

**CONFLICT OF INTEREST CODE FOR**  
***The Marysville Joint Unified School District***

The Political Reform Act (Government Code Section 81000, et seq.) requires state and local government agencies to adopt and promulgate conflict of interest codes. The Fair Political Practices Commission has adopted a regulation (2 California Code of Regulations Section 18730) which contains the terms of a standard conflict of interest code which can be incorporated by reference in an agency's code. After public notice and hearing, the standard code may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of 2 California Code of Regulations Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This regulation and the attached Appendix designating positions and establishing designating positions and establishing disclosure categories shall constitute the conflict of interest code of the **Marysville Joint Unified School District**.

Designated employees shall file their statements with the **Marysville Joint Unified School District** who will make the statements available for public inspection and reproduction. (Gov. Code Section 81008). Statements for all designated employees will be retained by the **Marysville Joint Unified School District**.

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The following positions are NOT covered by the code because they must file under section 87200 and, therefore, are listed for informational purposes only:

**BOARD MEMBERS**

An individual holding one of the above listed positions may contact the Fair Political Practices Commission for assistance or written advice regarding their filing obligations if they believe that their position has been categorized incorrectly. The Fair Political Practices Commission makes the final determination whether a position is covered by section 87200.

**Designated Positions**

**Assigned Disclosure Categories**

<b>SUPERINTENDENT</b>	1
<b>CABINET</b>	1
Assistant Superintendent of Personnel Services	1
Assistant Superintendent of Business Services	1
<b>PRINCIPALS</b>	2
<b>EXECUTIVE DIRECTORS/DIRECTORS/COORDINATOR/SUPERVISORS</b>	
<u>Executive Directors</u>	
--Executive Director of Educational Services	2
--Executive Director of Special Education	2
--Executive Director of Student Engagement	2
<u>Directors</u>	
--Director of Administrative Technology	2
--Director of Categorical Programs	2
--Director of Child Development	2
--Director of Buildings and Grounds	2
--Director of Fiscal Services	2
--Director of Nutrition Services	2
--Director of Purchasing, Warehouse & Print Shop	2
--Director of Program Services	2
--Director of Student Discipline & Attendance	2
--Director of Transportation	2
<u>Coordinator</u>	
ASES Coordinator	2
<u>Supervisors</u>	
--Supervisor of Maintenance	2
--Supervisor of Custodians	2
--Supervisor of Grounds	2
--Supervisor/Head Mechanic	2
--Supervisor of Warehouse	2
--Supervisor of Transportation	2
--Supervisor of Culinary Operations	2
--Bus Driver/Driver Trainer	2

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**ATHLETIC DIRECTORS** 2

**LIBRARIANS** 2

**CONSULTANTS/NEW POSITIONS\***

\*Consultants shall be included in the list of designated employees and shall disclose pursuant to the broadest disclosure category in the code subject to the following limitation:

The Board Members may determine in writing that a particular consultant or new position, although a "designated position" is hired to perform a range of duties that is limited in scope and thus is not required to comply fully with the disclosure requirements described in this section. Such determination shall include a description of the consultant's or new position's duties and, based upon that description, a statement of the extent of disclosure requirements. The Board Members' determination is a public record and shall be retained for public inspection in the same manner and location as this conflict of interest code.

**Disclosure Categories**

**Category 1**

Designated employees assigned to this category must report:

- A. Interests in real property which are located in whole or in part:
  - 1. within the boundaries of the district,
  - 2. within two miles of the boundaries of the district, or
  - 3. within two miles of any land owned or used by the district, including any leasehold, beneficial, or ownership interest or option to acquire such interest in real property.
- B. Investments and business positions in business entities or income, including gifts, loans, and travel payments, from sources which engage in the acquisition or disposal of real property within the jurisdiction.
- C. Investments and business positions in business entities or income, including gifts, loans, and travel payments, from sources which:
  - 1. are contractors or subcontractors engaged in the performance of work or services of the type utilized by the district, or
  - 2. which manufacture, sell, or provide supplies, materials, books, machinery, services, or equipment of the type utilized by the district.

**Category 2**

Designated employees assigned to this category must report investments and business positions in business entities or income, including gifts, loans, and travel payments, from sources which manufacture, sell, or provide supplies, materials, books, machinery, services, or equipment of the type utilized by the employee's department or the district. For the purposes of this category, a principal's department is the entire school.

Revised: 12/5/19

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This is the last page of the conflict of interest code for the **Marysville Joint Unified School District**.



### CERTIFICATION OF FPPC APPROVAL

Pursuant to Government Code Section 87303, the conflict of interest code for the **Marysville Joint Unified School District** was approved on 2/26/ 2020. This code will become effective on 3/27/ 2020.

A handwritten signature in blue ink, appearing to read 'John M. Feser, Jr.', written over a horizontal line.

John M. Feser, Jr.

Senior Commission Counsel

Fair Political Practices Commission

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

This AGREEMENT ("Agreement") dated March 10<sup>th</sup>, 2020, 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, SI&A's patent no. 9767440, filed April 10, 2014, for a system and method for student attendance management covers 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;

WHEREAS, District desires to license the patented system and method for managing student attendance; 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 Term.** This Agreement begins July 1, 2020 ("Effective Date") and will expire automatically on its own terms on June 30, 2023 (the "Expiration Date"). The Agreement Term consists of three (3) periods, each of which ends on June 30 of the years 2021, 2022, and 2023, and are as follows:

- July 1, 2020 to and including June 30, 2021 ("Agreement Year One");
- July 1, 2021 to and including June 30, 2022 ("Agreement Year Two"); and
- July 1, 2022 to and including June 30, 2023 ("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, 2021.
- To terminate Agreement Year Three, Termination Notice must be received not less than 30 calendar days prior to June 30, 2022.

2. **Grant of License.** Commencing on the Effective Date, SI&A grants to District a nonexclusive nontransferable license to SI&A's patented Software and Services (U.S. patent no. 9767440), 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.

This license does not authorize the licensee to make or create derivations, improvements, or variation upon the patented system and method. Licensee agrees to communicate any discoveries, modifications, enhancements, or other improvements on the patented system and method to Licensor, whether originating internally or externally.

Payments agreed upon herein are due regardless of whether the particular services are specifically covered by a claim in the patent. Though the patent is in full force and effect, this Agreement and payment provisions herein remain in full force and effect regardless of expiration, termination, or invalidation of all or any part of the patent by a court of law or patent office.

### 3. **Attention2Attendance® – 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 Term. The Software and Services provided pursuant to this Section 3 are collectively referred to as the "Base Program." The Software and Services constitute a system and method for student attendance management, as protected by U.S. patent no. 9767440.

**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 Term. 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 Additional Notification Options.** District has the option to utilize an additional notification system that sends emails to parents or guardians alerting them that a letter is coming in the mail ("Notification System"). District can opt-in to send the following notices if it has the necessary and required consent from the parents or guardians of each student, as required by and in accordance with the applicable laws and regulations, to engage SI&A and its subcontractors to send notifications via emails.

- a) An email to the parents of any child receiving a letter. The email notifies the parent that a letter is coming in the mail.

**3.7 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.

**3.8 Data Collection & General Provisions.**

- a) SI&A will install and configure the Software, including SI&A’s encryption and delivery mechanism (the ROBOT). The ROBOT is a JAVA application that uses a secure, read-only (District) configured ODBC connection. 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) 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).
- c) 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 Term 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 de-identified 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.

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- d) SI&A will neither disclose District Data nor access District Data except as needed to perform the functions of the software and the Notification System, 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 and the related notifications.
- e) 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.

### 3.9 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 Term 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 Software and Services provided pursuant to the terms of this Agreement, as outlined in Section 3, District agrees to pay SI&A:

- **\$54,400** annually (the "Discounted Annual Fee") if Agreement is received on or before March 31, 2020, or
- **\$57,200** annually (the "Standard Annual Fee") if Agreement is received after March 31, 2020.

**5.2 Payment.** The annual Fee described above is payable as follows:

	<b>Agreement Received By Date</b>	<b><u>Year 1</u></b> <u>07/01/2020-06/30/2021</u> Due 07/01/2020	<b><u>Year 2</u></b> <u>07/01/2021-06/30/2022</u> Due 07/01/2021	<b><u>Year 3</u></b> <u>07/01/2022-06/30/2023</u> Due 07/01/2022
<b>Discounted Annual Fee*</b>	<b>On or Before March 31, 2020</b>	<b>\$54,400</b>	<b>\$54,400</b>	<b>\$54,400</b>
<b>Standard Annual Fee*</b>	<b>After March 31, 2020</b>	<b>\$57,200</b>	<b>\$57,200</b>	<b>\$57,200</b>

\*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 Term:

**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.

12. **Infringements.** All decisions concerning enforcement of the patent licensed in this agreement against infringement by third parties shall be made solely by SI&A in its sole discretion.

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

**SI&A:**

**SCHOOL INNOVATIONS  
& ACHIEVEMENT**

Signature: *Jeffrey C. Williams*  
Date: 2/18/2020  
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

**DISTRICT:**

**MARYSVILLE JOINT UNIFIED  
SCHOOL DISTRICT**

Signature: \_\_\_\_\_  
Date: \_\_\_\_\_  
Print Name: *Renny Lausen*  
Title: *Asst. Supt. of Business Services*  
Address: *1919 B Street*  
*Marysville, CA 95901*  
Phone: *530-749-4114*  
Fax: *530-742-0573*  
Email: *plauseng@myusd.com*

## 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 Assistances.** 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; and Other Privacy Related Laws.**
  - a. FERPA and California Educational Code and 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 de-identified 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.
  - b. Student Online Personal Information Protection Act ("SOPIPA"). SI&A does not knowingly use "Covered information" (as defined in Cal. Bus. & Prof. Code §§22584 to 22588 and hereinafter referred to as "Covered Information") or persistent unique identifiers for targeted advertising. SI&A does not knowingly develop student profiles with Covered Information or persistent unique identifiers, or sell or disclose Covered Information unless exceptions under SOPIPA apply.
  - c. California Consumer Privacy Act ("CCPA"). SI&A is a "service provider" (as defined under Cal. Civ. Code §1798.140(v) and hereinafter referred to as "Service Provider"). SI&A, as a Service Provider, does not further collect, sell, or use the "personal information" (as defined under Cal. Civ. Code §1798.140(o)) except as necessary to perform obligations under the Agreement.
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 above). 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 Critzfield  
Title: Director of Attendance  
Phone: 530-749-6901  
Email: jcritzfield@mjrdsd.com

#### Day-to-Day District IT Contact

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

If you have any questions, please call Katy Dragoo at (800) 487-9234 x5145  
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:</p> <p>(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: . . .</p> <p>(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: . . .</p> <p>(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: . . .</p> <p>(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"> <li>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.</li> <li>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.</li> <li>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.</li> <li>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.</li> </ol>
<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: . . .</p> <p>(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&amp;A will:</p> <ol style="list-style-type: none"> <li>a. Only allow database to database connectivity to ensure all student information is always maintained in an audited database format.</li> <li>b. Conduct monthly reviews of user access to databases.</li> <li>c. Conduct annual training on student data security for all SI&amp;A employees. Training material is available to district upon request.</li> <li>d. Provide access for approved District users to all notification letters on secure SFTP site.</li> </ol>

	<p>e. Designate the Director of Technology as the responsible individual for maintaining the security of student data.</p>
<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>SI&amp;A’s notification to the District Day-to-Day contact individual noted in Exhibit B by the District in writing to SI&amp;A will include the following components:</p> <ol style="list-style-type: none"> <li>1. Date of unauthorized disclosure</li> <li>2. Description of disclosure</li> <li>3. Description of root cause of the disclosure and what changes are being made to prevent future such issues</li> </ol>
<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"> <li>1. All current student data will be de-identified 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(s) information.</li> <li>2. All backups with district information will be recalled and destroyed.</li> <li>3. This procedure will be completed within 120 days from contract completion.</li> <li>4. No outside vendor or individuals will participate in the process.</li> <li>5. A certified letter will be mailed to the District with a list of all activities completed.</li> <li>6. Enforcement of SI&amp;A’s certification that the above activities have been complete will be accomplished by audit reviews of the activities by the IT Manager.</li> </ol>
<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>This Agreement establishes SI&amp;A as a school official whose access to student data under this Agreement is in pursuit of SI&amp;A’s legitimate educational interests in performing the services set forth under this Agreement.</p> <p>This designation is in compliance with the Family Education Rights and Privacy Act (20 U.S.C. Sec. 1232g), specifically Section 1232g(b)(1)(A).</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
5. English Language Learner
6. Free & Reduced Lunch Status

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### OPTIONAL IN-DEPTH REPORTING

Accept    Decline

jc  
Initial

\_\_\_\_\_  
Initial

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.

- ☒ Foster Care
- ☒ Special Education
- ☐ Migrant Status
- ☒ Homeless

#### **CALIFORNIA CONTRACTS ONLY:**

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.



# Marysville Joint Unified School District

1919 B Street, Marysville, California 95901  
Purchasing Department

## PUBLIC WORKS CONTRACT FOR SERVICES \$60,000 AND UNDER

**THIS CONTRACT** made and entered into on March 10, 2020 (Insert Board meeting date or ratification date), by and between Brownsville Sand & Gravel, 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:  
Fifty Nine thousand                      hundred                      and No /100 Dollars (\$ 59,000.00 )  
(MAY NOT EXCEED \$60,000) – 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: C12 (add applicable to trade).
3. (Check contractor license classification appropriateness at:  
[http://www.cslb.ca.gov/About\\_Us/Library/Licensing\\_Classifications/](http://www.cslb.ca.gov/About_Us/Library/Licensing_Classifications/)  
and contractor license status at:  
<https://www2.cslb.ca.gov/OnlineServices/CheckLicenseII/CheckLicense.aspx>).
4. This contract shall commence **upon Board approval** as of March 11, 2020 (insert date after Board approval date or ratification date) with work to be completed within ( ) consecutive days and/or by June 30, 2020.
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 \$60,000)



# 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:

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	X	ATTACHMENT K (If \$25,000 or greater) – Labor and Material Payment Bond
X	ATTACHMENT E – Prevailing Wage and Related Labor Requirements Certification	X	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

81-0573544  
 Employer Identification Number

License No: 708380 Classification: C12 Expiration Date: 9/30/2021

(District Use Only: License verified by Julie Brown Date: 2/19/2020)  
 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: Brownsville Sand & Gravel, Inc.

Contractor Address: \_\_\_\_\_  
 P.O. Box 1408  
 Marysville, Ca 95901

Phone: (530) 675-2794

Email: bsgpaving@att.net

Print Name: Jaime Arvizu

Title: President

Authorized Signature: \_\_\_\_\_

District Acceptance: \_\_\_\_\_  
 Penny Lauseng, 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):

Brady Black  
Shelby Arvizu  
\_\_\_\_\_  
\_\_\_\_\_

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: 2-26-20

Brownsville Sand & Gravel, Inc. (Company)

[Signature] (Authorized Signature)

Jalme Arvizu (Print Name)

President (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](http://www.dir.ca.gov)).

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

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 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

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 Contractors' 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



## 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 March, 11 2020  
(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

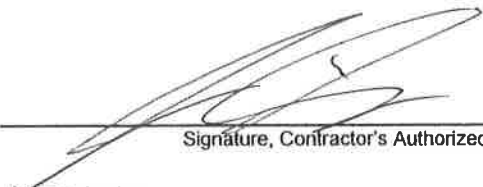
Labor Code section 3700 in relevant part provides:

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.

  
\_\_\_\_\_  
Signature, Contractor's Authorized Representative  
  
Jaime Arvizu  
\_\_\_\_\_  
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.: Dobbins School Parking Lot between the Marysville Joint Unified School District ("District" or "Owner") and Brownsville Sand & Gravel, 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: Jaime Arvizu

Title: President

☐ 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

☒ 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: Director Buildings & Grounds Date: 2-28-20  
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.: Dobbins School Parking Lot  
between Marysville Joint Unified School District (the "District" or the "Owner") and  
Brownsville Sand & Gravel, 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: 2-26-20

Proper Name of Contractor: Brownsville Sand & Gravel, Inc.

Signature: [Handwritten Signature]


Print Name: Jaime Arvizu

Title: President

(Remainder of page left blank intentionally)

# ATTACHMENT J

RMA  
2.19.20

Date: 1/14/2020		PROPOSAL	
			
<b>P.O. Box 1408 Marysville, Ca. 95901</b> <b>Office: (530) 675-2794 Fax (530) 743-7658</b>			
NAME / ADDRESS		JOB NAME & LOCATION	
MJUSD		Remove & Replace Parking Lot	
1919 B St. Marysville, Ca.		Dobbins School	
749-6184			
PROPOSAL IS FOR THE FOLLOWING WORK:			
Grind out parking lot approx. 11,000 sq.ft and haul off spoils.			
Regrade area add rock as needed and compact.			
Pave @ 3" thick with 3/4" PG64-10 asphalt approx. 12,300 sq.ft.			
Prevailing wage to be paid on this job and includes bonds.			
PROPOSAL TOTAL: \$ 59,000.00			
Fifty Nine Thousand Dollars			
TERMS OF PAYMENTS MADE AS FOLLOWS:			
Upon Completion			
SIGNATURE OF CLIENT & DATE		SIGNATURE OF CONTRACTOR	
		CON. LICENSE # 708380	
Customer's Acceptance of Proposal		Note: This proposal may be withdrawn if not signed within 3	
The above prices and conditions are satisfactory and are hereby accepted.			
You are authorized to do the work as specified.			
Payment as outlined above.			
Upon signing by both parties, this becomes an official contract.			

THIS AGREEMENT is made and entered into this February 3, 2020 between Marysville Joint Unified School District hereinafter called the Agency, and the LOS RIOS COMMUNITY COLLEGE DISTRICT, hereinafter called the District.

WITNESSETH

WHEREAS, the above Agency is willing under certain conditions to allow the District to utilize the facilities of such Agency for clinical experience of students enrolled in the HEALTH RELATED OCCUPATIONAL PROGRAMS of the District, the parties hereby agree.

1. PERIOD OF AGREEMENT

This agreement shall be effective as of the date of execution, and shall continue in effect for an indefinite period, subject to termination by either party at the end of a school year or a one-semester advanced written notice to the other party.

2. GENERAL DUTIES OF DISTRICT

The District shall (a) provide students properly enrolled in the Health Related Occupational Programs of the District for instruction at the facilities of the Agency; (b) test and select all such students; (c) provide instructors in accordance with the rules established by all National, State and Regional regulatory bodies; (d) provide all supervision and instruction required in the program unless in specific instances other provisions are made and are mutually satisfactory to the District and the Agency; (e) maintain liability insurance coverage to protect the District and faculty for negligent acts of faculty and malpractice insurance for students participating in the program at the facility, and (f) provide worker's compensation coverage for students while receiving clinical experience at the facilities in connection with this agreement; (g) continue communication between the District and the Agency through the program director/coordinator and the designated Agency representative.

3. GENERAL DUTIES OF AGENCY

The Agency shall (a) provide such experience and observation opportunities as are of educational value and related to the program's written objectives; (b) provide adequate classroom and conference room space; (c) provide office and/or desk space for instructors; (d) provide orientation for faculty and students; (e) continue communication between the Agency and the District through the Agency's designated representative and the program director/coordinator.

4. USE OF PARKING AND CAFETERIA FACILITIES

The Agency shall permit instructors and students to use parking and cafeteria facilities.

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5. MEDICAL AID

The Agency shall provide first-aid treatment to students assigned to the Agency needing such care, but shall not be obligated to furnish any other medical or surgical service to any student.

6. AGENCY STAFF

The Agency shall not decrease the normal number of its staff as a result of the assignment of the student.

7. CURRICULUM

The District shall plan the days and hours of the clinical experience for students. The selection of patients for such student experience shall be made by the instructor of the District in concurrence with the appropriate Agency representative. All plans for observations and/or clinical experience shall be subject to the approval of the Agency.

8. HEALTH REQUIREMENTS

The District shall require each student to meet the health requirements of the Agency to which the student has been assigned.

9. UNIFORMS

Each student and instructor shall wear a uniform designated by the District except when assigned to services for which the Agency requires and furnishes a special uniform.

10. SUPERVISION OF STUDENTS

Each student shall be subject to the rules and regulations of the Agency and the District.

11. DISCONTINUANCE OF STUDENT ASSIGNMENTS

The District or Agency may discontinue the assignment of any student at any time during the period of this agreement. The Agency at any time may recommend the discontinuance of the assignment of a student.

12. STATUS OF STUDENTS AND INSTRUCTORS

Students and instructors shall not be deemed employees of the Agency during the hours in which they are assigned to any of the Health Related Occupational Programs of the District. Neither party of this agreement shall be obligated to pay any monetary compensation to the other or to any student, unless in specific instances where other provisions are made and are mutually satisfactory to the District and the Agency.

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13. ENTIRE AGREEMENT/AMENDMENTS

This is the entire agreement by and between the parties regarding the subject matter hereof, and there are no other verbal or written agreements relating to subject matter that are not addressed in this agreement. This agreement may only be amended by the parties in a written document that is signed by both parties.

14. ASSIGNMENT

Neither party may assign this Agreement without the prior written consent of the other party. Any purported assignment in violation of this provision is void.

15. LAW/VENUE

This agreement shall be construed in accordance with the laws of the State of California, excluding its choice of law rules, and all disputes arising hereunder shall be handled in a court of competent jurisdiction in the State of California.

16. CERTIFICATION AND LICENSES

- A. The clinical coordinator or clinical instructor(s) to whom the student is required to report for training, counseling, or other prescribed activities shall possess a valid certificate or license to practice a healing art in California.
- B. Upon request and not later than five (5) business days after the request, the Agency shall provide the District with copies of documentation that demonstrates that the clinical coordinator or clinical instructor has a valid certificate or license to practice a healing art in California.
- C. The Agency will limit student placement to facilities licensed in the State of California.

17. HIPAA

The parties agree that:

(a) the Agency is a covered entity for purposes of the Health Insurance Portability and Accountability Act (HIPAA) and subject to 45 CFR Parts 160 and 164 ("the HIPAA Privacy Regulation");

(b) to the extent that District students are participating in the Program [and District faculty members are providing supervision at the Agency as part of the Program], such students [and faculty members] shall:

1. be considered part of the Agency's workforce for HIPAA compliance purposes in accordance with 45 CFR §164.103, but shall not be construed to be employees of the Agency;

2. receive training by the Agency on, and subject to compliance with, all of Agency's privacy policies adopted pursuant to the Regulations; and

3. not disclose any Protected Health Information, as that term is defined by 45 CFR §160.103, to District which a student accessed through Program participation [or a faculty member accessed through the provision of supervision at the Agency] that has not first been de-identified as provided in 45 CFR §164.514(a);

(c) District will never access or request to access any Protected Health Information held or collected by or on behalf of the Agency, from a student [or faculty member] who is acting as a part of the Agency's workforce as set forth in Section 15(b) of this Agreement or any other source, that has not first been de-identified as provided in 45 CFR §164.514(a); and

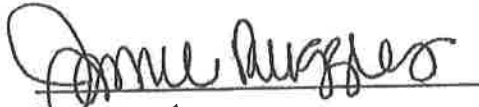
(d) no services are being provided to the Agency by the District pursuant to this agreement and therefore this agreement does not create a "business associate" relationship as that term is defined in 45 CFR §160.103.

18. NON DISCRIMINATION

Both the Agency and Los Rios Community College agree not to discriminate in the selection or acceptance of any Student pursuant to this Agreement because of race, color, national origin, religion, sex, sexual orientation, handicap, age, veterans status, medical condition (cancer-related) as defined in Section 12926 of the California Government Code, ancestry, or marital status; or citizenship, within the limits imposed by law.

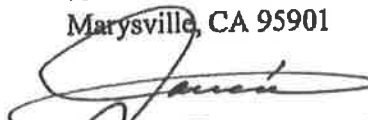
IN WITNESS WHEREON the parties hereto have caused this agreement to be duly executed by their duly authorized representatives on the day and year first above written.

Los Rios Community College District  
1919 Spanos Court  
Sacramento, CA 95815

  
Jamie Ruggles  
Director of Accounting Services

Date: 2/6/20

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

  
Name: RAMIRO G. CARREON  
Title: ASST. Supt / PERSONNEL  
License # or EIN # \_\_\_\_\_  
Date: 2/25/2020

Health Related Occupational Programs at Los Rios Community College District include:

Physical Therapist Assistant  
Occupational Therapy Assistant  
Medical Assisting (MA)  
Vocational Nursing (LVN)  
Registered Nurse (RN)  
Certified Nursing Assistant (CNA)  
Respiratory Care  
Paramedics  
Veterinary Technology (VT)  
Phlebotomy  
Speech and Language Pathology  
Assistant  
Medical Lab Technician (MLT)  
Imaging (IMAGE)  
Human Services

Emergency Medical Technician (EMT) \_\_\_\_\_  
Emergency Medical Technology (EMT)  
Health Information Technology (HIT)  
Dietary Manager  
Diagnostic Medical Sonographer  
Dental Hygiene  
Dental Assisting  
Funeral Service Education  
Pharmacy Technician  
Healthcare Interpreter  
Early Childhood Education (ECE)  
Gerontology Education  
Senior Fitness Education  
Community Health Worker

# Marysville Joint USD

## Board Policy

### Naming Of Facility

BP 7310

#### Facilities

The Board of Education shall name schools, individual buildings, or athletic fields in recognition of:

1. Individuals, living or deceased, who have made outstanding contributions to the district, county, or community.
2. Individuals, living or deceased, who have made contributions of state, national, or worldwide significance.
3. The geographic area in which the school, building, or athletic fields are located.

The Board encourages community participation in the process of selecting names. A citizen advisory committee may be appointed by the Superintendent, or designee, to review name suggestions and submit recommendations for the Superintendent and Board's consideration.

(cf. 1220 - Citizen Advisory Committees)

The renaming of existing schools, individual buildings, or athletic fields shall occur only under extraordinary circumstances and after thorough study.

The Board may also consider naming individual spaces, within other buildings, such as auditoriums.

The Board shall consider naming schools, individual buildings, or athletic fields in honor of the contributions of students, staff members, or community members. Only the Board may name district facilities.

Legal Reference:

EDUCATION CODE

35160 Authority of governing boards

Policy MARYSVILLE JT. UNIFIED SCHOOL DISTRICT

adopted: March 11, 2008 Marysville, California

revised: January 13, 2009



Marysville Joint Unified School District  
**MARYSVILLE HIGH SCHOOL**

"Home of the Indians"

12 East 18<sup>th</sup> St. Marysville, CA 95901

Telephone (530) 741-6180

Fax (530) 741-7828

The mission of Marysville High School is that all students  
will learn at a high level to ensure college and/or career readiness.

December 23, 2019

Marysville Joint Unified School District Board of Education

1919 B Street

Marysville, CA 95901

Dear Marysville Joint Unified School District Board of Education,

On behalf of Marysville High School and Marysville High School Agriculture Program, we would like to request that the Marysville High School agriculture barn, greenhouse and garden area on the corner of Chestnut Street and 17th Street, be dedicated to and named the "Margery Magill Agriculture Complex", after Margery Magill, former Marysville Joint Unified School District graduate.

Margery Magill was an avid learner taking as many courses possible either at MCAA or Marysville High School, graduating with 392 credits! Margery continued her education at U.C. Davis, earning a Bachelor's Degree in International Agricultural Development. In November 2018, Margery earned a Master's Degree in International Relations from Westminster University, London. Throughout Margery's education, she participated in a multitude of activities, sports, and organizations such as FFA, 4-H, and Girl Scouts. Within these many organizations, Margery gave back to the community. Margery's natural leadership skills, enthusiasm for travel and passion for international agriculture, created opportunities for Margery to travel the world. Within her short twenty-seven years, Margery traveled to thirty-two countries.

Margery personified leadership, purpose, kindness, dedication to learning and service. Naming the agricultural complex after Margery Magill will serve as a reminder that these are the qualities should be developed and supported in our youth.

Thank you for your consideration of this request.

Respectfully submitted,

*Shevaun Mathews*

Shevaun Mathews

Principal

Marysville High School

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## CONTRACT

This Contract ("Contract") is made by and between the Marysville Joint Unified School District ("District"), and **Western Engineering Contractors, Inc.** ("Contractor").

District and Contractor hereby agree as follows:

1. Description of Work

The Contractor agrees to furnish all labor, materials, equipment, tools, supervision, appurtenances, and services, including transportation and utilities, required to perform and satisfactorily complete all work required for the following project ("Project") in full conformance with the Contract Documents: **Site Improvements.**

2. Contract Documents

The Contract Documents consist of the executed Contract and all Addenda, all approved change orders, the completed Bid Forms, the required Bonds and the Insurance forms, the Notice to Bidders, the Instructions to Bidders, the Notice of Award, the Notice to Proceed, the General Conditions and any special conditions, the Specifications, and Specifications.

3. Compensation

As full compensation for the Contractor's complete and satisfactory performance of the work and activities described in the Contract Documents, the District agrees to pay Contractor, and Contractor agrees to accept the sum of **three hundred forty-four thousand five hundred (\$344,500.00)**, which shall be paid to the Contractor according to the Contract Documents.

4. Prevailing Wages

This Project is a public works project subject to prevailing wage requirements and Contractor and its Subcontractors are required to pay all workers employed for the performance of this Contract no less than the applicable prevailing wage rate for each such worker. Contractor acknowledges that the project is subject to compliance monitoring and enforcement by the California Department of Industrial Relations in accordance with Labor Code § 1770 et seq.

5. Time for Completion

The starting date of the Contract shall be the day listed by the District in the Notice to Proceed and the Contractor shall fully complete all the work before the expiration of **August 31, 2020 (66)** calendar days from the starting date. Time is of the essence in the performance of this Contract.

6. Liquidated Damages

Liquidated damages for the Contractor's failure to complete the Contract within the time fixed for completion are established in the amount of **\$500.00** per calendar day.

IN WITNESS WHEREOF, the parties agree to the terms of this Contract on the day and year written below.

MARYSVILLE JOINT UNIFIED SCHOOL DISTRICT

Penny Lauseng

Name

Western Engineering Contractors, Inc.

Contractor Name

\_\_\_\_\_  
Signature

License Number: 440681 Expired: 6/30/2021

Contractor License No.  
and Expiration Date

Assistant Superintendent of Business Services

Title

  
Individual Signature

\_\_\_\_\_  
Date

Josh Wertz-Vice President/COO

Title

2/27/20

Date

For: Corporation  
Corporation or Partnership

If Corporation, Seal Below.



# **Marysville Joint Unified School District Request For Proposals Regarding Facilities Master Planning Services**

**Contact:**

Penny Lauseng  
Assistant Superintendent, Business Services  
Marysville Joint Unified School District  
[plauseng@mjUSD.com](mailto:plauseng@mjUSD.com)

**RFP Deadline: April 2, 2020 at 3:00 PM**

Gary Cena  
Superintendent  
Marysville Joint Unified School District  
1919 B St.  
Marysville, CA 95921

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## **Request For Proposals**

### **Regarding**

### **Facilities Master Planning Services**

The Marysville Joint Unified School District ("District") is soliciting proposals from qualified consultants ("Proposals") that can help with the planning, development and related work associated with a Long-Range Facilities Master Plan ("Facilities Master Plan"). The firm to be selected pursuant to this solicitation is referred to herein as the "Consultant".

The purpose of this Request for Proposals ("RFP") is to obtain information that will enable the District to select an ideal candidate that can effectively partner with the District to perform various components of a Facilities Master Plan. Each Consultant responding to this RFP should be prepared and equipped to provide complete and detailed Facilities Master Planning services on behalf of the District in an expeditious and timely manner and enable the District to meet deadlines and schedules.

If your firm is interested in providing Facilities Master Planning services for or on behalf of the District, please submit a detailed summary of your firm's qualifications in accordance with this RFP. The deadline for receipt of the proposal is 3:00 p.m. on April 2, 2020 ("Response Deadline"). Note that proposals delivered after the Response Deadline may not be considered. A minimum of six (6) hard copies and one (1) electronic copy on a flash drive in PDF format of your proposal should be submitted to:

**Penny Lauseng**  
**Assistant Superintendent, Business Services**  
**Marysville Joint Unified School District**  
[plauseng@mjusd.com](mailto:plauseng@mjusd.com)

All submittals will become property of the District. Information in the proposals will become public property and subject to disclosure laws. The District reserves the right to make use of any information or ideas in the proposals, reject any or all applicants, and to waive any irregularities or informalities in the RFP and RFP process. All costs associated with the preparation or submission of qualifications for this RFP are solely the responsibility of the candidates.

In order for the District to make an informed selection decision – selecting a Consultant among responsible and responsive candidates – your proposal must contain the following described elements or evidence that your firm meets or exceeds the requirements stated hereto in this RFP.

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## **1. SCOPE OF SERVICES**

### **1.1 Meet with Facilities Master Planning Committee ("FMPC")**

This task involves Consultant meeting with appropriate team members on the FMPC to obtain critical information on the existing facilities and conditions assessment. The FMPC shall meet throughout the Facilities Master Plan process. Participants in the FMPC might include members from the following groups:

- District and Parent Advisory Committees
- District Staff
- Students
- District Principals
- Board of Trustees
- Superintendent's Cabinet

### **1.2 Community Outreach**

In light of the significant community interest in the Facilities Master Plan process, this task involves Consultant assisting with community input forums. These forums will be held to: (i) allow the community the opportunity to weigh-in on the Facilities Master Plan process and provide feedback regarding facility needs; and (ii) provide community members information.

### **1.3 Develop Conditions (Needs) Assessment (*see 1.3.1. and 1.3.2 below*)**

#### **1.3.1 Evaluation of Current District Facilities**

This task requires Consultant to complete a diagrammatic evaluation of all of the District's existing sites to understand the basis for growth/reduction at each site, as follows:

- Evaluate each site based on the direction of the curriculum as defined in the educational specifications to determine areas for possible growth/expansion/consolidation;
- The context of the schools;
- The visual definition of the campus; and
- How the outdoor spaces function together.

Once this overall diagrammatic evaluation of the existing facilities has been completed, Consultant would begin to develop the schematic level Facilities Master Plan by utilizing statistical data and curriculum direction that has been gathered to form a basis for the determination of the needs of each campus.

#### **1.3.2 Develop Future Facilities Needs and Alternatives**

This task involves Consultant assisting with prioritizing short-term and long-term needs of the District, exploring community and joint use needs, preparing individual site Facilities Master Plans, providing recommendations for energy savings, incorporating deferred maintenance needs into each campus, facilitating and documenting FMPC input, and assembling all material for the FMPC.

#### **1.4 Demographics and Enrollment Projections**

Perform a study of housing markets within the District and enrollment projections for the current attendance areas for 3, 5, and 10-year periods. Review these findings and recommend school site sizes to accommodate the projections.

#### **1.5 Capacity and Utilization Study and Determination of Eligibility for State Funding**

Perform a school site capacity study, including a full facilities inventory, along with established State and local loading standards. Provide recommendations regarding maximum site sizes, possible school additions or new sites. Prepare Office of Public School Construction Eligibility Determination for growth and modernization programs, and assist the District with determining eligibility for State facilities funding.

#### **1.6 Facilities Equity Study**

Analyze and compare teaching and support spaces between the school sites. These findings will be compared with the educational specifications to determine the need for changes or additions in facilities and spaces necessary to accommodate the instructional program at each school site.

#### **1.7 Educational and Maintenance Specifications**

This task involves Consultant assisting with updating and/or establishing new educational specifications to reflect the District's facilities standards and educational goals. Consultant will also assist the District with updates to the Strategic Plan (as needed), develop equalization standards, sustainable construction guidelines, maintenance and operations standards, and IT standards.

#### **1.9 Cost Estimates**

Identify and project all costs associated with the recommended facility additions, improvements and/or consolidations.

#### **1.10 Facilitation of the FMPC Presentation**

This task involves Consultant assisting with the facilitation of FMPC presentation/discussion of findings and recommendations to the Governing Board in a board workshop setting.

#### **1.11 Presentation to the Governing Board**

This task involves Consultant incorporating feedback from the FMPC presentation described in 1.10 and presentation of the draft Facilities Master Plan (including estimates, schedules, and possible funding scenarios) to the Governing Board for feedback prior to finalization and approval by the Board.

#### **1.12 Preparation of a Final Digital Facilities Master Plan**

This task involves Consultant assisting with the preparation of a final digital Facilities Master Plan (in Adobe PDF format) that can be approved by the Board and uploaded to the District's website for easy access by the District's constituents.

The Facilities Master Plan to be developed by Consultant must include all required information to satisfy the requirements of AB 48 (2019) and Proposition 13 (2020) in the event of its passage. This includes, by way of illustration and not by limitation, the following:

- An inventory of existing facilities, sites, and property.
- Existing classroom capacity, as determined pursuant to Sections 17071.10 and 17071.25.
- Projected enrollment growth for the applicable school district over the next five years, accounting for growth pursuant to Sections 17071.75 and 17071.76.
- A capital planning budget outlining the applicable school district's projects.
- The financing and other funding sources that would be used to support the acquisition of the applicable school site, new construction project, modernization project, and lead testing and remediation projects.
- Verification of the applicable school district's current assessed value from the appropriate local government entity that collects and maintains this information.
- The school district's deferred maintenance plan pursuant to Section 17070.75.
- A narrative describing how the school facilities master plan is consistent with the goals, actions, and services identified in the school district's local control and accountability plan for the first state priority, as described in paragraph (1) of subdivision (d) of Section 52060, as it relates to school facilities.

All statutory citations in the preceding list are to the Education Code as modified by AB 48 (2019) and Proposition 13 (2020) in the event of its passage.

## **2. PROPOSAL FORMAT AND CONTENT**

### **2.1 Proposal Format**

Proposals should be typewritten, concise, straightforward, and must address each requirement and question. Submittals shall be signed by an authorized individual or officer of Consultant submitting the statement. In addition, submittals are required to have the following:

- Materials must be in 8 ½ x 11 format.
- Table of Contents to include:
  - Cover letter
  - Business information
  - Project approach
  - Relevant Grade K-12 experience
  - References
  - Project team summary (including sub-consultants)
  - Fees
  - Litigation history
  - Insurance

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## **2.2. Proposal Content**

**A Consultant's proposal shall, at a minimum, include all of the following:**

### **2.2.1 Cover Letter**

A cover letter containing an introduction, the name, address, telephone number, and e-mail address of the person or persons authorized to represent the institution regarding all matters related to the proposal. The cover letter should also include number of years in business and date firm was established. The letter shall be signed by the individual authorized to bind the respondent to all statements and representations made therein and to represent the authenticity of the information presented.

### **2.2.2 Business Information**

Provide the following information for your firm and all sub-consultants:

- Company name
- Address
- Telephone
- Fax
- Website URL (if applicable)
- Name and email of main contact
- Federal tax I.D. number
- License information including number and expiration date, if applicable
- Business structure (corporation, partnership, etc.)
- A brief description and history of the firm
- Number of employees (licensed professionals, technical support, etc.)
- Number of current projects and present workload and where possible, projected workload for the period in question, for those individuals proposed to work the District's project
- Location of office where the bulk of services solicited will be performed
- Proof of Errors and Omission insurance and coverage amounts

### **2.2.3 Relevant Grade K-12 Project Experience**

Provide information about prior services/designs prepared by your firm on at least five (5) prior Facilities Master Plans at the K-12 level. Include the following information:

- Briefly state the relevance for each project included for consideration in this RFP.
- Specify role of firm or individual if work was not exclusively completed by the firm (i.e. joint venture, etc.)
- Provide a list of the following for each project:
  - Project name and location
  - Beginning and end dates of project
  - Main program elements
  - School District and name of contact with contact information

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- Key individuals of the firm involved and their roles in the project
- Any sub-consultants that worked with the firm

#### **2.2.4 References**

Provide the following reference information for your firm:

- Provide five (5) K-12 references who you have worked within the past five (5) years. Four of the references can be for existing clients. However, one of the references must be for a client you no longer do work for. Please provide a brief, written explanation as to why you no longer have a relationship with that client.
- Provide two (2) Program Manager or Construction Manager references that include a reference for construction administration services.
- Provide authorization of the "Consultant" and all principals thereof to allow the District to make oral and/or written inquiries of all references listed regarding your qualifications, performance, reasonableness of fees and charges, and quality of final results.

#### **2.2.5 Project Team Summary**

Identify Consultant's project team and their specific expertise, experience, and resources to ensure suitable Consultant services. Indicate key team members, years of employment with the firm, resumes, and California Registration Numbers, as applicable. Specifically, define the role of each team member and outline his or her individual experience, responsibilities and percentage of time available to support the District. The persons to be identified pursuant to this Section 2.2.5 are referred to as "Key Personnel" and will be designated in in the Key Personnel Clause set forth in Section 2.2.9 below.

#### **2.2.6 Fees**

Provide your fee schedule. If you plan to propose charging any costs for additional services, describe the types of costs to be covered and a proposed fee schedule. Be sure to include overhead and other special charges.

#### **2.2.7 Litigation History**

Provide a comprehensive five-year summary of the firm's litigation, arbitration and negotiated/settled agreements.

#### **2.2.8 Insurance**

Provide proof of coverage for the types and amounts of insurance carried by Consultant, including commercial general liability, automobile liability, workers' compensation insurance, and professional liability coverage. Minimum limits of insurance required by the District for consultant and sub consultant are as follows:

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Type of Coverage	Minimum Coverage
<b>Commercial General Liability Insurance</b> , including Bodily Injury, Personal Injury, Property Damage, Advertising Injury, and Medical Payments Each Occurrence General Aggregate	<b>\$1,000,000</b> <b>\$1,000,000</b>
<b>Automobile Liability Insurance - Any Auto</b> Each Occurrence General Aggregate	<b>\$1,000,000</b> <b>\$1,000,000</b>
<b>Professional Liability</b>	<b>\$1,000,000</b>
<b>Workers Compensation</b>	<b>Statutory Limits</b>
<b>Employer's Liability</b>	<b>\$1,000,000</b>

#### 2.2.9 Comments to Form of Agreement

The District intends to award a contract pursuant to this RFP, if at all, in the form attached hereto as **Appendix 1** ("Form of Agreement"). Any comments, objections, or proposed changes to the Form of Agreement must be set forth in the firm's proposal, and any changes not timely raised in a firm's proposal are waived. The Scope of Services, located in Exhibit A of the Form of Agreement, will include the following key personnel language, specifying the Key Personnel identified in the Consultant's proposal in response to Section 2.2.5 above (the "Key Personnel Clause"):

##### Contractor Staff

1. The Contractor has been selected to perform the Services herein because of the skills and expertise of key individuals.
2. The Contractor agrees that the following key people in Contractor's firm shall be associated with the Project in the following capacities:

*[specify titles and names]*

All proposed people in Contractor's firm are subject to review and acceptance by the District prior to commencing work on the Services. The District reserves the right to replace any person in Contractor's firm in the best interest of the District, which it may determine in its sole and absolute discretion.

3. The Contractor shall not change any of the key personnel listed above without prior notice to and written approval by District, unless said

personnel ceases to be employed by Contractor. In either case, District shall be allowed to interview and approve replacement personnel.

4. If any designated lead or key person fails to perform to the satisfaction of the District, then upon written notice, the Contractor shall have five (5) days to remove that person from the Services and replace that person with personnel acceptable to the District.
5. Contractor represents that the Contractor has no existing interest, and will not acquire any interest, direct or indirect, which could conflict in any manner or degree with the performance of the Services, and that no person having any such interest shall be employed by Contractor.

### **3. CRITERIA FOR SELECTING FIRM**

This procurement is being conducted pursuant to Sections 53060 (special services and advice) and 4529.12 (fair, competitive selection process for “architectural and engineering services” as defined in Section 4529.10) of the Government Code, and in connection with the same, the District may use any lawful evaluation criteria to select a firm to award a contract pursuant to this RFP. This procurement is not an invitation for bids, and as such the District is not obligated to award to the lowest responsible bidder; nor is this procurement a request for proposals with firms to be selected on the basis of a rigid scoring formula. Rather, the District will select a firm to award a contract pursuant to this RFP, if at all, that it determines to be most advantageous to the District under standards consistent with good faith and considerations of the public welfare.

#### **3.1. Timeliness and Completeness of Proposal**

Consultant’s proposal must be received by the Response Deadline. In addition, Consultant’s proposal will be evaluated with respect to organization, clarity, completeness, and responsiveness to this RFP.

#### **3.2. Technical Qualifications and Competence**

This includes experience, expertise, and familiarity with applicable laws and requirements for school facility projects in general and Facilities Master Planning.

#### **3.3. Record of Past Performance**

This includes work quality, completion of work on schedule, cost controls, contracts held with other K-12 school districts over the last 5 years as well as feedback from references provided by Consultant or any other references identified by the District.

#### **3.4. Approach to Work**

This includes project management and coordination methodologies, prioritization analysis and study approaches, and ability to work cohesively with various stakeholders involved in long-term planning efforts.

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### 3.5. Fees

This includes total fee amount proposed by Consultant, any additional costs for sub-contractors required for completion of Facilities Master Plan, and Consultant's policies respecting the pass-through to the District of overhead costs.

## 4. POLICIES APPLICABLE TO CONTRACT AWARDS

The District's issuance of Notice of Intent to Recommend Award of Contract pursuant to this RFP does not indicate the District's award of the Agreement to a particular firm or otherwise bind the District with respect to this RFP or the award of a contract pursuant thereto. No award of a contract pursuant to this RFP shall be effective unless and until the same is approved by formal action of the Board of Trustees of the District .

## 5. SCHEDULE OF EVENTS SUMMARY

All dates are preliminary and subject to revision.

5.1	BOARD OF TRUSTEES APPROVAL OF RFP	March 10, 2020
5.2	RFP ISSUANCE	March 11, 2020
5.3	WALK THROUGH OF FACILITIES (IF NECESSARY)	March 18, 2020
5.4	DEADLINE FOR RFP QUESTIONS	March 26, 2020

Please call or email Penny Lauseng at (530)749-6115 or [plauseng@mjusd.com](mailto:plauseng@mjusd.com) if you have any questions. All questions must be submitted one (1) week prior to the Response Deadline.

**NOTE: Consultants are cautioned to not contact members of the District's Board of Trustees or any District staff, other than Penny Lauseng. Failure to observe these criteria will result in responder disqualification.**

5.5	DEADLINE FOR SUBMITTAL	April 2, 2020 AT 3:00 P.M.
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Interested firms should submit a minimum of six (6) hard copies and one (1) electronic copy on a flash drive in PDF format of the Response:

Penny Lauseng, Chief Business Official  
Marysville Joint Unified School District  
1919 B St.  
Marysville, CA 95901  
[plauseng@mjusd.com](mailto:plauseng@mjusd.com)

5.6	INTERVIEWS (IF NECESSARY)	April 13, 2020 to April 20, 2020
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**5.7 BOARD OF TRUSTEES APPROVAL OF CONSULTANT April 28, 2020**

The District thanks you for your interest in providing services to the District and invites your Proposal in accordance with the terms of this RFP.

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**Appendix 1**  
**Form of Agreement**

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**INDEPENDENT CONTRACTOR AGREEMENT FOR SPECIAL SERVICES**  
**Facilities Master Planning Services**

This agreement ("Agreement") is by and between the Marysville Joint Unified School District ("District") and [Contractor Name] ("Contractor") (together, they are referred to as "Parties," and individually, as a "Party").

**RECITALS**

1. District is authorized by Section 53060 of the California Government Code to contract with and employ any persons to furnish special services and advice in financial, economic, accounting, engineering, legal or administrative matters, if those persons are specially trained and experienced and competent to perform the special services that are required.
2. District is in need of such services and advice and Contractor warrants that it is specially trained, licensed and experienced and competent to perform the services required by District.

**AGREEMENT**

**1. EXHIBITS**

This Agreement has multiple Exhibits. Any Exhibit that is specified in this Agreement is by this reference made a part of it.

Exhibits include:

- Exhibit A: Scope of Services
- Exhibit B: Compensation
- Exhibit C: General Terms and Conditions
- Exhibit D: Insurance

**2. EFFECTIVE DATE AND TERM**

- a. This Agreement is effective on [Insert Date] ("Effective Date").
- b. Unless terminated or otherwise cancelled in accordance with a provision of this Agreement, the term of this Agreement shall be: (i) from the Effective Date to (ii) [insert Ending Date].

**3. INDEPENDENT CONTRACTOR**

Contractor, in the performance of this Agreement, is and shall act as an independent contractor. Contractor understands and agrees that Contractor and all of Contractor's employees shall not be considered officers, employees, agents, partner, or joint venture of District, and are not entitled to benefits of any kind or nature normally provided employees of District and/or to which District's employees are normally entitled,

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including, but not limited to, State Unemployment Compensation or Worker's Compensation. Contractor shall assume full responsibility for payment of all federal, state and local taxes or contributions, including unemployment insurance, social security and income taxes with respect to Contractor's employees.

**4. SCOPE OF SERVICES**

Contractor shall furnish to District the services described in Exhibit A ("Services").

**5. COMPENSATION**

Contractor shall receive payment, for Services satisfactorily rendered pursuant to this Agreement, as specified in Exhibit B ("Compensation").

**6. GENERAL TERMS AND CONDITIONS**

The General Terms and Conditions are set forth in Exhibit C.

**7. INSURANCE**

Exhibit D, entitled Insurance, is attached and incorporated by reference.

**8. NOTICE**

Any notice required by this Agreement may be given either by personal service or by deposit (postage prepaid) in the U.S. mail addressed as follows:

To District:

Marysville Joint Unified School District  
1919 B St.  
Marysville, CA 95921  
Attn: Chief Business Official

To Contractor:

[Contractor Name]  
[Contractor Address]  
[Contractor City, State, Zip code]  
Attn: [Contractor Contact]

**9. LIMITATION OF LIABILITY**

Other than as provided in this Agreement, District's financial obligations under this Agreement shall be limited to the payment of the compensation provided in this Agreement. Notwithstanding any other provision of this Agreement, in no event, shall District be liable, regardless of whether any claim is based on contract or tort, for any special, consequential, indirect or incidental damages, including, but not limited to, lost profits or revenue, arising out of or in connection with this Agreement for the services performed in connection with this Agreement.

The Parties have executed this Agreement on the dates indicated below.

**Marysville Joint Unified School District**

**[Contractor Name]**

Date: \_\_\_\_\_, 20\_\_\_\_

Date: \_\_\_\_\_, 20\_\_\_\_

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

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

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

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

Its: \_\_\_\_\_

Its: \_\_\_\_\_

**EXHIBIT A  
to AGREEMENT FOR SERVICES**

**SCOPE OF SERVICES**

[Insert Description of Services]

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**EXHIBIT B**  
**to AGREEMENT FOR SERVICES**

**COMPENSATION**

**A. Compensation**

Not to exceed the sum of                     .

*Note: This provision will typically include: (1) an hourly rate; or (2) a daily rate. Often with a not to exceed amount.*

**B. Payment**

a. Schedule

*Note: This provision will typically set forth a time table for payment, including milestones that trigger payments.*

b. Process

Payment shall be made (for all undisputed amounts) within thirty (30) calendar days after Contractor submits an invoice to District for Services actually completed.

**EXHIBIT C**  
**to AGREEMENT FOR SERVICES**

**GENERAL TERMS AND CONDITIONS**

1. **STANDARD OF CARE.** Contractor's Services will be performed, findings obtained, reports and recommendations prepared in accordance with generally and currently accepted principles and practices of his/her profession for services to California school districts.
2. **ORIGINALITY OF SERVICES.** Contractor agrees that all technologies, formulae, procedures, processes, methods, writings, ideas, dialogue, compositions, recordings, teleplays and video productions prepared for, written for, or submitted to District and/or used in connection with this Agreement, shall be wholly original to Contractor and shall not be copied in whole or in part from any other source, except those submitted to Contractor by District as a basis for such services.
3. **PRODUCT.** Contractor understands and agrees that all matters produced under this Agreement shall become the property of District and cannot be used without District's express written permission. District shall have all right, title and interest in said matters, including the right to secure and maintain the copyright, trademark and/or patent of said matter in the name of District. Contractor consents to use of Contractor's name in conjunction with the sale, use, performance and distribution of the matters, for any purpose and in any medium.
4. **TERMINATION.**
  - a. **Without Cause by District.** District may, at any time, with or without reason, terminate this Agreement and compensate Contractor only for services satisfactorily rendered to the date of termination. Written notice by District shall be sufficient to stop further performance of services by Contractor. Notice shall be deemed given when received by Contractor or no later than three (3) days after the day of mailing, whichever is sooner.
  - b. **Without Cause by Contractor.** Contractor may not terminate this Agreement without cause.
  - c. **With Cause by District.** District may terminate this Agreement upon giving written notice of intent to terminate for cause. Cause shall include:
    - (1) material violation of this Agreement by Contractor; or
    - (2) any act by Contractor exposing District to liability to others for personal injury or property damage; or
    - (3) Contractor is adjudged bankrupt,

Contractor makes a general assignment for the benefit of creditors, or a receiver is appointed on account of Contractor's insolvency.

Written notice by District shall contain the reasons for such intent to terminate and unless within three (3) calendar days after that notice the condition or violation shall cease, or satisfactory arrangements for the correction thereof be made, this Agreement shall upon the expiration of the three (3) calendar days cease and terminate. In the event of this termination, District may secure the required services from another Contractor. If the expense, fees, and/or costs to District exceeds the cost of providing the service pursuant to this Agreement, Contractor shall immediately pay the excess expense, fees, and/or costs to District upon the receipt of District's notice of these expense, fees, and/or costs. The foregoing provisions are in addition to and not a limitation of any other rights or remedies available to District.

- d. **With Cause by Contractor.** Contractor may terminate this Agreement upon giving of written notice of intention to terminate for cause. Cause shall include:
  - (1) material violation of this Agreement by District; or
  - (2) any act by District exposing Contractor to liability to others for personal injury or property damage; or
  - (3) District is adjudged bankrupt, District makes a general assignment for the benefit of creditors or a receiver is appointed on account of Contractor's insolvency.

Written notice by Contractor shall contain the reasons for such intention to terminate and unless within thirty (30) calendar days after that notice the condition or violation shall cease, or satisfactory arrangements for the correction thereof be made, this Agreement shall upon the expiration of the thirty (30) calendar days cease and terminate. The foregoing provisions are in addition to and not a limitation of any other rights or remedies available to Contractor.

- e. Upon termination, Contractor shall provide District with all documents produced maintained or collected by Contractor

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pursuant to this Agreement, whether or not such documents are final or draft documents.

**5. INDEMNIFICATION / DEFENSE / HOLD HARMLESS.**

a. **Generally.** To the furthest extent permitted by California law, Contractor shall indemnify, defend, and hold free and harmless the Indemnified Parties from any Claim to the extent that the Claim:

(1) arises out of, pertains to, or relates to the negligent errors or omissions (active or passive, ordinary or gross), recklessness (ordinary or gross), or willful misconduct of Contractor, its directors, officials, officers, employees, contractors, subcontractors, consultants, or subconsultants; or

(2) arises out of, pertains to, or relates to the performance of this Agreement

b. **Indemnified Parties, Defined.** The "Indemnified Parties" are District, its officers, consultants, employees, and trustees.

c. **Claim, Defined.** A "Claim" consists of actions, assessments, counts, citations, claims, costs, damages, demands, judgments, liabilities (legal, administrative or otherwise), losses, notices, expenses, fines, penalties, proceedings, responsibilities, violations, reasonable attorney's and consultants' fees and causes of action to property or persons, including personal injury and/or death, except that:

(1) If the Contract is a contract for design professional services under Civ. Code, § 2782.8, a "Claim" shall be limited to those that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of Contractor; and

(2) If the Contract is a construction contract with a public agency under Civ. Code, § 2782, a "Claim" shall exclude any loss to the extent that such loss arises from the active negligence, sole negligence, or willful misconduct of the Indemnified Parties or defects in design furnished by those persons.

d. District may accept or reject legal counsel Contractor proposes to defend District with, in its sole and absolute discretion, and may thereafter appoint, legal counsel to defend District at Contractor's expense against a Claim set forth in Section 5.a, supra, of this Exhibit C.

**6. INSURANCE.** Contractor shall procure and maintain at all times it performs any portion of the Services the insurances specified in Exhibit D to the Agreement.

**7. CONFIDENTIALITY.** Contractor and Contractor's agents, personnel, employee(s), and/or subcontractor(s) shall maintain the confidentiality of all information received in the course of performing the Services ("Confidential Information"), and shall not disclose Confidential Information, including information derived from Confidential Information, to any person not a party to this Agreement without the express prior written consent of District, except as required by law or as necessary for Contractor's agents, personnel, employee(s), and/or subcontractor(s) to perform the Services. If Contractor or any of Contractor's agents, personnel, employee(s), and/or subcontractor(s) is served with any subpoena, court order, or other legal process seeking disclosure of any Confidential Information, both Contractor and the person served shall each promptly send to District notice(s) of the legal process," but in no event shall do so any later than forty-eight (48) hours or such shorter time frame as necessary so that District may exercise any applicable legal rights and remedies. Contractor shall require its agents, personnel, employee(s), and/or subcontractor(s), as a condition of their retention, appointment, employment, or contract, to agree to comply with the provisions of this Section, and shall not permit its agents, personnel, employee(s), and/or subcontractor(s) access to Confidential Information in the absence of such agreement being effective. The obligations imposed in this Section shall survive the termination of this Agreement.

**8. CONFLICT OF INTEREST.** Through its execution of this Agreement, Contractor acknowledges that it is familiar with the provisions of Gov. Code, § 1090 et seq. and Chapter 7 of the Political Reform Act of 1974 (Gov. Code, § 87100 et seq.), and certifies that it does not know of any facts that constitute a violation of those provisions. In the event Contractor receives any information subsequent to execution of this Agreement that might constitute a violation of these provisions, Contractor agrees it shall immediately notify District of this information.

**9. APPROVAL OF LEGISLATIVE BODY.** This Agreement shall not be binding upon District until District's Governing Board has approved all the terms and conditions contained herein.

**10. DISPUTES.** In the event of a dispute between the parties as to performance of Services, Agreement interpretation, or payment, the Parties shall attempt to resolve the dispute by negotiation and/or mediation, if agreed to by the Parties. Pending resolution of the dispute, Contractor shall

neither rescind the Agreement nor stop performing the Services.

11. **COMPLIANCE WITH LAWS.** Contractor shall observe and comply with all rules and regulations of the governing board of District and all federal, state, and local laws, ordinances and regulations. Contractor shall give all notices required by any law, ordinance, rule and regulation bearing on conduct of the Services as indicated or specified. If Contractor observes that any of the Services required by this Agreement is at variance with any such laws, ordinance, rules or regulations, Contractor shall notify District, in writing, and, at the sole option of District, any necessary changes to the scope of the Services shall be made and this Agreement shall be appropriately amended in writing, or this Agreement shall be terminated effective upon Contractor's receipt of a written termination notice from District. If Contractor performs any work that is in violation of any laws, ordinances, rules or regulations, without first notifying District of the violation, Contractor shall bear all costs arising therefrom.
12. **PERMITS / LICENSES.** Contractor and all Contractor's employees or agents shall secure and maintain in force all permits and licenses that are required by law in connection with the furnishing of Services pursuant to this Agreement.
13. **SAFETY AND SECURITY.** Contractor is responsible for maintaining safety in the performance of this Agreement. Contractor shall be responsible to ascertain from District the rules and regulations pertaining to safety, security, and driving on school grounds, particularly when children are present.
14. **ANTI-DISCRIMINATION.** It is the policy of District that in connection with all work performed under contracts there be no discrimination against any employee engaged in the work because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status, or any other class or status protected by applicable law, and therefore Contractor agrees to comply with applicable Federal and California laws including, but not limited to the California Fair Employment and Housing Act beginning with Government Code Section 12900 and Labor Code Section 1735. In addition, Contractor agrees to require like compliance by all its subcontractor(s).
15. **FINGERPRINTING OF EMPLOYEES.** Contractor shall comply with the provisions of Education Code section 45125.1 regarding the

submission of employee fingerprints to the California Department of Justice and the completion of criminal background investigations of its employees if required by law to do so. Contractor shall not permit any employee to have any contact with District pupils until such time as Contractor has verified in writing to the governing board of District that the employee has not been convicted of a felony, as defined in Education Code section 45122.1. Contractor's responsibility shall extend to all employees, subcontractors, agents, and employees or agents of subcontractors regardless of whether those individuals are paid or unpaid, concurrently employed by District, or acting as independent contractors of Contractor. Verification of compliance with this Section shall be provided in writing to District prior to each individual's contact with any student.

16. **AUDIT.** Contractor shall establish and maintain books, records, and systems of account, in accordance with generally accepted accounting principles, reflecting all business operations of Contractor transacted under this Agreement. Contractor shall retain these books, records, and systems of account during the Term of this Agreement and for three (3) years thereafter. Contractor shall permit District, its agent, other representatives, or an independent auditor to audit, examine, and make excerpts, copies, and transcripts from all books and records, and to make audit(s) of all billing statements, invoices, records, and other data related to the Services covered by this Agreement. Audit(s) may be performed at any time, provided that District shall give reasonable prior notice to Contractor and shall conduct audit(s) during Contractor's normal business hours, unless Contractor otherwise consents.
17. **EVALUATION OF CONTRACTOR AND SUBORDINATES.** District may evaluate Contractor in any manner which is permissible under the law. District's evaluation may include, without limitation:
  - a. Requesting that District employee(s) evaluate Contractor and Contractor's employees and subcontractors and each of their performance.
  - b. Announced and unannounced observance of Contractor, Contractor's employee(s), and/or subcontractor(s)
18. **TIME IS OF THE ESSENCE.** Time is of the essence in the performance of Services and the timing requirements agreed upon by the Parties, if any, shall be strictly adhered to unless otherwise modified in writing in accordance with Section 28 of this Agreement. Contractor shall commence performance and shall complete all required Services no later than the dates agreed upon by

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the Parties. Any Services for which times for performance are not specified shall be commenced and completed by Contractor in a reasonably prompt and timely manner based upon the circumstances and direction communicated to Contractor by District.

**19. PROVISIONS REQUIRED BY LAW DEEMED INSERTED.** Each and every provision of law and clause required by law to be inserted in this Agreement shall be deemed to be inserted and this Agreement shall be read and enforced as though it were included. If through mistake or otherwise, any provision is not inserted or is not correctly inserted, then upon application of either Party, the Agreement shall be amended to make the insertion or correction. All references to statutes and regulations shall include all amendments, replacements, and enactments in the subject which are in effect as of the date of this Agreement, and any later changes which do not materially and substantially alter the positions of the Parties.

**20. ASSIGNMENT AND SUCCESSORS.** Neither District nor Contractor shall, without the prior written consent of the other Party, assign the benefit or in any way transfer their respective obligations under this Agreement. This Agreement shall inure to the benefit of and be binding upon the Parties hereto and, except as otherwise provided herein, upon their executors, administrators, successors, and assigns.

**21. SEVERABILITY.** In the event that any provision of this Agreement shall be construed to be illegal or invalid for any reason, said illegality or invalidity shall not affect the remaining provisions hereof, but such illegal or invalid provision shall be fully severable and this Agreement shall be construed and enforced as if such illegal or invalid provision had never been included herein, unless to do so would frustrate the intent and purpose of this Agreement.

**22. FORCE MAJEURE.** No Party shall be liable to any other Party for any loss or damage of any kind or for any default or delay in the performance of its obligations under this Agreement (except for payment obligations) if and to the extent that the same is caused, directly or indirectly, by fire, flood, earthquake, elements of nature, epidemics, pandemics, quarantines, acts of God, acts of war, terrorism, civil unrest or political, religious, civil or economic strife, or any other cause beyond a Party's reasonable control.

**23. VENUE/GOVERNING LAWS.** This Agreement shall be governed by the laws of the State of California and venue shall be in the County and/or federal judicial district in which District's principal administrative office is

located.

**24. ATTORNEY'S FEES.** If suit is brought by either Party to enforce any of the terms of this Agreement, each Party shall bear its own attorney's fees and costs.

**25. EXHIBITS.** All Exhibits referred to in this Agreement are incorporated in this Agreement and made a part of this Agreement as if fully set forth herein.

**26. ENTIRE AGREEMENT.** This Agreement represents the entire agreement between District and Contractor and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended or modified only by an agreement in writing, signed by both District and Contractor.

**27. MODIFICATION.** This Agreement may be amended at any time by the written agreement of District and Contractor.

**28. WAIVER.** Waiver of a breach or default under this Agreement shall not constitute a continuing waiver of a subsequent breach of the same or any other provision under this Agreement.

**29. AUTHORITY.** The individual executing this Agreement on behalf of Contractor warrants that he/she is authorized to execute the Agreement on behalf of Contractor and that Contractor will be bound by the terms and conditions contained herein.

**30. HEADINGS AND CONSTRUCTION.** Headings at the beginning of each paragraph and subparagraph are solely for the convenience of the Parties and are not a part of the Agreement. Whenever required by the context of this Agreement, the singular shall include the plural and the masculine shall include the feminine and vice versa. This 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 this Agreement.

**31. COUNTERPARTS.** This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which, together, when signed by all of the Parties hereto, shall constitute one and the same instrument. A facsimile or electronic signature shall be as valid as an original.

**EXHIBIT D**  
**to AGREEMENT FOR SERVICES**

**INSURANCE**

1. Contractor shall procure and maintain at all times it performs any portion of the Services the following insurances with minimum limits equal to the amounts indicated below.
  - 1.1. **Commercial General Liability and Automobile Liability Insurance.** Commercial General Liability Insurance and Any Auto Automobile Liability Insurance that shall protect Contractor, District, and the State from all claims of bodily injury, property damage, personal injury, death, advertising injury, and medical payments arising performing any portion of the Services. (Form CG 0001 and CA 0001)
  - 1.2. **Workers' Compensation and Employers' Liability Insurance.** Workers' Compensation Insurance and Employers' Liability Insurance for all of its employees performing any portion of the Services. In accordance with provisions of section 3700 of the California Labor Code, Contractor shall be required to secure workers' compensation coverage for its employees. If any class of employee or employees engaged in performing any portion of the Services under this Agreement are not protected under the Workers' Compensation Statute, adequate insurance coverage for the protection of any employee(s) not otherwise protected must be obtained before any of those employee(s) commence performing any portion of the Services. Contractor shall sign and file with District the following certification prior to performing the work of the contract: "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."
  - 1.3. **Professional Liability (Errors and Omissions).** Professional Liability (Errors and Omissions) Insurance as appropriate to Contractor's profession.

Type of Coverage	Minimum Coverage
<b>Commercial General Liability Insurance</b> , including Bodily Injury, Personal Injury, Property Damage, Advertising Injury, and Medical Payments	
Each Occurrence	<b>\$1,000,000</b>
General Aggregate	<b>\$1,000,000</b>
<b>Automobile Liability Insurance - Any Auto</b>	
Each Occurrence	<b>\$1,000,000</b>
General Aggregate	<b>\$1,000,000</b>
<b>Professional Liability</b>	<b>\$1,000,000</b>
<b>Workers Compensation</b>	<b>Statutory Limits</b>
<b>Employer's Liability</b>	<b>\$1,000,000</b>

2. Contractor shall not commence performing any portion of the Services until all required insurance has been obtained and certificates indicating the required coverage's have been delivered in duplicate to District and approved by District. Certificates and insurance policies shall include the following:
  - 2.1. A clause stating: "This policy shall not be canceled or reduced in required limits of liability or amounts of insurance until notice has been mailed to District, stating date of cancellation or reduction. Date of cancellation or reduction shall not be less than thirty (30) days after date of mailing notice."
  - 2.2. Language stating in particular those insured, extent of insurance, location and operation to which insurance applies, expiration date, to whom cancellation and reduction notice will be sent, and length of notice period.
  - 2.3. An endorsement stating that District and the State and their representatives, employees, trustees, officers, consultants, and volunteers are named additional insureds under all policies except Workers' Compensation Insurance, Professional Liability, and Employers' Liability Insurance.

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- An endorsement shall also state that Contractor's insurance policies shall be primary to any insurance or self-insurance maintained by District.
- 2.4. All policies shall be written on an occurrence form, except for Professional Liability which shall be on a claims-made form.

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