



MJUSD SUPT OFFICE
MAY 01 2017
RECEIVED/im

TO: SUPERINTENDENT OF PUBLIC SCHOOLS
PRINCIPAL OF PRIVATE SCHOOLS

FROM: ROGER L. BLAKE

RE: FORM TO RECORD DISTRICT AND/OR SCHOOL REPRESENTATIVES TO LEAGUES

DATE: APRIL 21, 2017

Enclosed is a form upon which to record your district and/or school representatives to leagues for **next year, 2017-2018**. It is a form sent every year to you in order to obtain the names of league representatives to every league in the state and to make sure that the league representatives are designated by school district or school governing boards. **It is a legal requirement that league representatives be so designated.**

The education code gives the authority for high school athletics to high school governing boards. The code also requires that the boards, after joining CIF, designate their representatives to CIF leagues. This is a necessity! (Ed. Code 33353 (a) (1))

We are asking that, after action by the governing board, you **send the names of league representatives to your CIF Section office**. Obviously, the presumption behind this code section is that the representatives of boards are the only people who will be voting on issues, at the league and section level, that impact athletics.

If a governing board does not take appropriate action to designate representatives or this information is not given to Section offices within the required time frame, CIF is required to suspend voting privileges (CIF Constitution, Article 2, Section 25, p.17) for the affected schools.

At the State Federated Council level we will be asking that Sections verify that their representatives are designated in compliance with this Ed. Code section.

I hope this gives you a bit of background. Thank you for all you do to help support high school athletics. It is a valuable program in all high schools and we appreciate the support you give to the program and to CIF.

Please return the enclosed form no later than June 30, 2017 directly to your CIF Section Office. Addresses of each section are listed on the back of the form. Please contact us if we can give you further information.

2017-2018 Designation of CIF Representatives to League

Please complete the form below for each school under your jurisdiction and **RETURN TO THE CIF SECTION OFFICE (ADDRESSES ON REVERSE SIDE) no later than June 30, 2017.**

Marysville Joint Unified _____ School District/Governing Board at its 5/23/17 meeting,
 _____ (Name of school district/governing board) _____ (Date)

appointed the following individual(s) to serve for the 2017-2018 school year as the school's league representative:

**PHOTOCOPY THIS FORM TO LIST ADDITIONAL SCHOOL REPRESENTATIVES
SEE ATTACHED**

NAME OF SCHOOL _____		
NAME OF REPRESENTATIVE _____	POSITION _____	
ADDRESS _____	CITY _____	ZIP _____
PHONE _____	FAX _____	E-MAIL _____

NAME OF SCHOOL _____		
NAME OF REPRESENTATIVE _____	POSITION _____	
ADDRESS _____	CITY _____	ZIP _____
PHONE _____	FAX _____	E-MAIL _____

NAME OF SCHOOL _____		
NAME OF REPRESENTATIVE _____	POSITION _____	
ADDRESS _____	CITY _____	ZIP _____
PHONE _____	FAX _____	E-MAIL _____

NAME OF SCHOOL _____		
NAME OF REPRESENTATIVE _____	POSITION _____	
ADDRESS _____	CITY _____	ZIP _____
PHONE _____	FAX _____	E-MAIL _____

If the designated representative is not available for a given league meeting, an alternate designee of the district governing board may be sent in his/her place. **NOTE:** League representatives from public schools and private schools must be designated representatives of the school's governing boards in order to be eligible to serve on the section and state governance bodies.

Superintendent's or Principal's Name Gay Todd Signature _____
 Address 1919 B Street City Marysville Zip 95901
 Phone (530) 749-6102 Fax _____

**PLEASE MAIL OR FAX THIS FORM DIRECTLY TO THE CIF SECTION OFFICE.
SEE REVERSE SIDE FOR CIF SECTION OFFICE ADDRESSES.**

**2017-18 Designation of CIF Representatives to League
for the Marysville Joint Unified School District**

Return to:

CIF Sac-Joaquin Section
Michael Garrison, Commissioner
P.O. Box 289
Lodi, CA 95241

Agendized for Board Approval: **5/23/17**

Lindhurst High School

4446 Olive Drive, Olivehurst, CA 95961

- Bob Eckardt, Principal of Lindhurst High School
P: (530) 741-6150 x 2503
E: beckardt@mjusd.com

- Bob Jensen, Athletic Director of Lindhurst High School
P: (530) 741-6150
E: bjensen@mjusd.com

- Christine Vahldick, Assistant Principal of Lindhurst High School (alternate)
P: (530) 741-6150
E: cvahldick@mjusd.com

- Chris Schmidt, Assistant Principal of Lindhurst High School (alternate)
P: (530) 741-6150
E: cschmidt@mjusd.com

Marysville High School

12 E. 18th Street, Marysville, CA 95901

- Shevaun Mathews, Principal of Marysville High School
P: (530) 741-6180 x 3102
E: smathews@mjusd.com

- David Chiono, Athletic Director of Marysville High School
P: (530) 741-6180
E: dchiono@mjusd.com

- Luke Browning, Assistant Principal of Marysville High School (alternate)
P: (530) 741-6180
E: lbrowning@mjusd.com

- Amy Eggleston-Acosta, Assistant Principal of Marysville High School (alternate)
P: (530) 741-6180
E: aeggleston@mjusd.com



CONTRACT SERVICES AGREEMENT
Yuba Gardens Intermediate School – Learning By Design, LLC

THIS CONTRACT SERVICES AGREEMENT (“Agreement”) is made and entered into on 5/23/2017 (hereinafter, the “Effective Date”), by and between the MARYSVILLE JOINT UNIFIED SCHOOL DISTRICT (“DISTRICT”) and Maria Nielsen with Learning By Design, LLC (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 **2017-2018** commencing from **10/16/2017 – 5/22/2018**

1.3 COMPENSATION:

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

B. Section 1.3(A) notwithstanding, CONTRACTOR’s total compensation during the Term of this Agreement or any extension term shall not exceed the budgeted aggregate sum **THIRTY FIVE THOUSAND DOLLARS AND NO CENTS (\$35,000.00)** (hereinafter, the “Not-to-Exceed Sum”), unless such added expenditure is first approved by the DISTRICT acting in consultation with the Superintendent and the Director of Fiscal Services. In the event CONTRACTOR’s charges are projected to exceed the Not-to-Exceed Sum prior to the expiration of the Term or any single extension term, DISTRICT may suspend CONTRACTOR’s performance pending DISTRICT approval of any anticipated expenditures in excess of the Not-to-Exceed Sum or any other DISTRICT-approved amendment to the compensation terms of this Agreement.

1.4 PAYMENT OF COMPENSATION: The Not-to-Exceed Sum shall be paid to CONTRACTOR as the Work is completed. Following the conclusion of each calendar month, CONTRACTOR shall submit to DISTRICT an itemized invoice indicating the services performed and tasks completed during the recently concluded calendar month, including services and tasks performed and the reimbursable out-of-pocket expenses incurred. If the amount of CONTRACTOR’s monthly compensation is a function of hours works by CONTRACTOR’s personnel, the invoice shall indicate the number of hours worked in the recently concluded calendar month, the persons responsible for performing the Work, the rate of compensation at which such services and tasks were performed, the subtotal for each tasks and service performed and a grand total for all services performed. Within THIRTY (30) calendar days of receipt of each invoice, DISTRICT shall notify CONTRACTOR in writing of any disputed amounts included in the invoice. Within FORTY-FIVE (45) calendar day of receipt of each invoice, DISTRICT shall pay all undisputed amounts

included on the invoice. DISTRICT shall not withhold applicable taxes or other authorized deductions from payments made to CONTRACTOR.

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

II. PERFORMANCE OF AGREEMENT

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

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

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

III. INSURANCE

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

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

IV. INDEMNIFICATION

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

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

V. TERMINATION

- 5.1 TERMINATION WITHOUT CAUSE: DISTRICT may terminate this Agreement at any time for convenience and without cause by giving CONTRACTOR a minimum of five (5) calendar days prior written notice of DISTRICT's intent to terminate this Agreement. Upon such termination for convenience, CONTRACTOR shall be compensated only for those services and tasks which have been performed by CONTRACTOR up to the effective date of the termination. CONTRACTOR may not terminate this Agreement except for cause as provided under Section 5.2, below. If this Agreement is terminated as provided herein, DISTRICT may require CONTRACTOR to provide all finished or unfinished Documents and Data, as defined in Section 7.1 below, and other information of any kind prepared by CONTRACTOR in connection with the performance of the Work. CONTRACTOR shall be required to provide such Documents and Data within fifteen (15) calendar days of DISTRICT's written request. No actual or asserted breach of this Agreement on the part of DISTRICT pursuant to Section 5.2, below, shall operate to prohibit or otherwise restrict DISTRICT's ability to terminate this Agreement for convenience as provided under this Section.
- 5.2 EVENTS OF DEFAULT; BREACH OF AGREEMENT:
- A. In the event either Party fails to perform any duty, obligation, service or task set forth under this Agreement (or fails to timely perform or properly perform any such duty, obligation, service or task set forth under this Agreement), an event of default (hereinafter, "Event of Default") shall occur. For all Events of Default, the Party alleging an Event of Default shall give written notice to the defaulting Party (hereinafter referred to as a "Default Notice") which shall specify: (i) the nature of the Event of Default; (ii) the action required to cure the Event of Default; (iii) a date by which the Event of Default shall be cured, which shall not be less than the applicable cure period set forth under Sections 5.2.B and 5.2.C below or if a cure is not reasonably possible within the applicable cure period, to begin such cure and diligently prosecute the such cure to completion. The Event of Default shall constitute a breach of this Agreement if the defaulting Party fails to cure the Event of Default within the applicable cure period or any extended cure period allowed under this Agreement.
- B. CONTRACTOR shall cure the following Events of Defaults within the following time periods:
- i. Within three (3) business days of DISTRICT's issuance of a Default Notice for any failure of CONTRACTOR to timely provide DISTRICT or DISTRICT's employees or agents with any information and/or written reports, documentation or work product which CONTRACTOR is obligated to provide to DISTRICT or DISTRICT's employees or agents under this Agreement. Prior to the expiration of the 3-day cure period, CONTRACTOR may submit a written request for additional time to cure the Event of Default upon a showing that CONTRACTOR has commenced efforts to cure the Event of Default and that the Event of Default cannot be reasonably cured within the 3-day cure period. The foregoing notwithstanding, DISTRICT shall be under no obligation to grant additional time for the cure of an Event of Default under this Section 5.2 B.i. that exceeds seven (7) calendar days from the end of the initial 3-day cure period; or
 - ii. Within fourteen (14) calendar days of DISTRICT's issuance of a Default Notice for any other Event of Default under this Agreement. Prior to the expiration of the 14-day cure period, CONTRACTOR may submit a written request for additional time to cure the Event of Default upon a showing that CONTRACTOR has commenced efforts to cure the Event of Default and that the Event of Default cannot be reasonably cured within the 14-day cure period. The foregoing notwithstanding, DISTRICT shall be under no obligation to grant additional time for the cure of an Event of Default under this Section 5.2B.ii that exceeds thirty (30) calendar days from the end of the initial 14-day cure period. .

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

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

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

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

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

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

VI. MISCELLANEOUS PROVISIONS

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

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

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

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

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

6.5 **FALSE CLAIMS ACT.** CONTRACTOR warrants and represents that neither CONTRACTOR nor any person who is an officer of, in a managing position with, or has an ownership interest in CONTRACTOR has been determined by a court or tribunal of competent jurisdiction to have violated the False Claims Act, 31 U.S.C., Section 3789 *et seq.* and the California False Claims Act, Government Code Section 12650 *et seq.*

6.6 **NOTICES:** All notices permitted or required under this Agreement shall be given to the respective Parties at the following addresses, or at such other address as the respective Parties may provide in writing for this purpose:

CONTRACTOR:
Learning By Design
213 South 400 East
Hyrum, UT. 84319

Phone: 435-994-0887
Fax:
Email: maria.travel90@gmail.com

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

Phone: 749-6114
Fax: 742-0573

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

6.7 **COOPERATION; FURTHER ACTS:** The Parties shall fully cooperate with one another, and shall take any additional acts or sign any additional documents as is reasonably necessary, appropriate or convenient to achieve the purposes of this Agreement.

6.8 **SUBCONTRACTING:** CONTRACTOR shall not subcontract any portion of the Work required by this Agreement, except as expressly stated herein, without the prior written approval of DISTRICT. Subcontracts (including without limitation subcontracts with subconsultants), if any, shall contain a provision making them subject to all provisions stipulated in this Agreement, including provisions relating to insurance requirements and indemnification.

6.9 **DISTRICT'S RIGHT TO EMPLOY OTHER CONTRACTORS:** DISTRICT reserves the right to employ other contractors in connection with the various projects worked upon by CONTRACTOR.

6.10 **PROHIBITED INTERESTS:** CONTRACTOR warrants, represents and maintains that it has not employed nor retained any company or person, other than a *bona fide* employee working solely for CONTRACTOR, to solicit or secure this Agreement. Further, CONTRACTOR warrants and represents that it has not paid nor has it agreed to pay any company or person, other than a *bona fide* employee working solely for CONTRACTOR, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, DISTRICT shall have the right to rescind this Agreement without liability. For the term of this Agreement, no member, officer or employee of DISTRICT, during the term of his or her service with DISTRICT, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

6.11 **TIME IS OF THE ESSENCE:** Time is of the essence for each and every provision of this Agreement.

6.12 **GOVERNING LAW AND VENUE:** This Agreement shall be interpreted and governed according to the laws of the State of California. In the event of litigation between the Parties, venue, without exception, shall be in the Yuba County Superior Court of the State of California. If, and only if, applicable law requires that all or part of any such litigation be tried exclusively in federal court, venue, without exception, shall be in the Northern District of California located in the City of San Francisco, California.

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

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

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

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

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

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

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

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

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

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

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

MARYSVILLE JOINT UNIFIED SCHOOL DISTRICT:

By: _____
Ryan DiGiulio
Assistant Superintendent of Business Services

Contractor
By: Maria Nielsen
Name: Maria Nielsen
Title: Owner

Exhibit A
Scope of Work

During the instructional day, Maria Nielsen will provide seven full days of professional development on October 16, 2017, November 17, 2017, January 30, 2018, February 15, 2018, March 22, 2018, April 19, 2018, and May 22, 2018 for the Yuba Gardens Intermediate School certificated staff to support and build their Professional Learning Community. Certificated staff members will work to prioritize essential standards, create pacing guides for essential standards, and begin designing units of study based on the essential standards.



CONTRACT SERVICES AGREEMENT
Educational Services – Learning By Design, LLC

THIS CONTRACT SERVICES AGREEMENT (“Agreement”) is made and entered into on 5/23/2017 (hereinafter, the “Effective Date”), by and between the MARYSVILLE JOINT UNIFIED SCHOOL DISTRICT (“DISTRICT”) and Maria Nielsen with Learning By Design, LLC (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 **2017-2018** commencing from **8/8/2017 – 3/12/2018**
- 1.3 COMPENSATION:
- A. CONTRACTOR shall perform the various services and tasks set forth in the Scope of Services in accordance with the compensation schedule which is see **Exhibit A**. (hereinafter, the “Approved Rate Schedule”).
- B. Section 1.3(A) notwithstanding, CONTRACTOR’s total compensation during the Term of this Agreement or any extension term shall not exceed the budgeted aggregate sum **EIGHTY THOUSAND DOLLARS AND NO CENTS (\$80,000.00)** (hereinafter, the “Not-to-Exceed Sum”), unless such added expenditure is first approved by the DISTRICT acting in consultation with the Superintendent and the Director of Fiscal Services. In the event CONTRACTOR’s charges are projected to exceed the Not-to-Exceed Sum prior to the expiration of the Term or any single extension term, DISTRICT may suspend CONTRACTOR’s performance pending DISTRICT approval of any anticipated expenditures in excess of the Not-to-Exceed Sum or any other DISTRICT-approved amendment to the compensation terms of this Agreement.
- 1.4 PAYMENT OF COMPENSATION: The Not-to-Exceed Sum shall be paid to CONTRACTOR as the Work is completed. Following the conclusion of each calendar month, CONTRACTOR shall submit to DISTRICT an itemized invoice indicating the services performed and tasks completed during the recently concluded calendar month, including services and tasks performed and the reimbursable out-of-pocket expenses incurred. If the amount of CONTRACTOR’s monthly compensation is a function of hours works by CONTRACTOR’s personnel, the invoice shall indicate the number of hours worked in the recently concluded calendar month, the persons responsible for performing the Work, the rate of compensation at which such services and tasks were performed, the subtotal for each tasks and service performed and a grand total for all services performed. Within THIRTY (30) calendar days of receipt of each invoice, DISTRICT shall notify CONTRACTOR in writing of any disputed amounts included in the invoice. Within FORTY-FIVE (45) calendar day of receipt of each invoice, DISTRICT shall pay all undisputed amounts

included on the invoice. DISTRICT shall not withhold applicable taxes or other authorized deductions from payments made to CONTRACTOR.

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

II. PERFORMANCE OF AGREEMENT

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

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

III. INSURANCE

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

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

IV. INDEMNIFICATION

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

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

V. TERMINATION

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

5.2 EVENTS OF DEFAULT; BREACH OF AGREEMENT:

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

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

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

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

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

VI. MISCELLANEOUS PROVISIONS

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

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

6.5 **FALSE CLAIMS ACT.** CONTRACTOR warrants and represents that neither CONTRACTOR nor any person who is an officer of, in a managing position with, or has an ownership interest in CONTRACTOR has been determined by a court or tribunal of competent jurisdiction to have violated the False Claims Act, 31 U.S.C., Section 3789 *et seq.* and the California False Claims Act, Government Code Section 12650 *et seq.*

6.6 **NOTICES:** All notices permitted or required under this Agreement shall be given to the respective Parties at the following addresses, or at such other address as the respective Parties may provide in writing for this purpose:

CONTRACTOR:

Learning By Design
213 South 400 East
Hyrum, UT. 84319

Phone: 435-994-0887

Fax:

Email: maria.travel90@gmail.com

DISTRICT:

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

Phone: 749-6114

Fax: 742-0573

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

6.7 **COOPERATION; FURTHER ACTS:** The Parties shall fully cooperate with one another, and shall take any additional acts or sign any additional documents as is reasonably necessary, appropriate or convenient to achieve the purposes of this Agreement.

6.8 **SUBCONTRACTING:** CONTRACTOR shall not subcontract any portion of the Work required by this Agreement, except as expressly stated herein, without the prior written approval of DISTRICT. Subcontracts (including without limitation subcontracts with subconsultants), if any, shall contain a provision making them subject to all provisions stipulated in this Agreement, including provisions relating to insurance requirements and indemnification.

6.9 **DISTRICT'S RIGHT TO EMPLOY OTHER CONTRACTORS:** DISTRICT reserves the right to employ other contractors in connection with the various projects worked upon by CONTRACTOR.

6.10 **PROHIBITED INTERESTS:** CONTRACTOR warrants, represents and maintains that it has not employed nor retained any company or person, other than a *bona fide* employee working solely for CONTRACTOR, to solicit or secure this Agreement. Further, CONTRACTOR warrants and represents that it has not paid nor has it agreed to pay any company or person, other than a *bona fide* employee working solely for CONTRACTOR, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, DISTRICT shall have the right to rescind this Agreement without liability. For the term of this Agreement, no member, officer or employee of DISTRICT, during the term of his or her service with DISTRICT, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

6.11 **TIME IS OF THE ESSENCE:** Time is of the essence for each and every provision of this Agreement.

6.12 **GOVERNING LAW AND VENUE:** This Agreement shall be interpreted and governed according to the laws of the State of California. In the event of litigation between the Parties, venue, without exception, shall be in the Yuba County Superior Court of the State of California. If, and only if, applicable law requires that all or part of any such litigation be tried exclusively in federal court, venue, without exception, shall be in the Northern District of California located in the City of San Francisco, California.

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

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

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

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

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

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

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

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

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

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

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

MARYSVILLE JOINT UNIFIED SCHOOL DISTRICT:

By: _____
Ryan DiGiulio
Assistant Superintendent of Business Services

Contractor

By: Maria Nielsen

Name: Maria Nielsen

Title: Owner

Exhibit A
Scope of Work

During the instructional day, Maria Nielsen will provide 16 days of professional development to support and build Professional Learning Communities for each of our 23 sites. Certificated staff members will continue to work to prioritize essential standards, create pacing guides for essential standards, design units of study based on the essential standards and begin to build formative assessments.

Tue Aug 8, 2017	All day	Learning By Design at LHS Day One
Thu Aug 24, 2017	All day	Learning By Design with Cedar Lane Day One
Fri Aug 25, 2017	All day	Learning By Design at Ella Elementary Day One
Thu Aug 31, 2017	All day	Learning By Design at YGS Day One
Fri Sep 1, 2017	All day	Learning By Design at Covillaud Day One
Tue Sep 19, 2017	All day	Learning By Design at CDS/SLHS Day One (SLHS)
Wed Sep 20, 2017	All day	Learning By Design at Johnson Park Day One
Mon Oct 9, 2017	All day	Learning By Design at Cordua with LRE, BVS, DOB, YFS Day One
Mon Nov 6, 2017	All day	Learning By Design at Linda Day One
Wed Nov 15, 2017	All day	Learning By Design at MHS Day One
Thu Nov 16, 2017	All day	Learning By Design at MCK Day One
Tue Nov 28, 2017	All day	Learning By Design at Edgewater Day One
Wed Nov 29, 2017	All day	Learning By Design at Arboga Day One
Thu Feb 1, 2018	All day	Learning By Design at CDS/SLHS Day One (CDS)
Wed Feb 14, 2018	All day	Learning By Design at Kynoch Day One
Mon Mar 12, 2018	All day	Learning By Design at FHS/YGS/MCK/MCAA Day One



Marysville Joint Unified School District

1919 B Street, Marysville, California 95901
Purchasing Department

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

THIS CONTRACT made and entered into on May 23, 2017 (Insert Board meeting date or ratification date), by and between Kiz Construction, 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 Four thousand Three hundred and 00/100 Dollars (\$ 24,300.00)

(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: C5 (add applicable to trade).
3. (Check contractor license classification appropriateness at: http://www.cslb.ca.gov/About_Us/Library/Licensing_Classifications/ and contractor license status at: https://www2.cslb.ca.gov/OnlineServices/CheckLicense/CheckLicense.aspx).
4. This contract shall commence upon Board approval as of May 24, 2017. (insert date after Board approval date or ratification date) with work to be completed within Ninety (90) consecutive days and/or by August 24, 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 not to exceed \$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:

Table with 4 columns: Selection, Description, Selection, Description. Rows include Noncollusion Affidavit, ATTACHMENT A through F, and Purchase Order No.

TYPE OF BUSINESS ENTITY

- Individual
X Sole Proprietorship
Partnership
Corporation
Other

TAX IDENTIFICATION

26-3990054
Employer Identification Number

License No: 775681 Classification: C5 Expiration Date: 3/31/2019

(District Use Only: License verified by Julie Brown Date: 5/8/17
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: Kiz Construction, Inc

Contractor Address: 5520 Tashi Bell Lane Carmichael, CA 95608

Phone: (916) 715-7771

Email: paulkiz@comcast.net

Print Name: Paul Kiz

Title: Owner

Authorized Signature: [Signature]

District Acceptance: Ryan DiGiulio, Assistant Superintendent of Business Services

Date: Board Approval Date



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.

Name(s) of employee(s):
Edward Kiz
Boman Kiz
Tim Kolesnikov

Name(s) of employee(s):

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

Dated 05-09-17

Kiz Construction Inc. (Company)

Paul Kiz (Authorized Signature)

Paul Kiz (Print Name)

Owner (Title)

(Complete only if pertinent)



Marysville Joint Unified School District

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).

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) 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.
- b) 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.
- c) 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, 2015, 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 contractor shall bear the responsibility of compliance with Labor Code section 1777.5 for all apprenticeable occupations and agrees that he



Marysville Joint Unified School District

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 15 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 restricted to eight (8) hours during any one-calendar day and forty (40) hours during any one-calendar week, except as hereinafter provided.



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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 its 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 completion and final acceptance by the District. All work shall be solely at the Contractor's risk. Contractor shall adequately protect



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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 separable 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:

- a. 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.
- b. 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.
- c. 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 (CUPCCAA) 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 time caused thereby shall be adjusted at the time of ordering such change. In giving instructions, Contractor agrees that the District shall



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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 3106 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 of 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, Revised 02-28-2017

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.

ARTICLE 22. PAYMENT AND RETENTION (Only applicable if contract amount is \$25,000 or greater): The Contract Sum is stated in the Agreement and, including authorized adjustments, is the total amount payable by the District to the Contractor for performance of the Work under the Contract Documents. Within thirty (30) days after approval of the Request for Payment, Contractor shall be paid a sum equal to ninety-five percent (95%) of the value of the Work performed. The value of the Work completed shall be Contractor best estimate. No inaccuracy or error in said estimate shall operate to release the Contractor, or any surety upon any bond, from damages arising from such Work, or from the District's enforcement of each and every provision of this Contract, and the District shall have the right subsequently to correct any error made in any estimate for payment. The Contractor shall not be entitled to have any payment requests processed, or be entitled to have any payment made for work performed, so long as any lawful or proper direction given by the District concerning the Work, or any portion thereof, remains incomplete. The remaining five percent (5%) of payment will be released the District to the Contractor upon full completion of the Work.

THIS CONCLUDES THE GENERAL TERMS AND CONDITIONS DATED May, 24 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.

A handwritten signature in cursive script, appearing to read "Paul Kiz", written over a horizontal line.

Signature, Contractor's Authorized Representative

Paul Kiz

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.: Kynoch Window Replacement between the Marysville Joint Unified School District ("District" or "Owner") and Kiz Construction 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):

[X] 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

____ 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:

Name: Paul Kiz

Title: Owner

____ 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).

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:

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:

DISTRICT

Signature:

[Handwritten signature]

Title: Lead Supervisor M&O

Date:

5-9-17

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.: Kynoch Window Replacement
between Marysville Joint Unified School District (the "District" or the "Owner") and
Kiz Construction 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.

Date: 05-09-17

Proper Name of Contractor: Kiz Construction Inc.

Signature: *Paul Kiz*

Print Name: Paul Kiz

Title: Owner

(Remainder of page left blank intentionally)

Attachment J

OK
T.B

Kiz Construction Inc

PROPOSAL

5520 Tashi Bell Lane
Carmichael, CA 95608
License# 984663 DIR# 1000047901
Phone# 916-715-7771 Fax 916-487-6698

Date:	Proposal#
05/03/2017	201730

<u>Name/Address:</u> <u>MJUSD</u> <u>1919 B Street</u> <u>Marysville, CA 95901</u>

Project	Terms	Salesperson
Kynach ES Windows		Paul Kiz

Qty	DESCRIPTION	PRICE	TOTAL
1	Furnish all labor and material to: Demo existing 7 windows. Repair all dry rot and re-frame the wall below the windows. Furnish and install 7pc. 96``x40`` single hung windows. Trim out all windows using Kelleher Advantage Plus Treated Fascia Material. Install 30`x6` 3-coat stucco below the windows. Prime and paint to match existing at Kynach ES MP room.	\$ 24,300.00	\$ 24,300.00

TOTAL:\$ 24,300.00

Acceptance of Proposal:

The above specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as specified above.



Marysville Joint Unified School District

1919 B Street, Marysville, California 95901
Purchasing Department

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

THIS CONTRACT made and entered into on May 23, 2017 (Insert Board meeting date or ratification date), by and between Barrows Landscaping, 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:

Eleven thousand One hundred Seventy and 00/100 Dollars (\$ 11,170.00)

(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: C27 (add applicable to trade).
3. (Check contractor license classification appropriateness at: http://www.cslb.ca.gov/About_Us/Library/Licensing_Classifications/ and contractor license status at: https://www2.cslb.ca.gov/OnlineServices/CheckLicense/CheckLicense.aspx).
4. This contract shall commence upon Board approval as of May 24, 2017. (insert date after Board approval date or ratification date) with work to be completed within Ninety (90) consecutive days and/or by August 24, 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 not to exceed \$45,000)

Business Services Department
Approval: [Signature]
Date: 5/11/17



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:

X	Noncollusion Affidavit	on	ATTACHMENT G – Withholding Exemption Certificate – CA Form 590
X	ATTACHMENT A – Contractor Certification Form	on	ATTACHMENT H – W9 Form
X	ATTACHMENT B – Terms and Conditions (5 pages)	on	ATTACHMENT I – Certificate of Insurance and Additional Insured Endorsement
X	ATTACHMENT C – Contractor's Certificate Regarding Workers' Compensation	X	ATTACHMENT J – Scope of Work
X	ATTACHMENT D – Criminal Background Investigation/Fingerprinting Certificate		ATTACHMENT K (if \$25,000 or greater) – Labor and Material Payment Bond
X	ATTACHMENT E – Prevailing Wage and Related Labor Requirements Certification		ATTACHMENT L (if \$25,000 or greater) – Performance Bond
X	ATTACHMENT F – Proof of Contractor Annual Registration with DIR		Purchase Order No. _____

TYPE OF BUSINESS ENTITY
 Individual
 Sole Proprietorship
 Partnership
 Corporation
 Other

TAX IDENTIFICATION
20-2921801
 Employer Identification Number

License No: 426563 Classification: C27 Expiration Date: 9/30/2017

(District Use Only: License verified by Julie Brown Date: 4/24/2017)
 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: Barrow's Landscaping, Inc.

Contractor Address: _____
764 Winship Road
Yuba City, CA 95991

Phone: (530) 674-9500

Email: sales@barrowslandscaping.ca

Print Name: Eugene Barrow

Title: Owner

Authorized Signature: Eugene Barrow

District Acceptance: _____
 Ryan DiGiulio, Assistant Superintendent of Business Services

Date: _____
 Board Approval Date



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.

Name(s) of employee(s):
Abraham Aguirre
Juan Alvarado
James MacLachlan
Victor Medina
Damon Soto

Name(s) of employee(s):
Marc Barrow

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

Dated: 4/25/14 Barrow's Landscaping Inc. (Company)

Eugene Barrow (Authorized Signature)

Eugene Barrow (Print Name)

Owner (Title)

(Complete only if pertinent)



Marysville Joint Unified School District

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).

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.

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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) 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.
- b) 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.
- c) 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, 2015, 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 contractor shall bear the responsibility of compliance with Labor Code section 1777.5 for all apprenticeable occupations and agrees that he



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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 15 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 restricted to eight (8) hours during any one-calendar day and forty (40) hours during any one-calendar week, except as hereinafter provided.



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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 or 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

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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 its 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 completion and final acceptance by the District. All work shall be solely at the Contractor's risk. Contractor shall adequately protect



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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 separable 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:

- a. 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.
- b. 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.
- c. 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 time caused thereby shall be adjusted at the time of ordering such change. In giving instructions, Contractor agrees that the District shall



Marysville Joint Unified School District

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 3106 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, Revised 02-28-2017

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.

ARTICLE 22. PAYMENT AND RETENTION (Only applicable if contract amount is \$25,000 or greater): The Contract Sum is stated in the Agreement and, including authorized adjustments, is the total amount payable by the District to the Contractor for performance of the Work under the Contract Documents. Within thirty (30) days after approval of the Request for Payment, Contractor shall be paid a sum equal to ninety-five percent (95%) of the value of the Work performed. The value of the Work completed shall be Contractor best estimate. No inaccuracy or error in said estimate shall operate to release the Contractor, or any surety upon any bond, from damages arising from such Work, or from the District's enforcement of each and every provision of this Contract, and the District shall have the right subsequently to correct any error made in any estimate for payment. The Contractor shall not be entitled to have any payment requests processed, or be entitled to have any payment made for work performed, so long as any lawful or proper direction given by the District concerning the Work, or any portion thereof, remains incomplete. The remaining five percent (5%) of payment will be released the District to the Contractor upon full completion of the Work.

**THIS CONCLUDES THE GENERAL TERMS AND CONDITIONS
DATED May, 24 2017
(insert date after Board approval date or ratification date)
consisting of Article 1 through Article 21**

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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.

A handwritten signature in cursive script that reads "Eugene Barrow".

Signature, Contractor's Authorized Representative

The name "Eugene Barrow" printed in a standard serif font.

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.: Foothill Elementary between the Marysville Joint Unified School District ("District" or "Owner") and Barrow's Landscaping, 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):

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

X 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:

Name: Eugene Barrow

Title: Owner

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).

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:

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:

DISTRICT

Signature:

Title: Lead Supervisor M&O

Date:

5-3-17

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.: FOOTHILL ELEMENTARY
between Marysville Joint Unified School District (the "District" or the "Owner") and
Barrow's Landscaping, 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.

Date: 4/25/17

Proper Name of Contractor: Eugene Barrow

Signature: Eugene Barrow

Print Name: Eugene Barrow

Title: Owner

(Remainder of page left blank intentionally)

State of California

Department of Industrial Relations

Attachment F

- Labor Law
- Cal/OSHA - Safety & Health
- Workers' Comp
- Self-Insurance
- Apprenticeship
- Director's Office
- Boards



Public Works Public Works Contractor (PWC) Registration Search

Public Works Contractor (PWC) Registration Search

This is a listing of current and active PWC registrations pursuant to Public Works Contractor (PWC) Registration Search.

Enter at least one search criteria to display active registered public works contractors.

Registration Year:

PWC Registration Number:

Contractor Legal Name:

License Number:

County:

Search Results

One registered contractor found. 1

Details	Legal Name	Registration Number
View	BARROW'S LANDSCAPING, INC	100001

1000014965 Contractor Details

[Contractor Information](#) |
 [Legal Entity Information](#) |
 [Workers' Compensation](#)

Legal Name
 BARROW'S LANDSCAPING, INC

Legal Entity Type
 CORPORATION

Trade Name
 BARROW'S LANDSCAPING

License Number(s)
 CSLB :426563

Mailing Address
 764 WINSHIP RD
 YUBA CITY, CA 95991

Physical Address
 764 WINSHIP RD
 YUBA CITY, CA 95991

Email Address
 SALES@BARROWSLANDSCAPING.COM

About DIR

Who we are

DIR Divisions, Boards & Commissions

Contact DIR

Work with Us

Jobs at DIR

Licensing, registrations, certifications & permits

Required Notifications

Public Records Requests

Learn More

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Attachment F

OK
TB
"OTM"



Barrow's Landscaping, Inc.

764 Winship Rd., Yuba City, CA 95991 530-674-9500

Proposal

Friday, April 21, 2017

Marysville Joint Unified School District
Att: Maurice Negueloua

Work Phone:
Home Phone:
Cell Phone: 916-660-6321
Fax:
Email: mnegueloua@mjuds.com
Quoted By: Eugene Barrow

Directions:

Foothill Elementary School

Bid Proposal:

Connect to mainline by existing pump and extend a 2" mainline to cross driveway into front lawn area. Extend 1" mainline into two front planter beds and connect two valves to the new mainline and disconnect from building water. Extend a mainline to edge of parking for future crossing toward ditch. Run wire with mainline. Install hunter valves and rotors in front lawn area. (Hunter Brand: I-20 rotors & Valves)
Bore under sidewalks or remove asphalt as needed to cross hardscapes.
Backfill trenches and hand seed trenches.

Notes: For cost savings MJUSD to patch asphalt on roads, and install decoders on valves.

Total: \$11,170.00

ACCEPTED: _____ DATE: _____

WE ARE A RAINBIRD SELECT CONTRACTOR WITH A 1 YEAR WARRANTY ON IRRIGATION SYSTEMS; 5 YEAR PARTS WARRANTY ON RAINBIRD HEADS, VALVES, & CONTROLLERS; 30 DAY PLANT WARRANTY.
General Contractor/Owner to provide locations of underground utilities not marked by USA Digg. All unmarked utilities damaged by digging will not be the responsibility of Barrow's Landscaping. Price subject to change after 30 days. This proposal is contingent upon a mutually agreed upon contract document. All material is guaranteed to be as specified. All work to be completed in a substantial workman-like manner according to standard practices. Any alteration or deviation from above specifications involving extra costs will become an extra charge over and above the estimate. All agreements are contingent upon strikes, accidents or delays beyond our control. Owner to carry fire, tornado, flood and other necessary insurance. Our workers are fully covered by workman's compensation insurance. If either party commences legal action to enforce its rights pursuant to this agreement, the prevailing party in said legal action shall be entitled to recover its reasonable attorney's fees and costs of litigation relating to said legal action, as determined by a court of competent jurisdiction. Payment is due within 10 days of invoice date and is past due thereafter. In consideration of the extension of credit, a liquidated damages charge on all past due accounts will be computed by a periodic rate of 1-1/2% per month for a total annual percentage rate of 18%. You will be liable for attorney fees and costs incurred in collecting any past due balance. This price is a cash price, additional 3% to be added if paid by credit card.

Barrow's Landscaping, Inc # 426563 C-27
Office 530-674-9500 Fax 530-671-9500 email: sales@barrowslandscaping.com

Page 1 of 1

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CONTRACTORS STATE LICENSE BOARD



Contractor's License Detail for License # 426563

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.

Data current as of 4/24/2017 10:31:24 AM

Business Information

BARROWS LANDSCAPING INC
764 WINSHIP ROAD
YUBA CITY, CA 95991
Business Phone Number:(530) 674-9500

Entity Corporation
Issue Date 08/16/1982
Reissue Date 09/26/2005
Expire Date 09/30/2017

License Status

This license is current and active.

All information below should be reviewed.

Classifications

C27 - LANDSCAPING

Bonding Information

Contractor's Bond

This license filed a Contractor's Bond with SURETEC INDEMNITY COMPANY.
Bond Number: 125131
Bond Amount: \$15,000
Effective Date: 01/01/2016
Contractor's Bond History

Bond of Qualifying Individual

The qualifying individual STERLING MARC BARROW 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: 09/26/2005

Workers' Compensation

This license has workers compensation insurance with the INSURANCE COMPANY OF THE WEST
Policy Number: WSA5034562
Effective Date: 09/01/2016
Expire Date: 09/01/2017
Workers' Compensation History

Miscellaneous Information

09/26/2005 - LICENSE REISSUED TO ANOTHER ENTITY



Marysville Joint Unified School District

1919 B Street, Marysville, California 95901
Purchasing Department

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

THIS CONTRACT made and entered into on May 23, 2017 (Insert Board meeting date or ratification date), by and between Barrows Landscaping, 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:

Forty Two thousand Seven hundred Sixty One and 00/100 Dollars (\$ 42,761.00)

(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: C27 (add applicable to trade).
3. (Check contractor license classification appropriateness at: http://www.cslb.ca.gov/About_Us/Library/Licensing_Classifications/ and contractor license status at: https://www2.cslb.ca.gov/OnlineServices/CheckLicense/CheckLicense.aspx).
4. This contract shall commence upon Board approval as of May 24, 2017 (insert date after Board approval date or ratification date) with work to be completed within Ninety (90) consecutive days and/or by August 24, 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 not to exceed \$45,000)

Business Services Department
Approval: [Signature]
Date: 5/11/17



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:

Table with 4 columns: Checkmark, Attachment Name, 'on file' status, and Attachment Description. Includes items like Noncollusion Affidavit, ATTACHMENT A through L, and Purchase Order No.

TYPE OF BUSINESS ENTITY

- Individual
Sole Proprietorship
Partnership
[X] Corporation
Other

TAX IDENTIFICATION

20-2921861
Employer Identification Number

License No: 426563 Classification: C27 Expiration Date: 9/30/2017

(District Use Only: License verified by Julie Brown Date: 4/24/2017
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: Barrow's Landscaping, Inc.

Contractor Address: 764 Winship Road
Yuba City, CA 95991

Phone: (530) 674-9500

Email: sales@barrowslandscaping.ca

Print Name: Eugene Barrow

Title: Owner

Authorized Signature: Eugene Barrow

District Acceptance: Ryan DiGiulio, Assistant Superintendent of Business Services

Date: Board Approval Date



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.

Name(s) of employee(s):
Abraham Agraz
Juan Alvarado
James MacLachlan
Victor Medina
Damian Soto

Name(s) of employee(s):
Marc Barrow

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

Dated: 4/25/17

Barrow's Landscaping Inc (Company)

Eugene Barrow (Authorized Signature)

Eugene Barrow (Print Name)

Owner (Title)

(Complete only if pertinent)



Marysville Joint Unified School District

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).

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 and 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.

Revised 02-28-2017

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) 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.
- b) 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.
- c) 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, 2015, 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 contractor shall bear the responsibility of compliance with Labor Code section 1777.5 for all apprenticeable occupations and agrees that he



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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 15 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-third 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 restricted to eight (8) hours during any one-calendar day and forty (40) hours during any one-calendar week, except as hereinafter provided.



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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

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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 its 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 completion and final acceptance by the District. All work shall be solely at the Contractor's risk. Contractor shall adequately protect



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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 separable 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:

- a. 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.
- b. 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.
- c. 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 time caused thereby shall be adjusted at the time of ordering such change. In giving instructions, Contractor agrees that the District shall



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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 3106 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 conference") 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, Revised 02-28-2017

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.

ARTICLE 22. PAYMENT AND RETENTION (Only applicable if contract amount is \$25,000 or greater): The Contract Sum is stated in the Agreement and, including authorized adjustments, is the total amount payable by the District to the Contractor for performance of the Work under the Contract Documents. Within thirty (30) days after approval of the Request for Payment, Contractor shall be paid a sum equal to ninety-five percent (95%) of the value of the Work performed. The value of the Work completed shall be Contractor best estimate. No inaccuracy or error in said estimate shall operate to release the Contractor, or any surety upon any bond, from damages arising from such Work, or from the District's enforcement of each and every provision of this Contract, and the District shall have the right subsequently to correct any error made in any estimate for payment. The Contractor shall not be entitled to have any payment requests processed, or be entitled to have any payment made for work performed, so long as any lawful or proper direction given by the District concerning the Work, or any portion thereof, remains incomplete. The remaining five percent (5%) of payment will be released the District to the Contractor upon full completion of the Work.

THIS CONCLUDES THE GENERAL TERMS AND CONDITIONS DATED May, 24 2017
(insert date after Board approval date or ratification date)
consisting of Article 1 through Article 21



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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.

A handwritten signature in cursive script that reads "Eugene Barrow".

Signature, Contractor's Authorized Representative

Eugene Barrow

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)



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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.: Yuba Feather Play field between the Marysville Joint Unified School District ("District" or "Owner") and Barrow's Landscaping, 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):

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

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:

Name: Eyad Barrow

Title: Owner

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).

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:

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:

DISTRICT

Signature:

Title: Lead Supervisor M&O

Date:

5-3-17

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.: Yuba Feather Play field
between Marysville Joint Unified School District (the "District" or the "Owner") and
Barrow's Landscaping, 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.

Date: 4/25/17
Proper Name of Contractor: Eugene Barrow
Signature: *Eugene Barrow*
Print Name: Eugene Barrow
Title: Owner

(Remainder of page left blank intentionally)

State of California
Department of Industrial Relations

Attachment F

- Labor Law
- Cal/OSHA - Safety & Health
- Workers' Comp
- Self-Insurance
- Apprenticeship
- Director's Office
- Boards



Public Works Public Works Contractor (PWC) Registration Search

Public Works Contractor (PWC) Registration Search

This is a listing of current and active PWC registrations pursuant to the Public Works Contractor Registration Act.

Enter at least one search criteria to display active registered public works contractors.

Registration Year:

PWC Registration Number:

Contractor Legal Name:

License Number:

County:

Search Results

One registered contractor found. 1

Details	Legal Name	Registration Number
View	BARROW'S LANDSCAPING, INC	100001

1000014965 Contractor Details

- Contractor Information
- Legal Entity Information
- Workers' Compensation

Legal Name
BARROW'S LANDSCAPING, INC

Legal Entity Type
CORPORATION

Trade Name
BARROW'S LANDSCAPING

License Number(s)
CSLB :426563

Mailing Address
764 WINSHIP RD
YUBA CITY, CA 95991

Physical Address
764 WINSHIP RD
YUBA CITY, CA 95991

Email Address
SALES@BARROWSLANDSCAPING.COM

About DIR
Who we are
DIR Divisions, Boards & Commissions
Contact DIR

Work with Us
Jobs at DIR
Licensing, registrations, certifications & permits
Required Notifications
Public Records Requests

Learn More
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Frequently Asked Questions
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[Disclaimer](#)

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CONTRACTORS STATE LICENSE BOARD



Contractor's License Detail for License # 426563

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.

Data current as of 4/24/2017 10:31:24 AM

Business Information

BARROWS LANDSCAPING INC
764 WINSHIP ROAD
YUBA CITY, CA 95991
Business Phone Number:(530) 674-9500

Entity Corporation
Issue Date 08/16/1982
Reissue Date 09/26/2005
Expire Date 09/30/2017

License Status

This license is current and active.

All information below should be reviewed.

Classifications

C27 - LANDSCAPING

Bonding Information

Contractor's Bond

This license filed a Contractor's Bond with SURETEC INDEMNITY COMPANY.

Bond Number: 125131

Bond Amount: \$15,000

Effective Date: 01/01/2016

Contractor's Bond History

Bond of Qualifying Individual

The qualifying individual STERLING MARC BARROW 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: 09/26/2005

Workers' Compensation

This license has workers compensation insurance with the INSURANCE COMPANY OF THE WEST

Policy Number: WSA5034562

Effective Date: 09/01/2016

Expire Date: 09/01/2017

Workers' Compensation History

Miscellaneous Information

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09/26/2005 - LICENSE REISSUED TO ANOTHER ENTITY



Attachment J
**Barrow's
Landscaping, Inc.**

764 Winship Rd., Yuba City, CA 95991 530-674-9500

OK
TB
"OTM"

Proposal

Friday, April 21, 2017

Marysville Joint Unified School District
Att: Maurice Negueloua

Work Phone:
Home Phone:
Cell Phone: 916-660-6321
Fax:
Email: mnegueloua@mjud.com

Directions:

Quoted By: Eugene Barrow

Yuba Feather Elementary School, Large Play Field

Bid Proposal:

This price and preliminary design is based on: 50 gpm at 60 psi from POC.

- Design an irrigation system for play field.
- Install 2.5" sch 40 mainline from POC and extend into field. Extend 2 wire to all valves.
- Install Hunter ICV valves.
- Install I-20 or I25 rotor heads to water grass. (not including behind shipping container.)
- Backfill trenches with native soil and hand seed trenches.

Notes: For cost savings MJUSD to patch asphalt on roads, and install decoders on valves. MJUSD and Barrow's will need to agree upon rock removal clause and price increase if our trenching equipment is not able to trench through the school field due to rock below ground. If rocks are produced by trenching Barrow's will stack rock on site. Irrigation system design does not take into account for baseball field designs at either backstop.

Irrigation Work: \$41,761.00
Performance Bond: \$1,044.00
Total: \$42,805.00

ACCEPTED: _____ DATE: _____

WE ARE A RAINBIRD SELECT CONTRACTOR WITH A 1 YEAR WARRANTY ON IRRIGATION SYSTEMS; 5 YEAR PARTS WARRANTY ON RAINBIRD HEADS, VALVES, & CONTROLLERS; 30 DAY PLANT WARRANTY.

General Contractor/Owner to provide locations of underground utilities not marked by USA Digg. All unmarked utilities damaged by digging will not be the responsibility of Barrow's Landscaping. Price subject to change after 30 days. This proposal is contingent upon a mutually agreed upon contract document. All material is guaranteed to be as specified. All work to be completed in a substantial workman-like manner according to standard practices. Any alteration or deviation from above specifications involving extra costs will become an extra charge over and above the estimate. All agreements are contingent upon strikes, accidents or delays beyond our control. Owner to carry fire, tornado, flood and other necessary insurance. Our workers are fully covered by workman's compensation insurance. If either party commences legal action to enforce its rights pursuant to this agreement, the prevailing party in said legal action shall be entitled to recover its reasonable attorney's fees and costs of litigation relating to said legal action, as determined by a court of competent jurisdiction. Payment is due within 10 days of invoice date and is past due thereafter. In consideration of the extension of credit, a liquidated damages charge on all past due accounts will be computed by a periodic rate of 1-1/2% per month for a total annual percentage rate of 18%. You will be liable for attorney fees and costs incurred in collecting any past due balance. This price is a cash price, additional 3% to be added if paid by credit card.

Barrow's Landscaping, Inc # 426563 C-27
Office 530-674-9500 Fax 530-671-9500 email: sales@barrowslandscaping.com
Page 1 of 1



Bond #381110P
Premium (included in
Performance Bond)

Marysville Joint Unified School District

**ATTACHMENT K
(Only applicable if contract is \$25,000 or greater)**

LABOR AND MATERIAL PAYMENT BOND

WHEREAS, the **MARYSVILLE JOINT UNIFIED SCHOOL DISTRICT** (the "Obligee") has awarded to Barrow's Landscaping, Inc. (the "Principal") a contract for the Work commonly described as the:

Yuba Feather Elementary School, Large Play Field

(the "Project"); and

WHEREAS, the Work to be performed by the Principal is more particularly set forth in that certain Agreement between the Principal and the Obligee, dated May 10, 20 17, which Agreement and all other contract documents set forth therein (collectively, the "Contract Documents") are incorporated herein and made a part hereof by this reference; and

WHEREAS, by the terms of the Contract Documents, and in accordance with California Civil Code §§ 9550 *et seq.*, the Principal is required to furnish a bond for the prompt, full and faithful payment to any Claimant, as hereinafter defined, for all labor, materials or services used, or reasonably required for use, in the performance of the Work on the Project ("Bond"); and

WHEREAS, the term "Claimant" shall refer to any of the persons described in California Civil Code § 9100, who provide or furnish labor, materials or services used or reasonably required for use in the performance of the Work under the Contract Documents, without regard to whether such labor, materials or services were sold, leased or rented.

NOW THEREFORE, we, Barrow's Landscaping, Inc., as Principal, and Indemnity Company of California, as Surety, are held and firmly bound, along with our respective heirs, executors, administrators, successors and assigns, jointly and severally, unto **MARYSVILLE JOINT UNIFIED SCHOOL DISTRICT**, as Obligee, for payment of the penal sum of _____ Dollars (\$42,761.00), said sum being not less than one hundred percent (100%) of the total amount payable by the Obligee under the terms of the Contract Documents, in lawful money of the United States, as more particularly set forth herein.

This Bond shall inure to the benefit of all Claimants so as to give them, or their assigns and successors, a right of action upon this Bond.

The condition of the obligation is such that if the Principal, or its subcontractors, heirs, executors, administrators, successors or assigns fail to pay (1) any Claimant, (2) amounts due under the Unemployment Insurance Code with respect to Work or labor performed on the Project, or (3) amounts required to be deducted, withheld, and paid to the Employment Development Department from the wages of employees of the Principal and its subcontractors under Section 13020 of the Unemployment Insurance Code with respect to the Work and labor, then Surety will pay for the same in an amount not to exceed the sum specified above and, if an action is brought to enforce the liability on the Bond, the Surety shall pay such reasonable attorneys' fees as fixed by the court, as set forth in Civil Code § 9554.

ATTACHMENT K Continued on Next Page

Revised 02-28-2017

*Forty Two Thousand Seven Hundred Sixty One & 00/100ths



Marysville Joint Unified School District

If the Principal promptly, fully and faithfully makes payment to all Claimants for all labor, materials or services used or reasonably required for use in the performance of the Work, then this obligation shall be void; otherwise, it shall be, and remain, in full force and effect.

The Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, deletion, addition, or any other modification to the terms of the Contract Documents, the Work to be performed thereunder, the Specifications or the Drawings, or any other portion of the Contract Documents, shall in any way limit, restrict or otherwise affect its obligations under this Bond; the Surety hereby waives notice from the Oblige of any such change, extension of time, alteration, deletion, addition or other modification to the Contract Documents, the Work to be performed under the Contract Documents, the Drawings or the Specifications of any other portion of the Contract Documents.

IN WITNESS WHEREOF, the Principal and Surety have executed this instrument this 27th day of April, 2017 by their duly authorized agents or representatives:

(Corporate Seal)

Barrow's Landscaping, Inc.

(Principal Name)

By:

(Signature)

Eugene Barrow

(Typed or Printed Name)

Title: Owner

(Corporate Seal)

Indemnity Company of California

(Surety Name)

By:

(Signature of Attorney-in-Fact for Surety)

Shauna Lucero, Attorney-in-Fact

(Attach Attorney-in-Fact Certificate)

(Typed or Printed Name of Attorney-in-Fact)

17771 Cowan, Suite 100, Irvine, CA 92614

(Address)

(714) 784-5539

(Area Code and Telephone Number of Surety)

(Remainder of page left blank intentionally)

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Fresno)

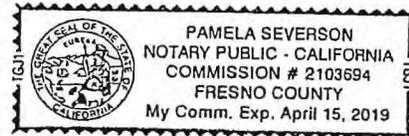
On 27th April 2017 before me, Pamela Severson, Notary Public
(insert name and title of the officer)

personally appeared Shauna Lucero
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature Pamela Severson (Seal)



RE: Barrow's landscaping

**POWER OF ATTORNEY FOR
DEVELOPERS SURETY AND INDEMNITY COMPANY
INDEMNITY COMPANY OF CALIFORNIA
PO Box 19725, IRVINE, CA 92623 (949) 263-3300**

KNOW ALL BY THESE PRESENTS that except as expressly limited, DEVELOPERS SURETY AND INDEMNITY COMPANY and INDEMNITY COMPANY OF CALIFORNIA, do each hereby make, constitute and appoint: ***Shauna Lucero***

as their true and lawful Attorney(s)-in-Fact, to make, execute, deliver and acknowledge, for and on behalf of said corporations, as sureties, bonds, undertakings and contracts of suretyship giving and granting unto said Attorney(s)-in-Fact full power and authority to do and to perform every act necessary, requisite or proper to be done in connection therewith as each of said corporations could do, but reserving to each of said corporations full power of substitution and revocation, and all of the acts of said Attorney(s)-in-Fact, pursuant to these presents, are hereby ratified and confirmed.

This Power of Attorney is granted and is signed by facsimile under and by authority of the following resolutions adopted by the respective Boards of Directors of DEVELOPERS SURETY AND INDEMNITY COMPANY and INDEMNITY COMPANY OF CALIFORNIA, effective as of January 1st, 2008.

RESOLVED, that a combination of any two of the Chairman of the Board, the President, Executive Vice-President, Senior Vice-President or any Vice President of the corporations be, and that each of them hereby is, authorized to execute this Power of Attorney, qualifying the attorney(s) named in the Power of Attorney to execute, on behalf of the corporations, bonds, undertakings and contracts of suretyship; and that the Secretary or any Assistant Secretary of either of the corporations be, and each of them hereby is, authorized to attest the execution of any such Power of Attorney;

RESOLVED, FURTHER, that the signatures of such officers may be affixed to any such Power of Attorney or to any certificate relating thereto by facsimile, and any such Power of Attorney or certificate bearing such facsimile signatures shall be valid and binding upon the corporations when so affixed and in the future with respect to any bond, undertaking or contract of suretyship to which it is attached.

IN WITNESS WHEREOF, DEVELOPERS SURETY AND INDEMNITY COMPANY and INDEMNITY COMPANY OF CALIFORNIA have severally caused these presents to be signed by their respective officers and attested by their respective Secretary or Assistant Secretary this 6th day of February, 2017.

By: *Daniel Young*
Daniel Young, Senior Vice-President

By: *Mark Lansdon*
Mark Lansdon, Vice-President



A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of Orange

On February 6, 2017 before me, Lucille Raymond, Notary Public
Date Here Insert Name and Title of the Officer

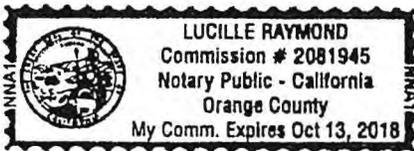
personally appeared Daniel Young and Mark Lansdon
Name(s) of Signor(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature *Lucille Raymond*
Lucille Raymond, Notary Public



Place Notary Seal Above

CERTIFICATE

The undersigned, as Secretary or Assistant Secretary of DEVELOPERS SURETY AND INDEMNITY COMPANY or INDEMNITY COMPANY OF CALIFORNIA, does hereby certify that the foregoing Power of Attorney remains in full force and has not been revoked and, furthermore, that the provisions of the resolutions of the respective Boards of Directors of said corporations set forth in the Power of Attorney are in force as of the date of this Certificate.

This Certificate is executed in the City of Irvine, California, this 27th day of April, 2017.

By: *Cassie J. Berrisford*
Cassie J. Berrisford, Assistant Secretary





Bond #381110P
Premium \$1,069.00

Marysville Joint Unified School District

ATTACHMENT L
(Only applicable If contract is \$25,000 or greater)

PERFORMANCE BOND

WHEREAS, the MARYSVILLE JOINT UNIFIED SCHOOL DISTRICT (the "Obligee") has awarded to Barrow's Landscaping, Inc. described as:

Yuba Feather Elementary School, Large Play Field

(the "Project"); and

WHEREAS, the Work to be performed by the Principal is more particularly set forth in that certain Agreement between the Principal and the Oblige, dated May 10, 2017 which Agreement and all other contract documents set forth therein (collectively, the "Contract Documents") are incorporated herein and made a part hereof by this reference; and

WHEREAS, by the terms of the Contract Documents, the Principal is required to furnish a bond ensuring the Principal's prompt, full and faithful performance of the Work under the Contract Documents ("Bond").

NOW THEREFORE, we, Barrow's Landscaping, Inc., as Principal, and Indemnity Company of California, as Surety, are held and firmly bound, along with our respective heirs, executors, administrators, successors and assigns, jointly and severally, unto MARYSVILLE JOINT UNIFIED SCHOOL DISTRICT, as Oblige, for payment of the penal sum of * Dollars (\$42,761.00), said sum being not less than one hundred percent (100%) of the total amount payable by the Oblige under the terms of the Contract Documents, in lawful money of the United States, as more particularly set forth herein.

The condition of the obligation is such that if the Principal promptly, fully and faithfully performs each and all of the obligations and things to be done and performed by the Principal in strict accordance with the terms of the Contract Documents as they may be modified or amended from time to time, and if the Principal indemnifies and saves harmless the Oblige and all of its officers, agents and employees from any and all losses, liability and damages, claims, judgments, liens, costs, and fees of every description which may be incurred by the Oblige by reason of the failure or default on the part of the Principal in the performance of any or all of the terms or the obligations of the Contract Documents, including all modifications and amendments thereto, and any warranties or guarantees required thereunder, then this obligation shall be void; otherwise, it shall be, and remain, in full force and effect.

The Surety, for value received, hereby stipulates and agrees that no change, adjustment of the Contract Time, adjustment of the Contract Price, alterations, deletions, additions, or any other modifications to the terms of the Contract Documents, the Work to be performed thereunder, or to the Specifications or the Drawings shall limit, restrict or otherwise impair Surety's obligations or Oblige's rights hereunder. Surety hereby waives notice from the Oblige of any such changes, adjustments of Contract Time, adjustments of Contract Price, alterations, deletions, additions or other modifications to the Contract Documents, the Work to be performed under the Contract Documents, or the Drawings or the Specifications. In the event of the Oblige's termination of the Contract due to the Principal's breach or default of the Contract Documents, within twenty (20) days after written notice from the Oblige to the Surety of the Principal's breach or default of the Contract Documents and Oblige's termination of the Contract, the Surety shall notify Oblige in writing of Surety's assumption of obligations hereunder by its election to either remedy the default or breach of the Principal or to take charge of the Work of the Contract

ATTACHMENT L Continued on Next Page

Revised 02-28-2017

*Forty Two Thousand Seven Hundred Sixty One & 00/100ths

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Marysville Joint Unified School District

Documents and complete the Work at its own expense ("Notice of Election"); provided, however, that the procedure by which the Surety undertakes to discharge its obligations under this Bond shall be subject to the advance written approval of the Obligeé, which approval shall not be unreasonably withheld, limited or restricted. The insolvency of the Principal or the Principal's mere denial of a failure of performance or default under the Contract Documents shall not by itself, without the Surety's prompt, diligent inquiry and investigation of such denial, be justification for Surety's failure to give the Notice of Election or for its failure to promptly remedy the failure of performance or default of the Principal or to complete the Work.

In the event the Surety fails to issue its Notice of Election to Obligeé within the time specified herein, the Obligeé may take all such action or actions necessary to cure or remedy the Principal's failure of performance or default or to complete the Work. The Principal and the Surety shall be each jointly and severally liable to the Obligeé for all damages and costs sustained by the Obligeé as a result of the Principal's failure of performance under the Contract Documents or default in its performance of obligations thereunder, including without limitation the costs of cure or completion exceeding the then remaining balance of the Contract Price; provided that the Surety's liability hereunder for the costs of performance, damages and other costs sustained by the Obligeé upon the Principal's failure of performance under or default under the Contract Documents shall be limited to the penal sum hereof, which shall be deemed to include the costs or value of any Changes of any Work which increase the Contract Price.

The Principal and Surety agree that if the Obligeé is required to engage the services of an attorney in connection with enforcement of the Bond, Principal and Surety shall pay Obligeé's reasonable attorneys' fees incurred, with or without suit, in addition to the above sum.

In the event that suit or other proceeding is brought upon this Bond by the Obligeé, the Surety shall pay to the Obligeé all costs, expenses and fees incurred by the Obligeé in connection therewith, including without limitation, attorneys' fees.

IN WITNESS WHEREOF three identical counterparts of this Instrument, each of which shall for all purposes be deemed an original thereof, have been duly executed by the Principal and Surety above named, on the 27th day of April, 2017

Barrow's Landscaping, Inc.

Indemnity Company of California

By: [Signature]
Principal

By: [Signature]
Surety Shauna Lucero, Attorney-in-Fact

END OF DOCUMENT



CONTRACT SERVICES AGREEMENT
Maintenance Department - L&H Airco

THIS CONTRACT SERVICES AGREEMENT ("Agreement") ~~is made and entered into on 04/26/2017~~ (hereinafter, the "Effective Date"), by and between the MARYSVILLE JOINT UNIFIED SCHOOL DISTRICT ("DISTRICT") and L&H Airco (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

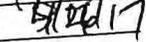
1.1 SCOPE OF WORK: Subject to the terms and conditions set forth in this Agreement and all exhibits attached and incorporated hereto, CONTRACTOR agrees to perform the services and tasks set forth in Exhibit "A" (hereinafter referred to as the "Scope of Work"). CONTRACTOR further agrees to furnish to 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 2016-2017 commencing from 4/26/2017-5/31/2017**~~

1.3 COMPENSATION:

- A. CONTRACTOR shall perform the various services and tasks set forth in the Scope of Services in accordance with the compensation schedule which is see Exhibit A. (hereinafter, the "Approved Rate Schedule").
- B. ~~Section 1.3(A) notwithstanding, CONTRACTOR's total compensation during the Term of this Agreement or any extension term shall not exceed the budgeted aggregate sum Nine thousand Six Hundred Six Dollars (\$9,606.00) (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 in increments of Nine Thousand Six Hundred Six Dollars (\$9,606.00) as the Work is completed. Following the conclusion of each calendar month, CONTRACTOR shall submit to DISTRICT an itemized invoice indicating the services performed and tasks completed during the recently concluded calendar month, including services and tasks performed and the reimbursable out-of-pocket expenses incurred. If the amount of CONTRACTOR's monthly compensation is a function of hours works by CONTRACTOR's personnel, the invoice shall indicate the number of hours worked in the recently concluded calendar month, the persons responsible for performing the Work, the rate of compensation at which such services and tasks were performed, the subtotal for each tasks and service performed and a grand total for all services performed. Within THIRTY (30) calendar days of receipt of each invoice, DISTRICT shall notify CONTRACTOR in writing of any disputed amounts included in the invoice. Within FORTY-FIVE (45)

Business Services Department
Approval: 
Date: 

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

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

II. PERFORMANCE OF AGREEMENT

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

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

III. INSURANCE

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

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

IV. INDEMNIFICATION

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

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

V. TERMINATION

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

5.2 EVENTS OF DEFAULT; BREACH OF AGREEMENT:

- A. In the event either Party fails to perform any duty, obligation, service or task set forth under this Agreement (or fails to timely perform or properly perform any such duty, obligation, service or task set forth under this Agreement), an event of default (hereinafter, "Event of Default") shall occur. For all Events of Default, the Party alleging an Event of Default shall give written notice to the defaulting Party (hereinafter referred to as a "Default Notice") which shall specify: (i) the nature of the Event of Default; (ii) the action required to cure the Event of Default; (iii) a date by which the Event of Default shall be cured, which shall not be less than the applicable cure period set forth under Sections 5.2.B and 5.2.C below or if a cure is not reasonably possible within the applicable cure period, to begin such cure and diligently prosecute the such cure to completion. The Event of Default shall constitute a breach of this Agreement if the defaulting Party fails to cure the Event of Default within the applicable cure period or any extended cure period allowed under this Agreement.
- B. CONTRACTOR shall cure the following Events of Defaults within the following time periods:
- i. Within three (3) business days of DISTRICT's issuance of a Default Notice for any failure of CONTRACTOR to timely provide DISTRICT or DISTRICT's employees or agents with any information and/or written reports, documentation or work product which CONTRACTOR is obligated to provide to DISTRICT or DISTRICT's employees or agents under this Agreement. Prior to the expiration of the 3-day cure period, CONTRACTOR may submit a written request for additional time to cure the Event of Default upon a showing that CONTRACTOR has commenced efforts to cure the Event of Default and that the Event of Default cannot be reasonably cured within the 3-day cure period. The foregoing notwithstanding, DISTRICT shall be under no obligation to grant additional time for the cure of an Event of Default under this Section 5.2 B.i. that exceeds seven (7) calendar days from the end of the Initial 3-day cure period; or
 - ii. Within fourteen (14) calendar days of DISTRICT's issuance of a Default Notice for any other Event of Default under this Agreement. Prior to the expiration of the 14-day cure period, CONTRACTOR may submit a written request for additional time to cure the Event of Default upon a showing that CONTRACTOR has commenced efforts to cure the Event of Default and that the Event of Default cannot be reasonably cured within the 14-day cure period. The foregoing notwithstanding, DISTRICT shall be under no obligation to grant additional time for the cure of an Event of Default under this Section 5.2.B.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:
L&H Airco
2536 Warren Drive
Rocklin, CA 95677

Phone: 916-677-1000
Fax: 916-677-1111
Email: kevmb@l&hairco.com

DISTRICT
Marysville Joint Unified School District
1919 B Street
Marysville, CA 95901
Phone: 530-749-6183
Fax: 530-741-7874

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

6.7 **COOPERATION; FURTHER ACTS:** The Parties shall fully cooperate with one another, and shall take any additional acts or sign any additional documents as is reasonably necessary, appropriate or convenient to achieve the purposes of this Agreement.

6.8 **SUBCONTRACTING:** CONTRACTOR shall not subcontract any portion of the Work required by this Agreement, except as expressly stated herein, without the prior written approval of DISTRICT. Subcontracts (including without limitation subcontracts with subconsultants), if any, shall contain a provision making them subject to all provisions stipulated in this Agreement, including provisions relating to insurance requirements and indemnification.

6.9 **DISTRICT'S RIGHT TO EMPLOY OTHER CONTRACTORS:** DISTRICT reserves the right to employ other contractors in connection with the various projects worked upon by CONTRACTOR.

6.10 **PROHIBITED INTERESTS:** CONTRACTOR warrants, represents and maintains that it has not employed nor retained any company or person, other than a *bona fide* employee working solely for CONTRACTOR, to solicit or secure this Agreement. Further, CONTRACTOR warrants and represents that it has not paid nor has it agreed to pay any company or person, other than a *bona fide* employee working solely for CONTRACTOR, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, DISTRICT shall have the right to rescind this Agreement without liability. For the term of this Agreement, no member, officer or employee of DISTRICT, during the term of his or her service with DISTRICT, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

6.11 **TIME IS OF THE ESSENCE:** Time is of the essence for each and every provision of this Agreement.

6.12 **GOVERNING LAW AND VENUE:** This Agreement shall be interpreted and governed according to the laws of the State of California. In the event of litigation between the Parties, venue, without exception, shall be in the Yuba County Superior Court of the State of California. If, and only if, applicable law requires that all or part of any such litigation be tried exclusively in federal court, venue, without exception, shall be in the Northern District of California located in the City of San Francisco, California.

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

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

MARYSVILLE JOINT UNIFIED SCHOOL
DISTRICT:

By: RLH #12/26/17
Ryan DiGiulio
Assistant Superintendent of Business Services

Contractor
By: [Signature]
Name: John Harris
Title: VP - Business Development

~~Exhibit A~~

Attachment A



L&H AIRCO
2930 WARREN DRIVE
ROCKLIN, CA 95877
MAIN (916) 677-1000
SERVICE (916) 677-1010
FAX (916) 677-1111
CC LICENSE 591095
WWW.LHAIRCO.COM

Alerton Controls Proposal

DATE:	4/3/2017	QUOTE:	3404
PROJECT:	Compass Software Upgrade	LOCATION:	M&O Office
TO:	Raul Oseguera	PHONE:	530-749-6124
EMAIL:	roseguera@mjud.k12.ca.us	FAX:	

We propose to upgrade the existing Alerton software from EBT 1.3 Medium to Alerton Ascent Compass Medium license software. Currently there is a significant rebate to upgrade and is included in the total price. The new software supports up to 150 field devices and unlimited computers using HTML5 Graphics. Java is no longer used.

DESCRIPTION TO INCLUDE:

- Alerton Ascent Compass 1 Software Medium License
- L&H Airco IT department labor to install software on Customer provided computer
- L&H Airco IT department labor to update ROC files in all Alerton Global Controllers
- 16 Hours for software training to be used as needed
- L&H Airco Graphics Dept. labor to create navigation tree
- Alerton 30% rebate off list price is figured into this price.

EXCLUSIONS:

- Any work done outside of the scope of work outlined above will be done at our standard rate of \$125.00 per hour plus the cost of materials with customer's prior approval.
- Performance Bonds and Building Permits
- Asbestos and Lead Abatement
- Air Balance of System.
- Any work with fire smoke dampers.
- Control wire pipe, flex, and switch boxes
- Economizer Fault Detection and Diagnostics Controls and Programming

Total Price: \$9,606.00

Presented By: Kevin Bender

Accepted By: Ryan DiGiovio

Title: Service Sales Engineer

Title: ASST. Supt., BUSINESS SERVICES

Date: 4/3/2017

Date: 4/26/17

California License #591093 C-7, C-20, C-10

Dept. of Industrial Relations #1000045587

Signature: [Signature]

See Attached Terms and Conditions

A17-03182



ATTENTION2ATTENDANCE® (A2A) SOFTWARE & SERVICES AGREEMENT
Between
SCHOOL INNOVATIONS & ACHIEVEMENT
And
MARYSVILLE JOINT UNIFIED SCHOOL DISTRICT

This AGREEMENT ("Agreement") dated May 23, 2017, is made by and between Marysville Joint Unified School District ("District") and School Innovations & Achievement, a California corporation ("SI&A"), each being a "Party" and collectively the "Parties."

RECITALS

WHEREAS, District is authorized to retain SI&A to provide the software and services described below;

WHEREAS, District has determined that SI&A is qualified to provide such software and services, which are not available from public sources accessible to District; and

WHEREAS, the Parties desire to enter into an agreement for SI&A to provide these services and software to the District under the terms and conditions set forth below;

AGREEMENT

NOW, THEREFORE, the Parties agree as follows:

1. Agreement Period. The term of this Agreement ("Agreement Term") begins May 23, 2017 ("Effective Date") and will expire automatically on its own terms on June 30, 2020 (the "Expiration Date"). The Agreement Term consists of three (3) periods, each of which ends on June 30 of the years 2018, 2019, and 2020, and are as follows:

- May 23, 2017 to and including June 30, 2018 ("Agreement Year One");
• July 1, 2018 to and including June 30, 2019 ("Agreement Year Two"); and
• July 1, 2019 to and including June 30, 2020 ("Agreement Year Three").

Either Party may terminate, with or without cause, both Agreement Year Two and Agreement Year Three, or Agreement Year Three, by delivering written notice of termination to the other Party ("Termination Notice"). To be effective, any Termination Notice for both Agreement Year Two and Agreement Year Three, or Agreement Year Three must be received as follows:

- To terminate both Agreement Year Two and Agreement Year Three, Termination Notice must be received not less than 30 calendar days prior to June 30, 2018.
• To terminate Agreement Year Three, Termination Notice must be received not less than 30 calendar days prior to June 30, 2019.

2. **Grant of License.** Commencing on the Effective Date, SI&A grants to District a nonexclusive license, for the purposes and subject to the terms and conditions stated in this Agreement, for those users identified by District as needing to access the Software and Services (as those terms are defined in Section 3, below) as part of their job duties and approved by SI&A, which approval may not be unreasonably withheld (individually an “Authorized User” and collectively the “Authorized Users”), to use and access the Software and Services.
3. **Attendance – Base Program.**

~~**Description of Software and Services.** SI&A shall provide District the following software (“Software”) and services (“Services”) for each school site on Exhibit C (“Sites”) during the Agreement Period. The Software and Services provided pursuant to this Section 3 are collectively referred to as the “Base Program.”~~

3.1 Access By Authorized Users. Provide each Authorized User with a unique login username and password combination (an “Authentication Credential”), which District and its employees shall not disclose to any other person (including, but not limited to, other employees of District) other than the Authorized User for which SI&A issues the Authentication Credential. SI&A will issue Authentication Credentials for new Authorized Users during the Agreement Period. Such new Authentication Credentials shall be subject to the restrictions and requirements set forth above in this section pertaining to Authorized Users and Authentication Credentials.

3.2 Attendance Management Software and Analysis.

- a) Provide access to online software attendance analysis reports for the Authorized Users based on site comparisons, national studies and comparative trend analysis;
- b) Prepare Attendance Management and Analysis Reports; and
- c) Review the Attendance Management and Analysis Reports’ findings and recommendations with District.

3.3 Letter Software Management of Initial Notification of Truancy Letters (NOT).

- a) Provide access to a web based software system for the Authorized Users that produces Initial Notification of Truancy (NOT) Letters to parents or guardians of each applicable pupil; and
- b) Prepare and distribute, by United States mail, all Initial Notification of Truancy (“Truancy Letters”) to each applicable pupil’s parents or guardians, consistent with District policy.

3.4 Letter Software Management of Discretionary Attendance Notifications.

- a) Provide access to a web-based software system for the Authorized Users that produces optional attendance letters to parents or guardians of each applicable pupil; and

- b) Prepare and distribute by United States mail, discretionary attendance letters to each applicable pupil's parents or guardians as is consistent with District's truancy and excessive excused absence policy.

3.5 Conferencing Software.

- a) Provide access to a web-based software system for the Authorized Users that allows monitoring and tracking of pupils that require attendance conferencing consistent with district policy;
- b) Discretionary software conferencing capability related to other excessive absence/tardy issues; and
- c) Prepare and distribute by United States mail, Conference Notification Reminder Letters to each applicable pupil's parents or guardians as is consistent with District's conferencing policy.

3.6 Application Training Course and Materials. All training materials are included.

- a) Each day of on-site training consists of four (4) sessions with up to 25 people per session. (The number of days of on-site training required is determined by District size.) The on-site training will be provided on a mutually agreed upon date immediately after SI&A receives signed Agreement and configuration set up has been agreed upon for implementation purposes. Additional on-site training is available for an additional fee of \$2,500 per day.
- b) Services include complimentary technical support via the assigned Attention 2 Attendance ("A2A") Team in addition to the SI&A Help Desk; and
- c) Unlimited access to Ongoing Online Application Courses & Trainings for the Authorized Users. This service includes an Implementation Manager to demonstrate application use via web hosted training applications.

3.7 Data Collection & General Provisions.

- a) SI&A will install and configure the Software, including the ROBOT, remotely. SI&A will only use commercially accepted practices to access District's data environment to install and configure interfacing applications between the Software, including the ROBOT and District's Student Information System. A list of data elements that the ROBOT will pull as part of the Services is attached to this Agreement as Exhibit E.
- b) SI&A will prepare and distribute via Secure File Transfer Protocol (SFTP) an electronic version of all letters that have been sent on an annual basis.

- c) When SI&A transfers District data originating on District's system over the Internet, SI&A will use only an encrypted network traffic via industry standard Secure Socket Layer (SSL).
- d) District shall own all data and records provided to SI&A by District that are subject to California Education Code Sections 49073 et seq., ("District Data") and all intellectual property rights therein. District grants to SI&A a perpetual, exclusive, royalty-free license to aggregate District Data and to use, modify, distribute, and create derivative works based on District Data as so aggregated solely for the purposes of (i) providing the Software and Services to the District during the Agreement Period as set forth herein, and (ii) referencing and documenting SI&A's experience and capabilities, but only to the extent SI&A's use does not violate Section (e) below. District acknowledges that SI&A owns proprietary intellectual property which it uses to provide the Software and perform the Services to District hereunder. SI&A shall own and retain all intellectual property rights in any and all reports, statistics, and other works of authorship, products or processes produced in the performance of Services or provision of Software hereunder. Notwithstanding the foregoing, District grants SI&A a perpetual, exclusive, royalty-free license to use anonymized District Data for any purpose otherwise allowed by law. As set forth in the Standard Terms and Conditions, District and SI&A shall cooperate to preserve the confidentiality of District Data as mandated by applicable federal and state law.
- e) SI&A will neither disclose District Data nor access District Data except as needed to perform the functions of the software as it is related to attendance management programs. All data access will occur on a mutually agreed upon basis to accommodate the frequency of letter distribution.
- f) SI&A shall: (i) provide its basic support for the A2A product to District at no additional charge, and/or (ii) use commercially reasonable efforts to make software available 24 hours a day, 7 days a week, except for: (a) planned downtime (of which SI&A shall give at least 4 hours notice online or via email and which SI&A shall schedule to the extent practicable during the weekend hours from 6:00 p.m. Friday to 3:00 a.m. Monday Pacific Time), or (b) any unavailability caused by circumstances beyond SI&A's reasonable control, including without limitation, acts of God, acts of government, floods, fires, earthquakes, civil unrest, acts of terror, strikes or other labor problems (other than those involving SI&A's employees), failures, downtime or delays by an Internet Service Provider or third-party social platform, or denial of service attacks.

3.8 Letter Types.

Letter Type:	District Letter Selections
Unlimited Truancy Letter 1 (NOT)	Included
Unlimited Truancy Letter 2	Included
Unlimited Truancy Letter 3	Included

Unlimited Excessive Excused Absences Letter 1.	Included
Unlimited Excessive Excused Absences Letter 2	Included
Unlimited Conference Notification Reminder Letters	Included

4. District's Responsibilities; District Acknowledgment.

4.1 District will be responsible for the following:

- ~~a) The substantive outcomes of the Software and Services;~~
- b) Preparing and furnishing to SI&A, promptly upon its request, such information that is reasonably necessary to perform the Services and/or install the Software;
- c) Completing the Implementation Process and District Contact Information form attached hereto as Exhibit B;
- d) Accurately preparing and maintaining true and correct student documentation and records;
- e) Establishing and maintaining data collection and tracking procedures and other internal controls sufficient to support this service and software;
- f) Providing support and computer equipment for the Authorized Users compatible with the technology requirements specified by SI&A, including, but not limited to, (i) providing any Authorized Users with a computer on which a web browser compatible with SI&A's software is installed and (ii) ensuring that the District's computer systems meet the technology requirements specified by SI&A for (1) the operation of the ROBOT or any other Software installed on District's systems pursuant to this Agreement and (2) access by SI&A to the data collected by the ROBOT;
- g) Ensuring that District personnel do not delete, modify, or otherwise impair the operation of the ROBOT or any other Software installed on District's systems pursuant to this Agreement;
- h) Ensuring that District and school personnel who use SI&A products and services participate in the training sessions provided to District by SI&A;
- i) Providing the assistance and contact information of school personnel. SI&A has explained SI&A's requirements in this regard to District and District agrees to meet these requirements;
- j) Notifying SI&A when an Authorized User no longer requires access to the A2A system so that SI&A may, in its sole and absolute discretion, deactivate the Authentication Credential for that Authorized User;
- k) Protecting SI&A Confidential Information (as that term is defined in Section 4.2, below) by taking steps to preserve the confidentiality of SI&A Confidential

Information, which shall, at a minimum, include (1) all steps taken by District to protect District's own confidential information and (2) ensuring that no one other than an Authorized User accesses the Services, Software, Materials, or SI&A Confidential Information;

- l) Promptly advising SI&A in writing immediately once District becomes aware of any actual or threatened unauthorized use or disclosure of any of the SI&A Confidential Information (as that term is defined in Section 4.2, below);
- m) Ensuring that District and District personnel who use SI&A products or services comply with the terms and restrictions contained in this Agreement, including, but not limited to enforcing the terms of this Agreement as to its employees as to the confidentiality of the SI&A Confidential Information and taking such action, legal or otherwise, to the extent necessary to cause District's employees to comply with the terms and conditions of this Agreement and thereby prevent any disclosure or unauthorized use (as such unauthorized uses are set forth in Section 4.2, below) of the SI&A Confidential Information by any of District's employees; and
- n) Within fifteen (15) business days of termination or expiration of the Agreement for any reason (including, but not limited to, any fault of SI&A or District) with respect to any SI&A Confidential Information in the control or possession of District, and at SI&A's election, either (i) destroy SI&A Confidential Information and certify to SI&A in writing that such destruction has in fact been completed in its entirety (including, but not limited to, the permanent deletion of all electronic data) or (ii) return the SI&A Confidential Information to SI&A. SI&A shall have the sole and absolute discretion to decide between destruction of SI&A Confidential Information and return of SI&A Confidential Information and may make different elections for different components of SI&A Confidential Information.

4.2 Restrictions. During performance of the Agreement, SI&A may provide materials or disclose to District certain materials or information which SI&A considers proprietary or confidential ("SI&A Confidential Information"). SI&A Confidential Information includes but is not limited to SI&A's training handbooks; policy manuals; instructions; copyrighted checklists and forms; all written, oral, electronic, or visual information or data which are non-public, confidential, competitively sensitive, personal, or proprietary in nature; the materials and/or the information provided by SI&A to District (whether before or after the execution of this Agreement); information contained in any and all pending patent applications by SI&A; trade secrets belonging to SI&A; any and all software owned and/or created by SI&A including but not limited to the Software; manuals; forms; data; data tables; draft letters; questionnaires; and similar information, material, or documents; and any and all copies of the foregoing. Therefore, the rights granted to District in this Agreement are subject to the following:

- a) District acknowledges the confidential and proprietary nature of the SI&A Confidential Information and agrees to hold and keep the SI&A Confidential Information confidential and otherwise agrees to each and every restriction and obligation set forth in this Agreement. District shall use the SI&A Confidential Information solely as part of the services provided under this Agreement and solely during the term of this

Agreement (the "Authorized Uses"). District shall not use or permit any of its employees to use any of the SI&A Confidential Information for any reason or purposes other than the Authorized Uses. Uses that are not Authorized Uses include, but are not limited to, those uses explicitly set forth below;

- b) District shall not license, sell, rent, lease, transfer, assign, distribute, display, host, outsource, disclose or otherwise commercially exploit or make the A2A Service, Software, related materials pertinent to A2A Materials (the "A2A Materials"), and/or any SI&A Confidential Information available to any third party other than an Authorized User;
- c) District shall not modify, make derivative works of, disassemble, reverse compile, or reverse engineer any part of the A2A Service, Software, A2A Materials, or SI&A Confidential Information or access the A2A Service, Software, A2A Materials, or SI&A Confidential Information in order to build a similar or competitive product, software, or service or to assist any third party in building a similar or competitive product, software, or service, including, but not limited to, accessing the A2A Service, Software, A2A Materials or SI&A Confidential Information for purposes of monitoring its availability, performance or functionality, or for any other benchmarking or competitive purposes;
- d) Except as expressly stated herein, no part of the A2A Service, Software, A2A Materials, or SI&A Confidential Information may be copied, reproduced, distributed, republished, downloaded, displayed, posted, transmitted, or otherwise disclosed in any form or by any means (including but not limited to electronic, mechanical, photocopying, recording, or other means) except with the express prior written consent of SI&A;
- e) District shall not disclose any review of the A2A Service or Software (including but not limited to the results of any performance tests) to any third party without SI&A's prior written approval;
- f) District agrees to make every reasonable effort to prevent unauthorized third parties from accessing the A2A Service, Software, A2A, or the SI&A Confidential Information (or any portion thereof);
- g) District acknowledges and agrees that SI&A or its third-party providers shall own all right, title and interest in and to all intellectual property rights (including all derivatives or improvements thereof) in the A2A Service, Software, the A2A Materials, and SI&A Confidential Information and any suggestions, enhancement requests, feedback, recommendations or other information provided by District or any other party relating to the A2A Service, Software or the A2A Materials;
- h) District agrees that District shall not for any reason direct, recommend, or encourage an employee to disclose an Authentication Credential to District, any other employee of District, or any third party;

- i) District agrees that District shall not use the SI&A Confidential Information, whether directly or indirectly, to assist, whether directly or indirectly, any business that competes with SI&A;
- j) District agrees that District shall not use the SI&A Confidential Information in any way, shape, or form after the expiration or termination of this Agreement;
- k) District agrees that District shall not permit any use of the SI&A Confidential Information by a third party other than District except with the express prior written consent of SI&A;
- l) District agrees that District shall not use or permit to be used the SI&A Confidential Information in any way, shape, or form that attributes the SI&A Confidential Information as having been created, developed, prepared, derived, designed, protected, or owned by any person other than SI&A;
- m) District agrees that District shall not use the SI&A Confidential Information in any way that is detrimental to the interests of SI&A;
- n) District shall carefully restrict access to the Services, Software, Materials, and SI&A Confidential Information to only those of District's employees who (i) require such access in order to perform their job duties, and (ii) are informed by District of the confidential nature of SI&A Confidential Information and the obligations pursuant to this Agreement, including, but not limited to, the provisions of Sections 4.1 and 4.2 of this Agreement; and
- o) District acknowledges and agrees that all of the restrictions of this section shall apply to any SI&A Confidential Information provided to the District as part of any negotiations for the renewal or extension of this Agreement.

4.3 Right of Termination by SI&A. If District violates any of District's covenants, restrictions, or responsibilities in this Section 4, SI&A shall have the unilateral right to terminate this Agreement in SI&A's sole and absolute discretion. Upon termination of this Agreement pursuant to this Section 4.3, (a) SI&A will invoice District for Fees owing within the Agreement Period and District shall pay the full invoice amount within thirty (30) days after receipt of SI&A's invoice and (b) District will have ten (10) days to download and/or print all historical information and work in progress. SI&A's right of termination in this section 4 is in addition to, and independent from, any other right of termination contained within this Agreement.

5. Payment of Fees.

5.1 Fees. For Services provided pursuant to the terms of this Agreement, as outlined in Section 3, above, District agrees to pay SI&A according to the following table:

	<u>Year 1</u> 05/23/17 – 06/30/18	<u>Year 2</u> 07/01/18 - 06/30/19	<u>Year 3</u> 07/01/19 - 06/30/20
A2A Base Implementation/On-site Training* (Implementation Fee of \$12,400 Waived)	\$0	\$0	\$0
A2A Base Annual Fees:			
Software & Services	34,400	34,400	34,400
Letters	20,000	20,000	20,000
A2A Base Total Annual Fees	\$54,400	\$54,400	\$54,400
Total Annual Fees	\$54,400	\$54,400	\$54,400

5.2 Payment. The annual Fee described above is payable in three (3) annual installments as follows:

	<u>Due Upon Signing or 07/01/17</u>	<u>Due 07/01/18</u>	<u>Due 07/01/19</u>
Standard Fee*	\$54,400	\$54,400	\$54,400

*There is an additional \$2,500 SIS change fee if District changes SIS during the Agreement Term. The fee will be due upon SI&A commencing with the implementation of the new SIS.

District acknowledges and agrees that payment of any outstanding installments of the Fee are due and payable on the dates indicated notwithstanding any termination of this Agreement by District prior to the end of the Agreement Term.

6. District's Representations and Warranties. In addition to other representations and warranties of District contained herein, District hereby expressly warrants and represents to SI&A that the following statements are true and accurate as of the Effective Date and throughout the Agreement Period:

6.1 The execution, delivery and performance of this Agreement by SI&A and the consummation of the transactions contemplated hereby do not conflict with or result in a violation of any law governing the District's existence as a school district, its operations or ability to contract;

6.2 This Agreement constitutes a legal, valid and binding obligation of District, enforceable against District in accordance with its terms;

6.3 District has the absolute and unrestricted right, power, authority and capacity to execute this Agreement and perform District's obligations hereunder;

6.4 Neither the execution nor the performance of this Agreement will directly or indirectly contravene or violate any law, or give any person the right to challenge any Services or Software hereunder or obtain any relief under the law; and

6.5 All of the information provided to SI&A is true and accurate in all respects.

7. **Disclaimer of Warranties.** Except as provided otherwise herein, SI&A and its third-party providers hereby disclaim all express or implied representations, warranties, guaranties, and conditions with regard to the A2A service, Software, the A2A materials, and the Services including but not limited to any implied representations, warranties, guaranties, and conditions of merchantability, fitness for a particular purpose, title and non-infringement, and quality of service. SI&A and its third-party providers make no representations or warranties regarding the reliability, availability, timeliness, quality, suitability, truth, accuracy or completeness of the A2A service, Software, the A2A materials, or the Services or the results district may obtain by using the A2A service, Software, the A2A materials, or the Services. Without limiting the generality of the foregoing, SI&A and its third-party providers do not represent or warrant that (a) the operation or use of the A2A service, Software or A2A materials will be timely, secure, uninterrupted or error-free; (b) the quality of any products, services, information, or other material district purchases or obtains through the A2A service and software will meet district's requirements; and (c) the A2A service, Software, A2A materials, or the systems that make the Service available are free of viruses or other harmful components. District acknowledges that neither SI&A nor its third-party providers controls the transfer of data over communications facilities (including the Internet) and that the A2A service, Software and A2A materials may be subject to limitations, delays, and other problems inherent in the use of such communications facilities. SI&A is not responsible for any delays, delivery failures, or other damage resulting from such problems. Except where expressly provided otherwise by SI&A, the A2A service, Software, the Services, and the A2A materials are provided to District on an "as is" basis.
8. **Survival.** The provisions of Sections 4, 5, 6, and 7, herein in addition to Standard Terms and Conditions #9, #10, #12, and #16, shall survive the termination of this Agreement.
9. **Entire Agreement.** This Agreement, including, without limitation, the Standard Terms and Conditions attached hereto as Exhibit A is the final expression of, and contains the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior understandings with respect thereto.
10. **Exhibits.** All exhibits referred to in this Agreement are attached and incorporated herein by this reference.

11. **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed an original, including copies sent to a party by facsimile transmission or in portable document format (pdf), as against the party signing such counterpart, but which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, this Agreement is dated as of the date set forth above.

SI&A:

DISTRICT:

**SCHOOL INNOVATIONS
& ACHIEVEMENT**

**MARYSVILLE JOINT UNIFIED
SCHOOL DISTRICT**

Signature: *Jeffrey C. Williams*
Date: 5/9/2017
Print Name: Jeffrey C. Williams
Title: Chief Executive Officer
Company: School Innovations & Achievement
Address: 5200 Golden Foothill Parkway
El Dorado Hills, CA 95762
Phone: (800) 487-9234
Fax: (888) 487-6441

Signature: _____
Date: _____
Print Name: _____
Title: _____
Address: _____
Phone: _____
Fax: _____
Email: _____

EXHIBIT A - STANDARD TERMS AND CONDITIONS

1. **Scope of Services; Independent Contractor.** SI&A's software and services (the "Services") described in the Agreement to which this Exhibit A is attached detail the initial scope of services anticipated by SI&A as of the effective date of the Agreement ("Initial Scope of Services"). District acknowledges that the Fee (as defined below) is based on this Initial Scope of Services. If SI&A determines that the Initial Scope of Services may be or has been increased anytime during the Agreement Period, SI&A reserves the right to increase the Fee to compensate for the unanticipated or additional services as mutually agreed upon in writing by both Parties. This Agreement is not for lobbying services and SI&A is not being retained to provide lobbying services to District. The Parties agree that SI&A is an independent contractor and the Agreement shall not be construed to create a relationship of agent, servant, employee, partnership, joint venture, association or any other relationship.
2. **Payment.** For purposes of the Agreement, the price of products and services set forth in Section 5, Item 5.1 of the attached Agreement, and any other applicable fee pursuant to the Agreement, shall be collectively referred to herein as the "Fee" or "Fees." District acknowledges that the Fees are based on the Initial Scope of Services anticipated by SI&A as of the date of this Agreement. The Fees shall be billed to District and District shall pay the entire amount within thirty (30) days after District receives SI&A's invoice.
3. **Termination.** Upon termination of this Agreement in accordance with its terms, SI&A will invoice District for Fees owing and District shall pay the full invoice amount within thirty (30) days after receipt of SI&A's invoice. Except as set forth in this Section 3, neither Party shall have any liability to the other for damages resulting solely from a Party's termination of this Agreement in accordance with this Section 3 and the terms set forth in the Agreement. Upon the notice of termination from either Party, the District will have thirty (30) days to download and/or print all District Information (which is defined in Section 16.b below), which is not intertwined with any SI&A Confidential Information (which is defined in Section 9.a below).
4. **Notice.** All Agreement notices must be in writing, directed to the Party's address set forth below such Party's signature in the Agreement and shall be deemed to be received in accordance with the following: (a) in the case of personal delivery, on the date of such delivery; (b) in the case of facsimile transmission, on the date upon which the sender receives confirmation by facsimile transmission that such notice was received by the addressee, provided that a copy of such transmission is additionally sent by mail as set forth in (d) below; (c) in the case of overnight courier, on the second business day following the day such notice was sent, with receipt confirmed by the courier; and (d) in the case of mailing by first class certified mail, postage prepaid, return receipt requested, on the fifth business day following such mailing. A Party may change the address stated in the Agreement by giving notice to the other Party.
5. **District's General Responsibilities; District Acknowledgment.** During the Agreement Period, in addition to the obligations set forth in the Agreement, District is responsible for the following: (a) ensuring that District and its employees properly identify and comply with laws and regulations applicable to District's activities; (b) completing any documents required by SI&A for any service obtained by District; (c) importing only data that reflects student performance to the grade level into the school site plan to ensure confidentiality and consistency with FERPA guidelines; and (d) monitoring assignments of login and passwords to assure FERPA compliance. District acknowledges that SI&A's full, accurate and timely performance under this Agreement is materially dependent upon District's reasonable cooperation and assistance. District further acknowledges that SI&A's Initial Scope of Services and Fee presume a reasonable amount of cooperation and assistance from District, such as District's timely provision of certain information, documentation and personnel. SI&A has explained its requirements in this regard to District and District agrees to meet these requirements.
6. **Further Assurances.** Upon request of the other Party, SI&A or District shall execute and deliver additional instruments and take additional actions as may be necessary or appropriate to perform the Agreement.
7. **Assignment Prohibited.** Neither Party may assign any rights or obligations under this Agreement without the prior written consent of the other Party. Any purported assignment in violation of the provisions of this Section 7 shall be null and void.
8. **Family Educational Rights and Privacy Act ("FERPA"); California Education Code.** SI&A may have limited access to student data or information only for purposes of providing the services specified in the Agreement. SI&A performs the Services as an independent contractor of District. SI&A, its officers and employees, shall comply at all times with the Family Educational Rights and Privacy Act and, for any California District, California Education Code sections 49073 et seq. and/or sections 76240 et seq., as applicable. Further to the requirements of California Education Code section 49073.1, as applicable, SI&A and District agree that (a) any and all "Pupil records" (as that term is defined in Education Code section 49073.1 and hereinafter referred to as "Pupil Records") disclosed or transmitted to SI&A remain the property of District and under the control of District; (b) SI&A shall not use any Pupil Records disclosed or transmitted to SI&A by District or any information in those pupil records for any purpose other than those required or specifically permitted by the Agreement; (c) SI&A shall not disclose any Pupil Records disclosed or transmitted to SI&A by District to any third party; (d) SI&A shall dispose of the Pupil Records according to Section 16 below; and (e) SI&A shall not use any Pupil Records disclosed or transmitted to SI&A by District to engage in targeted advertising. The procedures (a) created by District to comply with the requirements of Education Code section 49073.1 and (b) used by SI&A to ensure the security and confidentiality of Pupil records are listed or referenced in Exhibit D to the Agreement. Notwithstanding the foregoing, District grants to SI&A a perpetual, exclusive, royalty-free license to use anonymized District Data and "Deidentified information" (as defined in Education Code section 49703.1) for any purpose allowed by law. As set forth in the Standard Terms and Conditions, District and SI&A shall cooperate to preserve the confidentiality of District Data as mandated by applicable federal and state law.
9. **Confidential and Proprietary Materials of SI&A.**
 - a. **Definition of SI&A Confidential Information.** During performance of the Agreement, SI&A may provide materials or disclose to District certain materials or information which SI&A considers proprietary or confidential ("SI&A Confidential Information"). SI&A Confidential Information includes but is not limited to SI&A's training handbooks; policy manuals; instructions; copyrighted checklists and forms; all written, oral, electronic, or visual information or data which are non-public, confidential, competitively sensitive, personal, or proprietary in nature concerning SI&A; the materials and/or the information provided by SI&A to District (whether before or after the execution of this Agreement); information contained in any and all pending patent applications by SI&A; trade secrets belonging to SI&A; any and all software owned and/or created by SI&A including but not limited to the software programs commonly known as ATTENTION2ATTENDANCE@ ("A2A") and Partnering4SpecialEd ("P4SE"); manuals; forms; data; data tables; draft letters; questionnaires; and similar information, material, or documents; and any and all copies of the foregoing.
 - b. **Restrictions on Use of SI&A Confidential Information.** District acknowledges the confidential and proprietary nature of SI&A Confidential Information, agrees to hold and keep the SI&A Confidential Information confidential and otherwise agrees to each and every restriction and obligation set forth in this Agreement. District shall use the SI&A Confidential Information solely as part of the services provided under the Agreement and solely during the term of the Agreement (the "Authorized Uses").
 - c. **Restrictions on Disclosure of SI&A Confidential Information.** District shall not disclose any SI&A Confidential Information except as allowed through the express prior written consent of SI&A.
 - d. **No Unauthorized Uses of SI&A Confidential Information.** District shall not use or permit any of its employees to use any of SI&A Confidential Information for any reason or purpose other than the Authorized Uses. Uses that are not Authorized Uses include, but are not limited to, (i) making derivative works or reverse engineering any software, program, process, form, report, analysis, or methodology owned or created by SI&A; (ii) using SI&A Confidential Information, whether directly or indirectly, to assist, whether directly or indirectly, any business that competes with the SI&A; (iii) any use of SI&A Confidential Information that is detrimental to the interests of SI&A; (iv) any use which attributes SI&A Confidential Information as having been created, developed, prepared, derived, designed, protected or owned by any person other than SI&A; (v) any use of SI&A Confidential Information after the expiration of the agreement under which SI&A Confidential Information was provided to District; and (vi) any use of SI&A Confidential Information by a third party other than District.
 - e. **Restrictions on Access to SI&A Confidential Information.** District shall carefully restrict access to SI&A Confidential Information to only those of District's employees who (i) require such access in order to perform their job duties, and (ii) are informed by District of the confidential nature of SI&A Confidential Information and the obligations pursuant to this Agreement. This Agreement is binding on District's employees, and District agrees to be responsible for enforcing the terms of this Agreement as to its employees as to the confidentiality of SI&A Confidential Information and to take such action, legal or otherwise, to the extent necessary to cause its employees to comply with the terms and conditions of this Agreement and thereby prevent any disclosure or unauthorized use of SI&A Confidential Information by any of District's employees.

- f. **Ownership of SI&A Confidential Information.** District agrees that District acquires no ownership interest of any kind in any portion of SI&A Confidential Information by virtue of this Agreement. Any and all derivative works created by District from SI&A Confidential Information shall be the sole and exclusive property of SI&A.
- g. **Security of SI&A Confidential Information.** District agrees to safeguard SI&A Confidential Information and to prevent the unauthorized use or disclosure thereof. In using SI&A software, District and the employees of District may be issued passwords, usernames, or other authentication credentials (collectively, "Authentication Credentials") to allow employees of District to access SI&A software. In issuing Authentication Credentials, SI&A may, in its sole and absolute discretion, specify an individual employee of District for whose sole use the Authentication Credential is issued. If SI&A identifies a specific employee for whose benefit an Authentication Credential is issued, District acknowledges, agrees, and covenants that (i) such Authentication Credentials are intended for the use of the individual for whom SI&A issued the Authentication Credential; (ii) District shall not, for any reason, direct, recommend, or encourage an employee to disclose an Authentication Credential to District, any other employee of District, or any third party; and (iii) District shall take reasonable steps to ensure that no employee of District discloses an Authentication Credential to any other person, including, but not limited to, other employees of District.
- h. **Notification of Disclosure.** If, at any time during the term of the Agreement or after the term of the Agreement, District becomes aware of any unauthorized use or disclosure of any portion or part of SI&A Confidential Information in violation of this Agreement, District shall promptly advise SI&A in writing of such unauthorized use or disclosure of SI&A Confidential Information by any person (regardless of whether that person is District, an employee of District, a contractor of District, or a third party).
- i. **Documents Provided During Renewal Negotiations.** District acknowledges and agrees that all of the restrictions of this section shall apply to any SI&A Confidential Information provided to the District as part of any negotiations for the renewal or extension of the Agreement.
- j. **SI&A's Right of Termination.** If District violates any of District's covenants, restrictions, or responsibilities in this Section 9, SI&A shall have the unilateral right to terminate this Agreement in SI&A's sole and absolute discretion. Upon termination of this Agreement pursuant to this Section 9(j), (1) SI&A will invoice District for Fees owing within the Agreement Period and District shall pay the full invoice amount within thirty (30) days after receipt of SI&A's invoice and (2) District will have ten (10) days to download and/or print all District Information (which is defined in Section 16.b below), which is not intertwined with any SI&A Confidential Information (which is defined in Section 9.a below). The right of termination contained in this Section 9(j) shall be in addition to, and independent from, any other right of termination provided for in this Agreement.
10. **Limitation of Liability; Indemnification.** In no event shall SI&A's liability to District, for any reason arising out of this Agreement, exceed the amount of the Fee actually received by SI&A under this Agreement. SI&A shall not be liable for any consequential damages. District shall defend, indemnify and hold harmless SI&A and all of its agents, directors, officers and employees from and against any and all claims, liabilities, losses, damages, judgments, costs and expenses (including attorneys' fees) and threats thereof, whether arising in tort, contract, statute or otherwise, arising out of or in connection with or relating to SI&A's performance of the Services, unless it is finally determined to have arisen solely from SI&A's gross negligence or willful misconduct. SI&A shall defend, indemnify and hold harmless District, and all of its agents, directors, officers and employees from and against any and all claims, liabilities, losses, damages, judgments, costs and expenses (including attorneys' fees) and threats thereof, whether arising in tort, contract, statute, or otherwise, arising out of or in connection with or relating to SI&A's performance of the Services if it is finally determined to have arisen solely from SI&A's gross negligence or willful misconduct.
11. **Governing Law; Enforcement Costs.** The Agreement shall be governed by and construed in accordance with the substantive laws of California. If any legal action (including arbitration) is commenced to enforce the Agreement's terms or a party's rights or obligations under this Agreement, then the prevailing Party shall be entitled to recover all fees and costs incurred by the action, including reasonable attorneys' fees and arbitrators' fees, in addition to any other relief to which the Party may be entitled.
12. **Judicial Reference.** In the event a dispute is not resolved through discussions and negotiations among the Parties, the dispute shall be decided by general reference procedures pursuant to Code of Civil Procedure section 638, et seq., as modified by the provisions of this Section 12, and any subsequent provisions mutually agreed upon in writing by the Parties. The reference shall be conducted in accordance with California law, including, but not limited to, the Code of Civil Procedure and the Evidence Code. The Parties shall be allowed to conduct discovery in the manner provided by Code of Civil Procedure section 2017, et. seq. BOTH PARTIES HEREBY WAIVE A JURY TRIAL OR PROCEEDING IN CONNECTION WITH ANY DISPUTE ARISING OUT OF THIS AGREEMENT. All general reference proceedings hereunder shall, unless all Parties hereto otherwise agree, be conducted in a mutually agreeable location in the County of Sacramento, State of California.
13. **Modification; Interpretation; Severability; Construction.** No modification or supplement to any provision of the Agreement shall be valid, unless executed in writing by both Parties. No provision of the Agreement shall be construed to require the commission of any act contrary to law. If any term, provision, covenant or condition of the Agreement is held to be invalid or otherwise unenforceable, the rest of the Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated. SI&A shall have the full power and authority to interpret, construe and administer the Agreement and SI&A's determination shall be binding and conclusive on the Parties for all purposes. The headings preceding each Section and subsection of this Agreement are solely for convenience of reference only, are not part of the Agreement, and shall be disregarded in the interpretation of any portion of the Agreement. Whenever required by the context of the Agreement, the singular shall include the plural and the masculine shall include the feminine and vice versa. The Agreement shall not be construed as if it had been prepared by one of the Parties, but rather as if both Parties had prepared the same. Unless otherwise indicated, all references to paragraphs, Sections, subparagraphs and subsections are to the Agreement.
14. **Waiver.** Either Party's failure at any time to enforce any default or right reserved to it, or to require performance of any of the Agreement's terms, covenants, or provisions by the other Party at the time designated, shall not be a waiver of any such default or right to which the Party is entitled, nor shall it in any way affect the right of the Party to enforce such provisions thereafter.
15. **Injunctive Relief.** District acknowledges that any breach of this Agreement by District or any of its employees may cause irreparable damage and harm to SI&A, and that remedies at law would be inadequate to protect against such breach of this Agreement. District agrees in advance to the granting of injunctive relief in favor of SI&A for any such breach of the provisions of this Agreement and to the specific enforcement of the terms of this Agreement, without proof of actual damages and without the requirement of posting a bond or other security, in addition to any other remedy to which SI&A would be entitled, all of which remedies shall be cumulative hereunder.
16. **Treatment of Information after Termination of Agreement.**
- a. **District's Treatment of SI&A Confidential Information.** Within fifteen (15) business days of termination or expiration of the Agreement for any reason, including, but not limited to, any fault of SI&A or District, District shall, with respect to any SI&A Confidential Information in the control or possession of District, and at SI&A's election, either (i) destroy SI&A Confidential Information and certify to SI&A in writing that destruction or (ii) return SI&A Confidential Information to SI&A. SI&A shall have the sole and absolute discretion to decide between destruction of SI&A Confidential Information and return of SI&A Confidential Information and may make different elections for different components of SI&A Confidential Information.
- b. **SI&A's Treatment of District Information.** Upon termination of the Agreement, SI&A shall provide to District the certification required by Education Code section 49073.1(b)(7) with respect to any Pupil Records provided to SI&A by District pursuant to the Agreement. With respect to any and all data and records provided to SI&A by District or derived from data or records provided by District that are not Pupil Records or SI&A Confidential Information ("District Information"), SI&A shall preserve such District Information for a period of not less than one year. Upon the written request of District, SI&A shall return all originals and copies of District Information to District or destroy any originals and electronic copies of District Information. However, to the extent that District Information has become intertwined with SI&A Confidential Information, any and all reasonable expenses incurred by SI&A in ensuring that District's Information, as returned to District or destroyed by SI&A, does not contain any of SI&A Confidential Information shall be borne by District. Nothing in the Agreement or this Exhibit A obligates SI&A to return to District any SI&A Confidential Information.
17. **Conflict with Agreement.** To the extent that any term or provision of these Standard Terms and Conditions conflicts with any other term or provision of the Agreement, the term or provision which is in the Agreement shall control.
18. **Force Majeure.** A Party shall not be liable under the Agreement as a result of any delay, failure or interruption caused by the other Party or third parties, an act of God, acts or orders of governmental authorities, acts of civil or military authorities, catastrophes or other cause (other than financial) beyond the Party's reasonable control, and such nonperformance will not be a default hereunder or a ground for termination of the Agreement.

Exhibit B

Attention2Attendance® Implementation Process and District Contact Information

Following SI&A's receipt of the signed Agreement, a District Support Specialist shall contact District to discuss and finalize the Implementation Process and Production Schedule, which shall establish deadlines, delivery dates, materials to be supplied by District and other items necessary to complete the Attention2Attendance® implementation.

Important phases of the **Implementation Process** include the following:

Attention2Attendance® Initial Call: Review Implementation process with contract signer.

Attention2Attendance® Welcome Call: Implementation web meeting with the contract signer and designated district stakeholders to review A2A process, determine target dates for training, and review district decision points.

The ROBOT installation and initial IT Data Collection: The SI&A Data Support Specialist works with the District IT/SIS contact to begin the data collection process by identifying and collecting codes from the SIS and collecting preliminary sample sets of data for configuration and testing.

Finalize the Production Schedule: The SI&A Implementation Team will provide a Production Schedule for the entire school year to the District Attendance day-to-day contact.

Final District Validation: The SI&A Implementation Team confirms implementation and obtains user information. A Verification Report is emailed to the District for review and final sign off.

Ongoing Service

Once Implementation is complete a Service Team will be assigned to your district.

- You will have access to:
 - Live Help Desk
 - Unlimited online training and support
- Throughout your agreement term you will have access to ongoing analysis and consultative reporting prepared and presented by SI&A. Reporting options are listed below:
 - Chronic Absentee Reports with student detail
 - Mid-Year Summary Report
 - Comprehensive End-of-Year Results
- Ongoing communications that may be sent by SI&A to all users:
 - A2A Did You Knows application tips and tricks
 - A2A Communiqués status and result updates
 - Weekly or every other week e-mail reminders during review period

District Contact Information

Day-to-Day District Contact

Name: Jolie Carreon
Title: Director of Attendance
Phone: 530-749-6901
Email: jcarreon@mjUSD.com

Day-to-Day District IT Contact

Name: Bryan Williams
Title: Director of Technology
Phone: 530-749-6135
Email: bwilliams@mjUSD.com

If you have any questions please call Chelsea Wasulko at (800) 487-9234 x5199
We look forward to working with you!

**Exhibit C
Sites**

Arboga ES
Browns Valley ES
Cedar Lane ES
Community Day School
Cordua ES
~~Covillaud ES~~
Dobbins ES
Edgewater ES
Ella ES
Foothill Intermediate School
Johnson Park ES
Kynoch ES
Linda ES
Lindhurst HS
Loma Rica ES
Marysville Charter for the Arts
Marysville HS
McKenney Intermediate School
Olivehurst ES
South Lindhurst HS
Yuba Feather ES
Yuba Gardens Intermediate School

EXHIBIT D

PROCEDURES FOR COMPLIANCE WITH CALIFORNIA EDUCATION CODE SECTIONS 49073 ET SEQ. AND RELATED STATUTES

Statutory Provision	Procedure and/or Contractual Provision
<p>California Education Code § 49073.1(b)(1): “A local educational agency that enters into a contract with a third party for purposes of subdivision (a) shall ensure the contract contains all of the following: (1) A statement that pupil records continue to be the property of and under the control of the local educational agency.”</p>	<p>See Standard Terms and Conditions, Exhibit A to this Agreement, Section 8(a).</p>
<p>California Education Code § 49073.1(b)(2): “A local educational agency that enters into a contract with a third party for purposes of subdivision (a) shall ensure the contract contains all of the following: . . . (2) Notwithstanding paragraph (1), a description of the means by which pupils may retain possession and control of their own pupil-generated content, if applicable, including options by which a pupil may transfer pupil-generated content to a personal account.”</p>	<p>The services and software provided under this Agreement do not include any pupil-generated content.</p>
<p>California Education Code § 49073.1(b)(3): “A local educational agency that enters into a contract with a third party for purposes of subdivision (a) shall ensure the contract contains all of the following: . . . (3) A prohibition against the third party using any information in the pupil record for any purpose other than those required or specifically permitted by the contract.”</p>	<p>See Standard Terms and Conditions, Exhibit A to this Agreement, Section 8(b).</p>
<p>California Education Code § 49073.1(b)(4): “A local educational agency that enters into a contract with a third party for purposes of subdivision (a) shall ensure the contract contains all of the following: . . . (4) A description of the procedures by which a parent, legal guardian, or eligible pupil may review personally identifiable information in the pupil's records and correct erroneous information.”</p>	<p>If a pupil or parent/guardian wants to review information and correct any erroneous information, the following process can occur:</p> <ol style="list-style-type: none"> 1. Parent, legal guardian, or eligible pupil may submit a request to District to run a Student Detail report using the District’s defined request procedures. 2. The Student Detail Report can be run in the A2A UI by a District representative for delivery to parent, legal guardian, or eligible pupil. 3. Any corrections the parent, legal guardian, or eligible pupil wishes to make may be conveyed in writing to the District representative who runs the Student Detail Report. 4. The District representative who runs the Student Detail Report will update information in their Student Information System, which will be transferred into A2A, or update information directly in A2A if applicable.
<p>California Education Code § 49073.1(b)(5): “A local educational agency that enters into a contract with a third party for purposes of subdivision (a) shall ensure the contract contains all of the following: . . . (5) A description of the actions the third party will take, including the designation and training of responsible individuals, to ensure the security and confidentiality of pupil records. Compliance with this requirement shall not, in itself, absolve the third party of liability in the event of an unauthorized disclosure of pupil records.”</p>	<p>SI&A will:</p> <ol style="list-style-type: none"> a. Only allow database to database connectivity to ensure all student information is always maintained in an audited database format b. Conduct monthly reviews of user access to databases c. Conduct annual training on student data security for all SI&A employees. Training material is available to district upon request. d. Provide access to all notification letters on secure SFTP site. e. Designate the Director of Technology as the

<p>California Education Code § 49073.1(b)(6): “A local educational agency that enters into a contract with a third party for purposes of subdivision (a) shall ensure the contract contains all of the following: . . .</p> <p>(6) A description of the procedures for notifying the affected parent, legal guardian, or eligible pupil in the event of an unauthorized disclosure of the pupil's records.”</p>	<p style="text-align: center;">responsible individual for maintaining the security of student data.</p> <p>SI&A’s notification to the District D2D contact noted in Exhibit B by the District in writing to SI&A will include the following components:</p> <ol style="list-style-type: none"> 1. Date of unauthorized disclosure 2. Description of disclosure 3. Description of root cause of the disclosure and what changes are being made to prevent future such issues.
<p>California Education Code § 49073.1(b)(7): “A local educational agency that enters into a contract with a third party for purposes of subdivision (a) shall ensure the contract contains all of the following: . . .</p> <p>(7)(A) A certification that a pupil's records shall not be retained or available to the third party upon completion of the terms of the contract and a description of how that certification will be enforced. (B) The requirements provided in subparagraph (A) shall not apply to pupil-generated content if the pupil chooses to establish or maintain an account with the third party for the purpose of storing that content pursuant to paragraph (2).”</p>	<p>An aggregated copy of the districts performance during the time of the contract will be maintained within a reporting database. This is for district comparison purposes and does not contain any student identifiable information.</p> <p>PROCEDURE:</p> <ol style="list-style-type: none"> 1. All current student data will be anonymized and a unique SIA student ID code will be assigned to each student. The code will not contain any identifiable information. This will be applied for current year and prior year information. 2. All backups with district information will be recalled and destroyed. 3. Process will be completed within 120 days from contract completion. 4. No outside vendor or individuals will participate in the process. 5. A certified letter will be mailed to the District with a list of all activities completed. 6. Enforcement of SI&A’s certification that the above activities have been complete will be accomplished by audit reviews of the activities by the IT Manager.
<p>California Education Code § 49073.1(b)(8): “A local educational agency that enters into a contract with a third party for purposes of subdivision (a) shall ensure the contract contains all of the following: . . .</p> <p>(8) A description of how the local educational agency and the third party will jointly ensure compliance with the federal Family Educational Rights and Privacy Act (20 U.S.C. Sec. 1232g).”</p>	<p>For purposes of the federal Family Education Rights and Privacy Act (20 U.S.C. Sec. 1232g), SI&A is considered to be a school official under Section 1232g(b)(1)(A), whose access to student data under this Agreement is in pursuit of SI&A’s legitimate educational interests in performing the services set forth under this Agreement.</p>
<p>California Education Code § 49073.1(b)(9): “A local educational agency that enters into a contract with a third party for purposes of subdivision (a) shall ensure the contract contains all of the following: . . .</p> <p>(9) A prohibition against the third party using personally identifiable information in pupil records to engage in targeted advertising.”</p>	<p>See Standard Terms and Conditions, Exhibit A to this Agreement, Section 8(e).</p>

Exhibit E

The following data elements will be used to track and report on attendance. Each Student Information System database is different; some additional values may need to be used to create the necessary database joins to connect these values correctly.

1. Student Demographic Data (e.g. Student ID, Grade, Ethnicity, Mailing Addresses, Home Languages, Parent/Guardian data, etc.)
2. Attendance Data
- ~~3. Discipline Data~~
4. Course Schedules

1 + 2 + 3

Accept Decline

 OPTIONAL IN-DEPTH REPORTING

Additional reporting is available but requires SI&A to pull **additional fields**. Please check any of the additional data elements below you would like SI&A to pull for aggregate level reporting purposes only.

- English Language Learner
- Free & Reduced Lunch Status
- Foster Care

If District chooses to have SI&A pull the Foster Care data element, to the extent required to secure the Foster Care data element, District designates SI&A as a “designee” authorized to review juvenile court files under California Welfare & Institutions Code Section 827.

Grant Award Notification

GRANTEE NAME AND ADDRESS Gay Todd, Superintendent Marysville Joint Unified 1919 B Street Marysville, CA 95901-3731			Jami M.JUSD SUPT OFFICE MAY 15 2017 RECEIVED/m				CDE GRANT NUMBER				
			FY	PCA	Vendor Number	Suffix		16	25306	7273	00
Attention Gay Todd			STANDARDIZED ACCOUNT CODE				COUNTY				
Program Office Office of the Superintendent			Resource Code	Revenue Object	58						
Telephone (530) 741-6000			6387	8590	INDEX						
Name of Grant Program Career Technical Education Incentive Grant							0615				
GRANT DETAILS	Original/Prior Amendments	Amendment Amount	Total		Amend. No.	Award Starting Date	Award Ending Date				
	\$481,841	0	\$481,841		0	July 1, 2016	June 30, 2019				
CFDA Number	Federal Grant Number	Federal Grant Name				Federal Agency					
N/A	N/A	N/A				N/A					
<p>I am pleased to inform you that you have been funded for the Career Technical Education Incentive Grant</p> <p>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, then this award will be amended accordingly.</p> <p>Please return the original, signed Grant Award Notification (AO-400) to:</p> <p style="text-align: center;">Sarah Parker, Staff Services Analyst Career Technical Education Administration and Management Office California Department of Education 1430 N Street, Suite 4202 Sacramento, CA 95814-5901</p>											
California Department of Education Contact Charlene Cowan						Job Title Education Programs Consultant					
E-mail Address ccowan@cde.ca.gov						Telephone 916-323-4747					
Signature of the State Superintendent of Public Instruction or Designee ▶ <i>Torri Tomalakson</i>						Date May 10, 2017					
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.											
Printed Name of Authorized Agent						Title					
E-mail Address						Telephone					
Signature ▶ <i>108</i>						Date					

PROJECT AUTHORIZATION FOR PROFESSIONAL SERVICES

Project Authorization No.: TBD
Date of Project Authorization: May 23, 2017
District Program No.: 8187
Architect's Project No.: 2017-TBD

This Project Authorization is issued pursuant to the "Architectural Services Agreement-Master Agreement", dated the 24th of January, 2017 by and between the Marysville Joint Unified School District and Kirk Brainerd Architect, 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: Marysville High School Baseball Scoreboard
- 1.2 Location(s): Marysville High School

2. SCOPE OF WORK / BUDGET / SCHEDULE

- 2.1 Work Statement: Provide a site plan. Indicate location of new scoreboard, and demolition of existing scoreboard. Submit and receive DSA approval utilizing scoreboard PC drawings. Add notes to extend electrical, but electrical engineering/drawings are not included. Assist the District with bidding the project for installation of the scoreboard. Provide construction administrative services as required. Provide and coordinate all DSA close out and certification documents.

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

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

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Business Services Department
Approval: PC
Date: 5/15/17

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:

Fee Breakdown (per Article X.E. of the Master Agreement):

A. Schematic Design Phase: 25% = \$1,000.00

B. Design Development Phase: 15% = \$600.00

C. Construction Documents Phase: 25% = \$1000.00

D. DSA Submittal: 5% = \$200.00

E. Bidding: 5% = \$200.00

F. Construction Phase: 20% = \$800.00

G. Completion of Construction and

Project Acceptance by District Board: 5% = \$200.00

H. Total Compensation for Architect's Services: 100% = \$4,000.00

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 Special provisions for this project include:

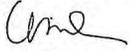
PROJECT AUTHORIZATION FOR PROFESSIONAL SERVICES

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: _____

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



Kirk Brainerd
Architect
Date: 5/12/17

PROJECT AUTHORIZATION FOR PROFESSIONAL SERVICES

Project Authorization No.: TBD
Date of Project Authorization: May 23, 2017
District Program No.: 8188
Architect's Project No.: 2017-TBD

This Project Authorization is issued pursuant to the "Architectural Services Agreement-Master Agreement", dated the 24th of January, 2017 by and between the Marysville Joint Unified School District and Kirk Brainerd Architect, 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: Marysville High School Baseball Bleachers
- 1.2 Location(s): Marysville High School

2. SCOPE OF WORK / BUDGET / SCHEDULE

- 2.1 Work Statement: Survey the parking lot to be modified. Provide all civil engineering to repave, restripe, and add signage to obtain a fully ADA compliant parking lot. Submit and receive DSA approval (access only). Assist the District with bidding the project. Provide construction administrative services as required.

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

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):

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Business Services Department
Approval:
Date: 5/15/17

- _____ 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:

Fee Breakdown (per Article X.E. of the Master Agreement):

A. Schematic Design Phase: 25% = \$1,625.00

B. Design Development Phase: 15% = \$975.00

C. Construction Documents Phase: 25% = \$1,625.00

D. DSA Submittal: 5% = \$325.00

E. Bidding: 5% = \$325.00

F. Construction Phase: 20% = \$1,300.00

G. Completion of Construction and

Project Acceptance by District Board: 5% = \$325.00

H. Total Compensation for Architect's Services: 100% = \$6,500.00

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 Special provisions for this project include:

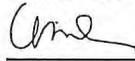
PROJECT AUTHORIZATION FOR PROFESSIONAL SERVICES

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: _____

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



Kirk Brainerd
Architect
Date: 5/12/17