

PERSONAL SERVICES AGREEMENT

THIS AGREEMENT is made, entered into, and shall become effective this [Insert day] day of [Insert month], 2013, by and between the Del Mar Union School District (hereinafter referred to as the "District") and [Name of Contractor/Consultant] (hereinafter referred to as the "Consultant").

RECITALS:

WHEREAS, District desires to retain the services of Consultant regarding the District's proposal to retain services to [Insert general description of work to be done].

WHEREAS, Consultant is qualified by virtue of experience, training, education and expertise to accomplish such services.

NOW, THEREFORE, District and Consultant mutually agree as follows:

Section 1. Scope of Work.

The scope of work to be performed by the Consultant shall consist of those tasks as set forth in Exhibit "A," attached and incorporated herein by reference. To the extent that there are any conflicts between the provisions described in Exhibit "A" and those provisions contained within this Agreement, the provisions in this Agreement shall control.

Section 2. Term.

This Agreement shall commence on [Insert the effective date] and shall terminate [Insert date], and all services required hereunder shall be completed, no later than [Insert date].

Section 3. Compensation.

3.1 Amount.

Total compensation for the scope of services for this Project shall not exceed [Insert amount in words such as five thousand and no cents followed by numerical (\$5,000)], as set forth in Exhibit "B," attached hereto and incorporated herein by reference.

3.2 Method of Payment.

Subject to Section 3.1, Consultant shall submit monthly invoices based on total services which have been satisfactorily completed for such monthly period. The District will pay monthly progress payments based on approved invoices in accordance with this Section.

3.3 Records of Expenses.

Consultant shall keep complete and accurate records of all costs and expenses incidental to services covered by this Agreement. These records will be made available at reasonable times to District.

Section 4. Fingerprinting Requirements.

Consultant as well as all Consultant's employees, agents, representatives and volunteers who will have contact with District students, shall comply with the fingerprinting requirements set forth in Education Code section 45125.1 and 45125.2 and shall be required to complete a criminal background investigation. Prior to providing any Services pursuant to this Agreement, Consultant shall provide the District with documentation evidencing compliance with the fingerprinting requirements.

Section 5. Tobacco and Drug Free Workplace.

Consultant acknowledges that the District is a tobacco and drug free workplace. Consultant shall be responsible to ensure that tobacco products, drugs, and alcohol will not be used by Consultant or any of Consultant's employees, agents, representatives, or volunteers on District property. The District may terminate this Agreement and/or remove Consultant or any of Consultant's employees, agents, representatives, or volunteers and other persons on District property for use of tobacco products, drugs or alcohol.

Section 6. Independent Contractor.

It is agreed that Consultant shall act and be an independent contractor and not an agent or employee of District, and shall obtain no rights to any benefits which accrue to District's employees.

Section 7. Limitations Upon Subcontracting and Assignment.

The experience, knowledge, capability and reputation of Consultant, its principals and employees were a substantial inducement for District to enter into this Agreement. Consultant shall not contract with any other entity to perform the services required herein without written approval of the District. This Agreement may not be assigned, voluntarily or by operation of law, without the prior written approval of the District. If Consultant is permitted to subcontract any part of this Agreement by District, Consultant shall be responsible to District for the acts and omissions of its subcontractor as it is for persons directly employed by it. Nothing contained in this Agreement shall create any contractual relationships between any subcontractor and District. All persons engaged in the work will be considered employees of Consultant. District will deal directly with and will make all payments to Consultant. Consultant shall be responsible for paying its employees, agents, and/or subcontractors for any and all work performed under this Agreement.

Section 8. Changes to Scope of Work.

For extra work not part of this Agreement, a written authorization from District is required prior to Consultant undertaking any extra work. In the event of a change in the Scope of Work provided for in the contract documents as requested by the District, the Parties hereto shall execute an addendum to this Agreement setting forth with particularity all terms of the new agreement, including but not limited to any additional Consultant's fees.

Section 9. Familiarity with Work and/or Construction Site.

By executing this Agreement, Consultant warrants that: (1) it has investigated the work to be performed; (2) if applicable, it has investigated the proposed construction site, including the location of all utilities, and is aware of all conditions there; and (3) it understands the facilities, difficulties and restrictions of the work to be performed under this Agreement. Should Consultant discover any latent or unknown conditions materially differing from those inherent in the work or as represented by District, it shall immediately inform the District of this and shall not proceed with further work under this Agreement until written instructions are received from the District on how to proceed.

Section 10. Time of Essence.

Time is of the essence in the performance of this Agreement.

Section 11. Compliance with Law.

Consultant shall comply with all applicable laws, ordinances, codes and regulations of federal, state and local government.

Section 12. Conflicts of Interest.

Consultant covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of the services contemplated by this Agreement. No person having such interest shall be employed by or associated with Consultant.

Section 13. Copies of Work Product.

At the completion of the work, Consultant shall have delivered to District at least one (1) copy of any final reports and/or notes or drawings containing Consultant's findings, conclusions, and recommendations with any supporting documentation. All reports submitted to the District shall be in reproducible format, or in the format otherwise approved by the District in writing.

Section 14. Ownership of Documents.

All reports, information, data and exhibits prepared or assembled by Consultant in connection with the performance of its services pursuant to this Agreement are confidential to the extent permitted by law, and Consultant agrees that information shall not be made available to any individual or organization without prior written consent of the District. All such reports, information, data, and exhibits shall be the property of the District and shall be delivered to the District upon demand without additional costs or expense to the District. The District acknowledges such documents are instruments of Consultant's professional services.

Section 15. Indemnity.

To the fullest extent permitted by law, Consultant agrees to protect, defend, and hold harmless the District and its elective and appointive boards, officers, agents, and employees from any and all claims, liabilities, expenses, or damages of any nature, including attorneys' fees, for injury or death of any person, or damages of any nature, including interference with use of property, arising out of, or in any way connected with the negligence, recklessness and/or intentional wrongful conduct of Consultant, Consultant's agents, officers, employees, subcontractors, or independent contractors hired by Consultant in the performance of the Agreement. The only exception to Consultant's responsibility to protect, defend, and hold harmless the District, is due to the negligence, recklessness and/or wrongful conduct of the District, or any of its elective or appointive boards, officers, agents, or employees.

This hold harmless agreement shall apply to all liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by Consultant.

Section 16. Insurance.

On or before beginning any of the services or work called for by any term of this Agreement, Consultant, at its own cost and expense, shall carry, maintain for the duration of the agreement, and provide proof thereof that is acceptable to the District, the insurance specified below with insurers and under forms of insurance satisfactory in all respects to the District. Consultant shall not allow any subcontractor to commence work on any subcontract until all insurance required of the Consultant has also been obtained for the subcontractor. Insurance required herein shall be provided by Admitted Insurers in good standing with the State of California and having a minimum Best's Guide Rating of A- Class VII or better.

16.1 Comprehensive General Liability.

Throughout the term of this Agreement, Consultant shall maintain in full force and effect Comprehensive General Liability coverage in an amount not less than one million dollars per occurrence (\$1,000,000.00), combined single limit coverage for risks associated with the work contemplated by this agreement. If a Commercial General Liability Insurance form or other form with a general aggregate limit is used, either the

general aggregate limit shall apply separately to the work to be performed under this agreement or the general aggregate limit shall be at least twice the required occurrence limit.

16.2 Automobile Liability.

Throughout the term of this Agreement, Consultant shall maintain in full force and effect Automobile Liability coverage, including owned, hired and non-owned vehicles in an amount not less than one million dollars per occurrence (\$1,000,000.00).

16.3 Worker's Compensation.

If Consultant intends to employ employees to perform services under this Agreement, Consultant shall obtain and maintain, during the term of this Agreement, Worker's Compensation Employer's Liability Insurance in the statutory amount as required by state law.

16.4 Proof of Insurance Requirements/Endorsement.

Prior to beginning any work under this Agreement, Consultant shall submit the insurance certificates, including the deductible or self-retention amount, and an additional insured endorsement naming the District, its officers, employees, agents, and volunteers as additional insureds as respects each of the following: Liability arising out of activities performed by or on behalf of Consultant, including the insured's general supervision of Consultant; products and completed operations of Consultant; premises owned, occupied or used by Consultant; or automobiles owned, leased, hired, or borrowed by Consultant. The coverage shall contain no special limitations on the scope of protection afforded District, its officers, employees, agents, or volunteers.

16.5 Terms of Compensation.

Payment terms for services under this Agreement shall be net thirty (30) days for the date of invoice. Consultant shall issue an invoice after services are complete, or in case of a phased project, at the end of each phase of the project. Consultant shall not receive any compensation until all insurance provisions have been satisfied.

Section 17. Termination.

District shall have the right to terminate this Agreement without cause by giving thirty (30) days' advance written notice of termination to Consultant.

In addition, this Agreement may be terminated by any party for cause by providing ten (10) days' notice to the other party of a material breach of contract. If the other party does not cure the breach of contract, then the agreement may be terminated subsequent to the ten (10) day cure period.

Section 18. Notice.

All notices shall be personally delivered or mailed to the below listed addresses, or to such other addresses as may be designated by written notice. These addresses shall be used for delivery of service of process:

To District: Del Mar Union School District
11232 El Camino Real
San Diego, CA 92130
Attn: Business Services

To Consultant: [Company name]
[Contact person]
[Address]
[Phone number]
[E-Mail]

Section 19. Choice of Law.

This Agreement shall be governed by the laws of the State of California.

Section 20. Agreement Approval.

In accordance with Education Code section 17604, this Agreement is not valid, binding or an enforceable obligation against the District until approved or ratified by motion of the Governing Board duly passed and adopted.

Section 21. Entire Agreement.

This Agreement constitutes the entire understanding and agreement between the parties and supersedes all previous negotiations between them pertaining to the subject matter thereof.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement.

DEL MAR UNION SCHOOL DISTRICT

By: _____
Holly McClurg, Superintendent

CONSULTANT

By: _____
[Name of authorized signee]