

## **SERVICE AGREEMENT TERMS & CONDITIONS**

### **ARTICLE 1. PAYMENT.**

District agrees to pay Contractor for services satisfactorily rendered, a total payment, including travel and other expenses, not to exceed the amount defined on the Purchase Order. If travel and other reimbursable expenses are separately defined and reimbursable, such costs shall be limited to the standard allowances authorized by District Board policy. Payment shall be made within 30 days upon submission of a completed invoice(s) to the attention of the requestor, Sacramento City Unified School District, P. O. Box 246870, Sacramento, California 95824-6870.

### **ARTICLE 2. EQUIPMENT AND FACILITIES.**

As may be applicable to this Contract, District will provide Contractor with access to all needed records and materials during normal business hours upon reasonable notice. Contractor will provide all other necessary equipment and facilities to render the services pursuant to this Contract.

### **ARTICLE 3. WORKS FOR HIRE/COPYRIGHT/TRADEMARK/PATENT:**

Contractor understands and agrees that all matters specifically produced under this Contract shall be works for hire and shall become the sole property of the District and cannot be used without the District's express written permission. The District shall have the 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 the District. The Contractor consents to the use of the Contractor's name in conjunction with the sale, use, performance and distribution of the matters, for any purpose in any medium.

### **ARTICLE 4. INDEPENDENT CONTRACTOR.**

The relationship between the parties under this Contract shall be one of independent contractor. The Contractor and all of their employees shall not be employees or agents of the District and are not entitled to participate in any District pension plans, retirement, health and welfare programs, or any similar programs or benefits, as a result of this Contract.

Contract employees or agents rendering services under this Contract shall not be employees of the District for federal or state tax purposes, or for any other purpose. The Contractor acknowledges and agrees that it is the sole responsibility of the Contractor to report as income its compensation from the District and to make the requisite tax filings and payments to the appropriate federal, state, and/or local tax authorities. No part of the Contractor's compensation shall be subject to withholding by the District for the payment of social security, unemployment, or disability insurance, or any other state or federal tax obligation.

The Contractor agrees to defend, indemnify and hold the District harmless from any and all claims, losses, liabilities, or damages arising from any contention by a third party that an employer-employee relationship exists by reason of this Contract.

The District assumes no liability for workers' compensation or liability for loss, damage or injury to persons or property during or relating to the performance of services under this Contract.

### **ARTICLE 5. FINGERPRINTING REQUIREMENTS.**

Education Code Section 45125.1 states that if employees of any contractor providing school site administrative or similar services may have any contact with any pupils, those employees shall be

fingerprinted by the Department of Justice (DOJ) before entering the school site to determine that they have not been convicted of a serious or violent felony.

If the District determines that **more than limited** contact with students will occur during the performance of these services, Contractor will not perform services until all employees providing services have been fingerprinted by the DOJ and DOJ fingerprinting clearance certification has been provided to the District. Contractor will provide a complete list to the District of all employees cleared by the DOJ who will provide services under this Contract. Failures to provide such written certification before services begin, or within thirty days after execution of this Contract, whichever occurs first, will result in immediate termination.

Depending on the totality of circumstances including (1) the length of time the employees will be on school grounds, (2) whether pupils will be in proximity of the site where the employees will be working and (3) whether the contractors will be working alone or with others, the District may determine that the employees **will have only limited contact** with pupils and neither fingerprinting nor certification is required provided the following conditions are met at all times:

1. Employees shall not come into contact with pupils or work in the proximity of pupils at any time except under the direct supervision of school district employees.
2. Employees shall use only restroom facilities reserved for District employees and shall not use student restrooms at any time.
3. Contractor will inform all employees who perform work at any school or District site of these conditions and require its employees, as a condition of employment, to adhere to them.
4. Contractor will immediately report to District any apparent violation of these conditions.
5. Contractor shall assume responsibility for enforcement of these conditions at all times during the term of this Contract.

If the Contractor cannot adhere to the conditions stated above for any reason, Contractor shall immediately so inform the District and shall assign only employees who have been fingerprinted and cleared for employment by the Department of Justice. In that case, the Contractor shall provide to the District the names of all employees assigned to perform work under this Contract. Compliance with these conditions, or with the fingerprinting requirements, is a condition of this Contract, and the District reserves the right to suspend or terminate the Contract at any time for noncompliance.

#### **ARTICLE 6. MUTUAL INDEMNIFICATION.**

Each of the Parties shall defend, indemnify and hold harmless the other Party, its officers, agents and employees from any and all claims, liabilities and costs, for any damages, sickness, death, or injury to person(s) or property, including payment of reasonable attorney's fees, and including without limitation all consequential damages, from any cause whatsoever, arising directly or indirectly from or connected with the operations or services performed under this Contract, caused in whole or in part by the negligent or intentional acts or omissions of the Parties or its agents, employees or subcontractors.

It is the intention of the Parties, where fault is determined to have been contributory, principles of comparative fault will be followed and each Party shall bear the proportionate cost of any damage attributable to fault of that Party. It is further understood and agreed that such indemnification will survive the termination of this Contract.

#### **ARTICLE 7. INSURANCE.**

Prior to commencement of services and during the life of this Contract, Contractor shall provide the District with a copy of its policy evidencing its comprehensive general liability insurance

coverage. Contractor will also provide a written endorsement to such policy naming District as an additional insured, and such endorsement shall also state "Such insurance as is afforded by this policy shall be primary, and any insurance carried by District shall be excess and noncontributory." If insurance is not kept in force during the entire term of the Contract, District may procure the necessary insurance and pay the premium therefore, and the premium shall be paid by the Contractor to the District.

#### **ARTICLE 8. TERMINATION.**

Either Party may terminate this Contract without cause upon giving the other Party thirty days written notice. Notice shall be deemed given when received by the Party, or no later than three days after the day of mailing, whichever is sooner.

The District may terminate this Contract with cause upon written notice of intention to terminate for cause. A Termination for Cause shall include: (a) material violation of this Contract by the Contractor; (b) any act by the Contractor exposing the District to liability to others for personal injury or property damage; or (c) the Contractor is adjudged a bankrupt; Contractor makes a general assignment for the benefit of creditors, or a receiver is appointed on account of the Contractor's insolvency.

Ten (10) calendar days after service of such notice, the condition or violation shall cease, or satisfactory arrangements for the correction thereof be made, or this Contract shall cease and terminate. In the event of such termination, the District may secure the required services from another contractor. If the cost to the District exceeds the cost of providing the service pursuant to this Contract, the excess cost shall be charged to and collected from the Contractor. The foregoing provisions are in addition to and not a limitation of any other rights or remedies available to the District. Written notice by the District shall be deemed given when received by the other party, or no later than three days after the day of mailing, whichever is sooner.

#### **ARTICLE 9. ASSIGNMENT.**

This Contract is for personal services to be performed by the Contractor. Neither this Contract nor any duties or obligations to be performed under this Contract shall be assigned without the prior written consent of the District, which shall not be unreasonably withheld. In the event of an assignment to which the District has consented, the assignee or his/her or its legal representative shall agree in writing with the District to assume, perform, and be bound by all covenants, obligations, and Contracts contained in this Contract.

#### **ARTICLE 10. ENTIRE CONTRACT.**

This Contract contains the entire Contract between the parties and supersedes all prior understanding between them with respect to the subject matter of this Contract. There are no promises, terms, conditions or obligations, oral or written, between or among the parties relating to the subject matter of this Contract that are not fully expressed in this Contract. This Contract may not be modified, changed, supplemented or terminated, nor may any obligations under this Contract be waived, except by written instrument signed by the party to be otherwise expressly permitted in this Contract.

#### **ARTICLE 11. CONFLICT OF INTEREST.**

The Contractor shall abide by and be subject to all applicable District policies, regulations, statutes or other laws regarding conflict of interest. Contractor shall not hire any officer or employee of the District to perform any service covered by this Contract. If the work is to be performed in connection with a Federal contract or grant, Contractor shall not hire any employee of the United States government to perform any service covered by this Contract.

Consultant affirms to the best of their knowledge, there exists no actual or potential conflict of interest between Contractor's family, business or financial interest and the services provided under this Contract. In the event of a change in either private interest or services under this Contract, any question regarding possible conflict of interest which may arise as a result of such change will be brought to the District's attention in writing.

**ARTICLE 12. NONDISCRIMINATION.**

It is the policy of the District that in connection with all services performed under contract, there will be no discrimination against any prospective or active employee engaged in the work because of race, color, ancestry, national origin, handicap, religious creed, sex, age or marital status. Contractor agrees to comply with applicable federal and California laws including, but not limited to, the California Fair Employment and Housing Act.

**ARTICLE 13 ATTORNEY'S FEES.**

In the event of any action or proceeding brought by one party against the other party under this Contract, the prevailing party shall be entitled to recover its attorney's fees and reasonable costs in such action or proceeding in such an amount as the court may judge reasonable.

**ARTICLE 14. SEVERABILITY.**

Should any term or provision of this Contract be determined to be illegal or in conflict with any law of the State of California, the validity of the remaining portions or provisions shall not be affected thereby. Each term or provision of this Contract shall be valid and be enforced as written to the full extent permitted by law.

**ARTICLE 15. RULES AND REGULATIONS.**

All rules and regulations of the District's Board of Education, and as governed by the laws and decisions of the State of California, and all federal and local laws, ordinance and regulations are to be strictly observed by the Contractor pursuant to this Contract. Any rule, regulation or law required to be contained in this Contract shall be deemed to be incorporated herein.

**ARTICLE 16. RATIFICATION BY BOARD OF EDUCATION.**

To the extent the Agreement exceeds an expenditure above the amount specified in Education Code section 17605, this Agreement, as to any such exceeded amount, is not enforceable and is invalid unless and until the exceeded amount is approved and/or ratified by the governing board of the Sacramento City Unified School District, as evidenced by a motion of said board duly passed and adopted.