School ("Customer") located at 6180 Dunning Ave. Marysville, CA US 95901 agree as follows:

### 1. Product Summary

- 1.1. Products:** Customer shall purchase the following Solution Tree products and services ("Products"). Any additional Products may be added to this Agreement by a written Addendum signed by both parties.

Product	Amount
Professional Development Services	\$13,000.00
<b>Total</b>	<b>\$13,000.00</b>

### 2. Professional Development Services

- 2.1. Description of Services:** Solution Tree agrees to provide a speaker, Maria Nielsen ("Associate"), to disseminate information for Customer on the topic of *PLC at Work™* on April 5, 2017 to April 6, 2017.
- 2.2. Reproducibles:** Customer is responsible for the reproduction of all handouts and other print materials related to the services, and Customer will notify the Associate directly of any deadlines for reproduction.
- 2.3. Venue and Audio/Visual Equipment:** Customer will provide a venue, audio/video equipment and technical support for all sessions.
- 2.4. Recording of Presentation:** All audio, video, and digital recording of the services is prohibited.
- 2.5. Rescheduling:** If events beyond the parties' control make performance on the scheduled dates impossible, the parties will make a good faith effort to reschedule the Professional Development Services.

### 3. Payment Terms

- 3.1. Invoicing and Purchase Orders:** Upon execution of this Agreement, CUSTOMER WILL PROVIDE SOLUTION TREE WITH A PURCHASE ORDER FOR THE FULL AMOUNT DUE UNDER THIS AGREEMENT. Solution Tree will invoice Customer off of this purchase order based on the following schedule:

Description	Payment	Expected Invoice Date
20% Deposit (non-refundable)	\$2,600.00	Upon execution of contract
Professional Development	\$10,400.00	April 5, 2017

- 3.1.1.** The total includes all travel, lodging, and other incidental expenses. All payment terms are net 30 days from the actual date of invoice. All late payments are subject to a finance



charge of 1.5% monthly. Please make purchase order(s) out to: Solution Tree, 555 North Morton Street, Bloomington, IN 47404.

#### 4. General Terms

- 4.1. Intellectual Property:** Customer acknowledges that Solution Tree or Associate own the copyrights to all tangible or electronic presentation materials, handouts, and/or program books used in conjunction with services performed under this Agreement, and that no materials will be developed specifically for Customer. Solution Tree shall retain all copyrights owned prior to entering this Agreement, and Customer may not reproduce any materials not designated reproducible without the express written permission of Solution Tree.
- 4.2. Termination:** Solution Tree may terminate this Agreement if Solution Tree has not received a purchase order within 30 days of the effective date of this Agreement.
- 4.2.1. Cancellation:** If Customer cancels any Professional Development Services within 90 days of the scheduled date for any reasons but Force Majeure, Customer shall reimburse Solution Tree for any reasonable business expenses incurred in anticipation of performance of this Agreement that exceed the amount of the deposit.
- 4.3. Force Majeure:** If events beyond the parties' control make it impossible to perform under this Agreement, the party unable to perform shall not have any liability to the other party for the prevented performance. All obligations unaffected by such an event shall remain in place.
- 4.4. Entire Agreement:** This Agreement and any exhibits attached hereto constitute the entire agreement of the parties and supersede any prior or contemporaneous written or oral understanding or agreement. No waiver or modification of any of the terms of the Agreement shall be effective unless made in writing and signed by both parties, and the unenforceability, invalidity, or illegality of any provision of this Agreement shall not render the other provisions unenforceable, invalid, or illegal. Any waiver by either party of any default or breach hereunder shall not constitute a waiver or any provision of this Agreement or of any subsequent default of breach of the same or a different kind.
- 4.5. Offer Valid:** The pricing set forth in this Agreement shall be valid for 14 days from the effective date listed above.

This Agreement is acknowledged and accepted by Customer and Solution Tree:

\_\_\_\_\_  
Ryan DiGiulio  
Superintendent of Business Services  
Marysville Joint Unified School  
District

Date

\_\_\_\_\_  
Ali Cummins  
Associate Director of  
Professional Development  
  
Solution Tree, Inc.

1/30/17  
\_\_\_\_\_  
Date



Please fax or email this agreement to: **Matei Tichindelean**  
Fax: (866.308.3135)  
Email: [Matei.Tichindelean@SolutionTree.com](mailto:Matei.Tichindelean@SolutionTree.com)



Solution Tree

CONTACT INFORMATION

Please provide the following information:

Who will be the contact person for the work?

Contact: Judy Hart  
Title: Principal  
Phone: 530-741-6196  
E-mail: JHart@myusd.com  
Fax: 530-741-7849

Who will receive and pay the invoices?

Contact: Vickie White  
Title: Secretary  
Phone: 530-749-6196  
E-mail: VWhite@myusd.com  
Fax: 530-741-7849





# EVENT BOOKING AGREEMENT

PLEASE SIGN AND RETURN THIS AGREEMENT TO:

Galaxy Mobile DJs  
2281 Clearbrook Circle  
Roseville, CA 95747

Cell: (916) 412-3398 Toll-Free: (877) 994-5994 Fax: (877) 994-5994  
Email: matt@galaxymobiledj.com  
Website: www.galaxymobiledj.com

Agreement made on 1/20/2017 between  
Galaxy Mobile DJs and:

Jennifer Campbell (Cust #)  
McKenney Intermediate School  
1904 Huston St  
Marysville, CA 95901  
Home: 530-680-2024 Work: 530.741.6187 x. 2381

Services Provided	Price
Middle School	\$600.00
(Qty 4) Extra speakers	\$0.00
(Qty 3) Wireless Microphone	\$0.00
Tax:	\$0.00
Total amount for services:	\$600.00

Deposit of \$0.00 is paid  
Printed on 1/20/2017

To provide services for the above client on the date of 6/8/2017 between the hours of 5:00 PM to 9:30 PM for a Middle School to be held at the following location(s):  
Jennifer Campbell in Marysville

Required Deposit of \$0.00.

## WITNESSETH

NOW THEREFORE, in consideration of the promises and the agreements herein contained and intending to be legally bound hereby, the Parties do agree as follows:

1. The Purchaser hereby engages the DJ to provide a DJ Service. The service to be performed at Event Location.
2. Galaxy Mobile DJs hereby agrees to provide a DJ Service for the Purchaser at the above-mentioned location.
3. The said DJ Service shall consist primarily of providing musical entertainment by means of a recorded music format.
4. Galaxy Mobile DJs hereby agrees to render its professional services and is at all times to have complete control of his program.
5. The Parties hereby agree that the DJ service shall be provided and accepted on the following date(s) and time(s) of the engagement.
6. The Purchaser in consideration of the DJ Service to be rendered by the DJ, and the mutual promises contained herein, hereby agrees to pay to the DJ the following consideration:

The deposit amount is non-refundable and is required to secure the services of Galaxy Mobile DJs for the engagement. This amount shall be applied toward the Performance Fee. Services requested that exceed the outlined time frame will be charged at the rate of \$100.00 per hour, payable the day of the engagement. It may not always be possible to provide additional performance time. However, when feasible, requests for extended playing time will be accommodated.

### Balance is to be paid in full on or before date of above mentioned event.

7. Galaxy Mobile DJs will make all attempts to accommodate specific DJ performer requests by the customer. However, Galaxy Mobile DJs cannot guarantee specific DJs will be available for this event, and will provide an equal / experienced backup in case of emergency.

**Additional Terms and Conditions** The agreement of the DJ to perform is subject to proven detention by accidents, riots, strikes, epidemics, acts of God, or any other legitimate conditions beyond their control. If such circumstances arise, all reasonable efforts will be made by Galaxy Mobile DJs to find replacement entertainment at the agreed upon fees. Should Galaxy Mobile DJs be unable to procure a replacement, Purchaser shall receive a full refund. Purchaser agrees that in all circumstances, Galaxy Mobile DJs liability shall be exclusively limited to an amount equal to the performance fee and that Galaxy Mobile DJs shall not be liable for indirect or consequential damages arising from any breach of contract. All deposits are non-refundable and is either (\$195) or (25%) of the total balance whichever is the higher amount. A service canceled between thirty ( 30 ) and zero ( 0 ) days prior to the event will forfeit the full balance ( 100% ) immediately. Additionally PURCHASER has the right to reschedule the event within thirty ( 30 ) days of original date less the original paid deposit at the discretion of availability. PURCHASER also will be billed for parking when free parking is not available. This fee will be added to final bill.

The purchaser and DJ agree that this contract is not subject to cancellation unless both parties have agreed to such cancellation in writing. In the event the Purchaser breaches the contract, he or she shall pay the DJ the amount set forth above as "Wage agreed upon" as liquidated damages, 6% interest thereon, plus a reasonable attorney's fee.

It is hereby further agreed; that the Purchaser shall be held liable for any injury or damages to the DJ, or property of the DJ, while on the premises of said engagement, if damage is caused by Purchaser or guest, members of his organization, engagement invitees, employees, or any other party in attendance, whether invited or not.

It is understood that if this is a "Rain or Shine" event, Galaxy Mobile DJs compensation is in no way affected by inclement weather. For outdoor performances,

Purchaser shall provide overhead shelter for setup area (to prevent rain and direct sun). The DJ reserves the right, in good faith, to stop or cancel the performance should the weather pose a potential danger to him, the equipment, or audience. Every effort will be made to continue the performance. However, safety is paramount in all decisions. The DJ's compensation will not be affected by such cancellation.

In the event of circumstances deemed to present a threat or implied threat of injury or harm to Galaxy Mobile DJs staff or any equipment in its possession, Galaxy Mobile DJs reserves the right to cease performance. If the Purchaser is able to resolve the threatening situation in a reasonable amount of time (maximum of 15 minutes), Galaxy Mobile DJs shall resume performance in accordance with the original terms of this agreement. Purchaser shall be responsible for payment in full, regardless of whether the situation is resolved or whether Galaxy Mobile DJs resumes performance. In order to prevent equipment damage or liability arising from accidental injury to any individual attending this performance, Galaxy Mobile DJs reserves the right to deny any guest access to the sound system, music recordings, or other equipment.

Purchaser shall provide Galaxy Mobile DJs with safe and appropriate working conditions. This includes a 6-foot by 6-foot area for setup, space for setting up speakers and lighting stands. Galaxy Mobile DJs requires a minimum of one 15-20-amp circuit outlet from a reliable power source within 50 feet (along the wall) of the set-up area. This circuit must be free of all other connected loads. Any delay in the performance or damage to DJ's equipment due to improper power is the responsibility of the purchaser. Two circuits are preferred, where possible. Additional outlets on SEPARATE circuits for lighting (if contracted for) are required. Purchaser shall provide crowd control if warranted; and furnishing directions to place of engagement. Purchaser is responsible for paying any charges imposed by the venue. These charges may include, but are not limited to, parking, use of electric power, and fire marshal if necessary (for use of fog).

The Purchaser shall at all times have complete control, direction and supervision of the performance of Galaxy Mobile DJs at this engagement and Purchaser expressly reserves the right to control the manner, means and details of the performance of the services of Galaxy Mobile DJs performer. A written event/music planner or music request list must be received from the Purchaser and forwarded to Galaxy Mobile DJs at least two weeks prior to the date of the engagement for it to be included in Galaxy Mobile DJs programming guidelines. With or without the aid of an event/music planner or music request list, Galaxy Mobile DJs shall attempt to play Purchaser's and Purchaser's guests' music requests but shall not be held responsible if certain selections are unavailable. Galaxy Mobile DJs will make an extra effort to have music requests available if they are received IN WRITING at least two weeks prior to the engagement.

In the event of non-payment, Galaxy Mobile DJs retains the right to attempt collection through the courts. Purchaser will be held responsible for all court fees, legal fees, and collection costs incurred by Galaxy Mobile DJs. Purchaser shall be charged \$25 for each returned check plus a \$7.50 service charge for each collection notice.

This agreement guarantees that Galaxy Mobile DJs will be ready to perform at the start time of the engagement. No guarantee is made as to Galaxy Mobile DJs time of arrival; however, Galaxy Mobile DJs requests that they be permitted (60-90) minutes before the engagement and 45 minutes after the engagement for setup and takedown. Galaxy Mobile DJs also requests ramp or elevator access between the parking/service entrance and the setup area. If the venue requires setup or takedown in less time, or if equipment must be carried up stairs or lifted onto a stage to reach the setup area, additional labor will be charged at the rate of \$50.00. If Purchaser or venue requires Galaxy Mobile DJs to complete setup more than one hour before the start time, or to postpone takedown more than hour after the end time indicated, the additional time will be charged at the rate of \$50.00 per half-hour.

By executing this contract as Purchaser, the person executing said contract, either individually, or as an agent or representative, represents and warrants that he or she is eighteen (18) years of age, and further, if executing said contract as agent or representative, that he or she has the authority to enter into this agreement and should he or she not have such authority, he or she personally accepts and assumes full responsibility and liability under the terms of this contract.

All attached riders are an integral part of this contract. This contract will supersede any other contract. If any part of this contract is illegal or unenforceable, the remaining provisions of this contract will remain valid and enforceable to both parties. This contract contains the entire agreement between the parties and no statement, promises, or inducements made by any party hereto, or agent or representative or either party hereto, which are not contained in this written contract, shall be valid or binding. This contract shall not be enlarged, modified, or altered except in writing by both parties and endorsed hereon.

The laws of the State of California shall govern this agreement. In the event of suit involving or relating to this agreement, Purchaser agrees that venue will be in Placer County.

Purchaser agrees to defend, indemnify, assume liability for and hold Galaxy Mobile DJs harmless from any claims, damages, losses and expenses by or to any person, regardless of the basis, which pertains directly or indirectly to Galaxy Mobile DJs performance. In the event that a civil action arises in an effort to enforce any provision of this agreement, the losing party shall pay the attorney's fee and court costs of the prevailing party.

Purchaser may not transfer this contract to another party without the prior written consent of Galaxy Mobile DJs.

This agreement is not binding until signed by both Purchaser and Galaxy Mobile DJs has received it. Any changes must be written and signed by both the Purchaser and Galaxy Mobile DJs. Oral agreements are non-binding. If any clause in this agreement is found to be illegal, the rest of the agreement shall remain in force.

Galaxy Mobile DJs may elect not to exercise their rights as specified in this agreement. By doing so, Galaxy Mobile DJs does not waive their right to exercise those options at a future date.

Galaxy Mobile DJs may take photo and video footage. This may be used only for promotional purposes. If you do not give consent please print and return this contract with a line through this paragraph.

THE PARTIES hereto promise to abide by the terms of this agreement and intend to be legally bound thereby.

DocuSigned by:

Matthew D. Deutschman

1/23/2017

Agreed:

AB2EE3084643408...

Galaxy Mobile DJs Representative

Date:

Agreed:

Client Signature

Date:

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***Sutter Buttes, LLC, Southridge Estates***

***FACILITIES RENTAL AGREEMENT***

This Facilities Rental Agreement ("Agreement"), is entered into on 2/28/17 by and between ("Lessor") **SutterButtes, LLC aka Southridge**, of 9413 S Butte Road, Sutter, California 95982 and ("Lessee") Marysville Joint Unified (Prom)

The parties hereto, intending to be legally bound, and in consideration of the mutual covenants hereinafter contained, agree as follows:

**GRANT**

Lessor, on the dates and times set forth herein, and subject to the terms and conditions of this Agreement, hereby grants to Lessee a license to use **Sutter Buttes, LLC aka Southridge Estates** "Facility" for the The ("Event") to be held on 04/01/2017

**DATE/TIMES OF PERMITTED USE**

Access to the Facility for the Event will commence at 12 pm on the date of the Event and will end at 11pm. All personal items of Lessee and Lessee's vendors and third party's shall be removed and out of the facility no later the 12:30 am (day of event)

**RENTAL FEE/ NON-REFUNDABLE DEPOSIT / CLEANING DEPOSIT**

Lessee shall pay to Lessor as a rental fee for the use by Lessee of the Facility, the sum of \$1,500 plus all other charges to be paid by Lessee under this Agreement (the "Rental Fee"). Lessee shall agree to pay an initial **non-refundable deposit of \$500.00 to Lessor** upon the execution of this Agreement, which sum shall be applied by Lessor to the Rental Fee. The balance of the Rental Fee shall be paid in full by Lessee within 120 days from the termination date by Lessor.

Lessee shall agree to pay Lessor a \$500.00 Security Deposit to repair any necessary damages or to clean the premises in order to restore facility to the same level of cleanliness it was in at the inception of tenancy. Lessee at the discretion of Lessor may not be responsible for sweeping vacuuming floors but will be responsible for kitchen clean up. Security deposit less any necessary deductions shall be refunded within 48 hours of event.

**VENUE/RESTRICTED AREAS**

Southridge Event Venue sits on a natural uncontrolled environment and restricts Lessee and all guest and service people to the immediate area surrounding the venue. This includes parking lot and patio. The grass area on the South side directly off the Ballroom will be available upon request. Lessee shall be responsible for any violated restrictions by guest or service people and assumes any and all liability that may occur for guest or third party service people in restricted areas.

**CATERER**

Lessee acknowledges that caterer is not affiliated with Lessor. Services conducted by caterer shall hold harmless Lessor for any and all food preparation, food contamination and

Business Services Department

Approval: [Signature]

Date: 2/6/17

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service of food. Lessee acknowledges that caterer shall work in compliance with county health department rules and regulations with regard to hygienic preparation and service of food.

### **THIRD PARTY SUPPLIERS/VENDORS**

Any third party suppliers/vendors used or contracted by Lessee shall carry liability and other necessary insurance in the amount of no less than \$1,000,000.00 to protect itself against any claims arising from any officially scheduled activities during their event/program period(s); and to indemnify Lessor Sutter Butt, LLC aka: Southridge Event Venue which shall be named as an additional insured for the duration of this agreement.

### **INSURANCE**

Lessee agrees that it shall, at its sole cost and expense, procure and maintain a policy of commercial general liability insurance (including contractual liability) in an amount not less than \$1,000,000.00 per occurrence, \$3,000,000.00 in the annual aggregate. Such insurance policies shall be carried with companies licensed to do business in the state, reasonably satisfactory to Lessor and shall be non-cancelable and not subject to material change except after thirty (30) days written notice to Lessor. Lessee shall deliver to Lessor duly executed certificates of insurance upon request. Lessor shall not at any time be liable for damage or injury to persons or property in or upon the Facility.

### **INDEMNIFICATION**

Lessee shall indemnify, defend and save harmless Lessor, its officers, agents and employees from and against any and all loss, cost (including attorneys' fees), damage, expense and liability (including statutory liability and liability under workers' compensation laws) in connection with claims, judgments, damages, penalties, fines, liabilities, losses, suits, administrative proceedings, arising out of any act or neglect by Lessee, its agents, employees, contractors, Lessees, invitees, representatives, in, on or about the Facility. This indemnity shall survive the termination of this Agreement. Lessee hereby releases Lessor from any and all liability or responsibility to Lessee or anyone claiming through or under Lessee by way of subrogation or otherwise for any loss or damage to equipment or property of Lessee covered by any insurance then in force.

### **INDEPENDENT CONTRACTOR**

Lessee understands and agrees that Lessor shall have the right on behalf of and in the name of Lessee to contract with others for necessary services, supplies, equipment, service people or otherwise in the carrying out of duties and services outlined in this agreement. Lessee understands that in all such matters, Lessor is an independent contractor, not an agent or employee of Lessee and is not authorized to act on behalf of Lessee except as outlined in the agreement. Lessee is entitled to provide Lessor general guidance to assist in completing the scope of services to Lessee satisfaction, nevertheless Lessor is ultimately responsible for directing and controlling the performance of the services comprising the scope of work; in accordance with the terms and conditions of this agreement.

### **"AS-IS" CONDITION**

Lessee agrees to accept the Facility in its "as-is" condition "with all faults".

### **ASSIGNMENT AND SUBLICENSING**

Lessee shall not assign any interest in this License Agreement or otherwise transfer or sublicense the Facility or any part thereof or permit the use of the Facility to any party other than Lessee.

### **TERMINATION**

Lessor may terminate this Agreement based upon any one or more of the following events:

A. Failure of Lessee to pay the Rental Fee or any other charges due hereunder when the same is due;

B. Lessee fails to perform any of its covenants hereunder. In any of the aforesaid events, and in addition to any and all rights and remedies available to Lessor by law or in equity, Lessor may, with or without further notice, forthwith terminate this Agreement and expel and remove Lessee, or any other person or persons in occupancy from the Facility, together with their goods and chattels, using such force as may be necessary in the judgment of Lessor or its agents in so doing, without evidence of notice or resort to legal process or becoming liable for any loss of damage which may be occasioned thereby, and repossess and enjoy said Facility, and in addition to any other remedy it may have, Lessor may recover from Lessee all damages it may incur by reason of such breach by Lessee.

### **INTERFERENCE**

Lessee shall use the Facility in a manner which shall not cause interference with the use or occupancy of the other portions of the Building by Lessor or others in any way. Lessee's use hereunder will be done in such a manner so as not to interfere with or impose any additional expense upon Lessor in maintaining the Building.

### **RESTORATION**

If any damage occurs to the Facility, or if any repairs or replacements need to be made to the Facility as a result of Lessee's exercise of its rights under this License, Lessee shall pay Lessor for any such damage, repairs, or replacements upon demand by Lessor.

### **CANCELLATION**

Lessee may cancel this Agreement at any time up to 180 days prior to the Event Date by providing written notice of such election to Lessor, at no cost to Lessee other than **Non-refundable deposit**. If Lessee shall elect to cancel this agreement between 179 and 120 days prior to the Event Date, Lessee will be charged 50% of the Rental Cost and any expenses incurred in good faith by Lessor in preparation for Lessee's use of the Facility. For cancellations 119 days prior to Event Date, Lessee will be charged 100% of the Rental Costs and any expenses incurred by Lessor.

### **GOVERNING LAW**

This Agreement shall be governed by and construed in accordance with the laws of the

State of California. Any legal actions, claims or demands shall be handled in a court of competent jurisdiction within the State of California.

### **SMOKING OR TOBACCO PRODUCTS**

Any interior area of the South Butte, LLC, aka: Southridge Event Venue building is smoke-free and tobacco-free. There are no designated smoking and /or tobacco-use areas within South Butte, LLC aka: Southridge Event Venue grounds.

### **UNLAWFUL ACTIVITY**

Lessor has the right to terminate the event prior to completion if any illegal activity is present. This includes lessee or guests bringing unlicensed alcoholic beverages onto the premises, serving underage guest, unlawful use of illegal drugs, or bringing firearms onto the building.

### **RULES**

Failure to follow any of the rules at South Butte, LLC aka: Southridge Event Venue may result in partial or total forfeiture of the lessee's deposit.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

LESSOR: Mark Anthony, Southridge Estate

Date: 2/28/17

LESSEE: \_\_\_\_\_

Date:

**REQUEST FOR ALLOWANCE OF ATTENDANCE  
BECAUSE OF EMERGENCY CONDITIONS  
Form J-13A (Rev. 01-05)**

School District (or Charter School) Name: Marysville Joint Unified School District

School District (or Charter School) Address: 1919 B Street, Marysville, CA 95901

County-District Code: 58727360000000

County Name: Yuba

This form replaces the Form J-13A (Rev. 4-90) and should be used to obtain approval of attendance and instructional time credit under one or more of the following conditions:

- When one or more schools were closed because of conditions described in *Education Code* Section 41422
- When one or more schools were kept open but experienced a material decrease in attendance because of conditions described in *Education Code* Section 46392
- When attendance records have been lost or destroyed as described in *Education Code* Section 46391

Approved credit for instructional time may be used in conjunction with regular instructional days to satisfy the requirements of *Education Code* Section 37202 (equal length of instructional time among schools within a district).

A separate form should be submitted for each emergency event, but credit may be requested for more than one school and under one or more of the foregoing conditions on the same form. Each separate form must include the affidavit of the governing board members and the county superintendent before it can be approved by the State Superintendent of Public Instruction.

The original form (with the board members' affidavit) and two copies should be filed with the county superintendent of schools. If the county superintendent approves the request, he or she should execute the affidavit certifying that approval and forward all pages of the original and one copy of the form to:

Office of Principal Apportionment and Special Education  
School Fiscal Services Division  
California Department of Education  
1430 N Street, Suite 3800  
Sacramento, CA 95814

This form consists of five preprinted pages. Pages 1 and 5 (5C for charter schools) must accompany all submissions. Page 4 (Lost or Destroyed Attendance Records) will not need to be submitted by most districts. Multiple copies of Pages 2 and/or 3 may have to be submitted when claims are made on a school-by-school basis.



**MATERIAL DECREASE**

Nature of Emergency (describe): Due to flooding the Yuba County office of Emergency closed Simpson Lane from 10<sup>th</sup> Street in Marysville to Hammonton-Smartsville Road in Linda.

Name of School: See attached (if request covers all schools, write "all schools")

School Code(s): See attached

We request the substitution of estimated days of attendance for actual days of attendance in accordance with the provisions of Section 46392. Approval of this request will authorize use of the estimated days of attendance in the computation of apportionments for the foregoing school(s) for (dates) 01/09/2017  
Flooding/Road Closures during which school attendance was materially decreased because of the described emergency.

Estimated attendance for each day (October or May ADA): 2,017 students per day. Estimated daily attendance multiplied by number of days of material decrease, yields 1,791 days of attendance requested.

State method of determining estimated daily attendance (October or May ADA):

ADA for school month beginning on September 12, 2016 and ending on October 7, 2016.

Actual apportionable attendance for days of material decrease:

Site	Date	Actual Attendance
See attached		

Marysville Joint Unified School District

CDS Code	School	K-3		4-6th		7th-8th		9th-12th		ADA		
		9-Jan	3-Oct	9-Jan	3-Oct	9-Jan	3-Oct	9-Jan	3-Oct	9-Jan	3-Oct	Loss
5872736605659	Cedar Lane	256	288	196	215					452	503	-51.00
5872736605667	Cordia	79	85	23	29					102	114	-12.00
58727366056674	Kynoch	384	424	194	218					578	642	-64.00
58727366056717	Linda	323	385	240	259					563	644	-81.00
58727365830096	SLHS							96	114	96	114	-18.00
	Total									1791	2017	-226.00
												-59%

Marysville Charter Academy of the Arts

CDS Code	School	K-3		4-6th		7th-8th		9th-12th		ADA		
58727365830138	MCAA					70	144	356	369	426	513	-87
												-17%

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**AFFIDAVIT OF GOVERNING BOARD MEMBERS**

We, members constituting a majority of the governing board of the Marysville Joint Unified school district, hereby swear (or affirm) that the foregoing statements are true and are based on official district records.

Jeff BoomRandy RasmussenJim FlurryPaul AllisonFrank CrawfordSusan Scott

Printed Names

Signatures

**At least a majority of the members of the governing board shall execute this affidavit.**

Subscribed and sworn (or affirmed) before me, this \_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_.

Signature, Title \_\_\_\_\_

of \_\_\_\_\_ County, California

Contact/Individual responsible for preparing this form:

Name: Angela Salcido Title: Administrative Assistant

Phone: (530)749-6114 Fax : (530)742-0573 E-mail: asalcido@mjustd.com

**AFFIDAVIT OF COUNTY SUPERINTENDENT OF SCHOOLS**

The information and statements contained in the foregoing request are true and correct to the best of my knowledge and belief.

Signature, County Superintendent of Schools \_\_\_\_\_

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

Subscribed and sworn (or affirmed) before me, this \_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_.

Signature, Title \_\_\_\_\_

of \_\_\_\_\_ County, California

Contact/Individual responsible for preparing this form:

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax : \_\_\_\_\_ E-mail: \_\_\_\_\_

**REQUEST FOR ALLOWANCE OF ATTENDANCE  
BECAUSE OF EMERGENCY CONDITIONS  
Form J-13A (Rev. 01-05)**

School District (or Charter School) Name: Marysville Charter Academy of the Arts

School District (or Charter School) Address: 1917 B Street, Marysville, CA 95901

County-District Code: 58727365830138

County Name: Yuba

This form replaces the Form J-13A (Rev. 4-90) and should be used to obtain approval of attendance and instructional time credit under one or more of the following conditions:

- When one or more schools were closed because of conditions described in *Education Code* Section 41422
- When one or more schools were kept open but experienced a material decrease in attendance because of conditions described in *Education Code* Section 46392
- When attendance records have been lost or destroyed as described in *Education Code* Section 46391

Approved credit for instructional time may be used in conjunction with regular instructional days to satisfy the requirements of *Education Code* Section 37202 (equal length of instructional time among schools within a district).

A separate form should be submitted for each emergency event, but credit may be requested for more than one school and under one or more of the foregoing conditions on the same form. Each separate form must include the affidavit of the governing board members and the county superintendent before it can be approved by the State Superintendent of Public Instruction.

The original form (with the board members' affidavit) and two copies should be filed with the county superintendent of schools. If the county superintendent approves the request, he or she should execute the affidavit certifying that approval and forward all pages of the original and one copy of the form to:

Office of Principal Apportionment and Special Education  
School Fiscal Services Division  
California Department of Education  
1430 N Street, Suite 3800  
Sacramento, CA 95814

This form consists of five preprinted pages. Pages 1 and 5 (5C for charter schools) must accompany all submissions. Page 4 (Lost or Destroyed Attendance Records) will not need to be submitted by most districts. Multiple copies of Pages 2 and/or 3 may have to be submitted when claims are made on a school-by-school basis.

**MATERIAL DECREASE**

Nature of Emergency (describe): The Yuba County Office of Emergency Services issued voluntary evacuations and road closures due to flooding which caused a decline in attendance.

Name of School: Marysville Charter Academy of the Arts (if request covers all schools, write "all schools")

School Code(s): 58727365830138

We request the substitution of estimated days of attendance for actual days of attendance in accordance with the provisions of Section 46392. Approval of this request will authorize use of the estimated days of attendance in the computation of apportionments for the foregoing school(s) for (dates) 01/09/2017  
Flooding/Road Closures during which school attendance was materially decreased because of the described emergency.

Estimated attendance for each day (October or May ADA): 513 students per day. Estimated daily attendance multiplied by number of days of material decrease, yields 426 days of attendance requested.

State method of determining estimated daily attendance (October or May ADA):

ADA for school month beginning on September 12, 2016 and ending on October 7, 2016.

Actual apportionable attendance for days of material decrease:

Site	Date	Actual Attendance
Marysville Charter Academy of the Arts	1/9/17	426

Marysville Joint Unified School District

CDS Code	School	K-3				4-6th		7th-8th		9th-12th		ADA			
		9-Jan	3-Oct	9-Jan	3-Oct	9-Jan	3-Oct	9-Jan	3-Oct	9-Jan	3-Oct	9-Jan	3-Oct	Loss	%
5872736605659	Cedar Lane Elementary School	256	288	196	215							452	503	-51.00	-10%
5872736605667	Cordua Elementary School	79	85	23	29							102	114	-12.00	-11%
58727366056674	Kynoch Elementary School	384	424	194	218							578	642	-64.00	-10%
58727366056717	Linda Elementary School	323	385	240	259							563	644	-81.00	-13%
58727365830096	South Lindhurst High School									96	114	96	114	-18.00	-16%
	Total											1791	2017	-226.00	-59%

Marysville Charter Academy of the Arts

CDS Code	School	K-3				4-6th		7th-8th		9th-12th		ADA			
		9-Jan	3-Oct	9-Jan	3-Oct	9-Jan	3-Oct	9-Jan	3-Oct	9-Jan	3-Oct	9-Jan	3-Oct	Loss	%
58727365830138	Marysville Charter Academy of the Arts							70	144			426	513	-87	-17%

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**AFFIDAVIT OF CHARTER SCHOOL GOVERNING BOARD MEMBERS**

We, members constituting a majority of the governing board of the Marysville Charter Academy of the Arts charter school, hereby swear (or affirm) that the foregoing statements are true and are based on official district records.

Jeff BoomRandy RasmussenJim FlurryPaul AllisonFrank CrawfordSusan Scott

Printed Names

Signatures

**At least a majority of the members of the governing board shall execute this affidavit.**

Subscribed and sworn (or affirmed) before me, this \_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_.

Signature, Title \_\_\_\_\_

of \_\_\_\_\_ County, California

Contact/Individual responsible for preparing this form:

Name: Angela Salcido Title: Administrative Assistant

Phone : (530)749-6114 Fax : (530)742-0573 E-mail : asalcido@mjud.com

**Approval by Superintendent of Authorized Local Educational Agency (LEA)**

Signature, Title \_\_\_\_\_

of \_\_\_\_\_ (LEA).

**AFFIDAVIT OF COUNTY SUPERINTENDENT OF SCHOOLS**

The information and statements contained in the foregoing request are true and correct to the best of my knowledge and belief.

Signature, County Superintendent of Schools \_\_\_\_\_

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

Subscribed and sworn (or affirmed) before me, this \_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_.

Signature, Title \_\_\_\_\_

of \_\_\_\_\_ County, California

Contact/Individual responsible for preparing this form:

Name: \_\_\_\_\_ Title: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax : \_\_\_\_\_ E-mail: \_\_\_\_\_

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## Resolution 2016-17/14

### MARYSVILLE JOINT UNIFIED SCHOOL DISTRICT

#### Elimination of Classified Staff Due To Elimination of Particular Kinds of Service

**WHEREAS**, District, school site and department personnel have made determinations based on anticipated budget shortfalls and/or lack of work, the governing board is being asked to approve the elimination of particular kinds of service among classified personnel, in order to permit the layoff of classified employees;

**NOW, THEREFORE, BE IT RESOLVED**, by the Board that:

1. The services set forth in Attachment A (incorporated by reference) shall be eliminated at the close of the 2016-17 school year, OR on the date of the appropriate sixty (60)-day notification, for the 2017-18 school year, pursuant to Education Code Section 45117(b), which provides that employees being laid off due to a lack of work or lack of funds must receive notice sixty (60) days before the effective date of the layoff.
2. The Board has considered anticipated classified employee attrition (resignations, retirements, etc.). Nevertheless, it is still necessary to terminate classified full-time equivalent positions as referenced in Attachment A, and may leave vacant positions unfilled, due to program funding reductions.
3. It may be necessary to retain the services of some classified employees, due to seniority. In doing so, the district will apply the "bumping" process afforded to employees affected by the elimination of these classified positions, and as afforded to them by the collective bargaining agreements and/or memorandums of understanding with their respective bargaining groups.
4. The Superintendent, or designee, is authorized and directed to send notice(s) of non-reemployment pursuant to E.C. 45117(b), to any employee whose services shall be terminated by virtue of this Resolution. Termination will become effective, in accordance with the required 60-day notice procedures.

**THIS RESOLUTION** was passed and adopted by the Board at a regular meeting held on the 28<sup>th</sup> day of February, 2017, by the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Signed and approved by me after its passage.

\_\_\_\_\_  
Jeff D. Boom, President of the Board

ATTEST:

\_\_\_\_\_  
Randy L. Rasmussen, Clerk of the Board

**CLASSIFIED PARTICULAR KINDS OF SERVICE (PKS)  
TO BE ELIMINATED AT THE CLOSE OF THE 2016-17 SCHOOL YEAR  
AND/OR WITH APPROPRIATE SIXTY (60)-DAY NOTICE**

Service	Full Time Equivalent
Literacy Resource Tech	1.50
Secondary Student Support Specialist	1.50
Elementary Student Support Specialist	2.25
Bilingual Para-Educator	1.32
Para-Educator	9.75
School Technology Lead	1.0
Bilingual Family Liaison	.875
<b>Total</b>	<b>18.195 FTE</b>